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“When Theory Meets the Janjaweed”

– An Analysis of the Factors that Determine UN
Humanitarian Intervention in Africa

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ABSTRACT

Although many may argue that there is a developing norm of the “responsibility to protect”, there has not been any decision by the UN Security Council to intervene militarily in the humanitarian crisis in Darfur. The aim of this thesis is to examine the factors that concern UN humanitarian intervention in Africa, and why the Security Council has not intervened to stop the atrocities committed by the government of Sudan and its allied Janjaweed militias. My hypotheses are that the response by the Security Council is determined by legal considerations, humanitarian concerns and political will. The standpoint in the dilemma of humanitarian intervention varies between positivists and counter-restrictionists in international law and between pluralists and solidarists in international relations theory. I compare the case of Somalia, where the UN intervened in 1992, and Rwanda, where the UN acted too late to stop the genocide in 1994, to the Darfur crisis that erupted in February 2003. I analyze the belated discussion on Darfur in the Security Council up to February 2005, which was a critical time period for the crisis and for a possible intervention by the UN. “The responsibility to protect” may exist in theory but in practice “political will”, and all that underlies this factor, explains the passivity of the Security Council.

Key words: UN Humanitarian Intervention, Political Will, Darfur, Rwanda, Somalia

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List of Abbreviations

AIV/CAVV	Advisory Council on International Affairs/Advisory Committee on Issues of Public International Law
AMIS	African Union Mission in Sudan
AU	African Union
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCPR	International Covenant on Civil and Political Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CESCR	International Covenant on Economic, Social and Cultural Rights
CPA	Comprehensive Peace Agreement
CRC	Convention on the Rights of the Child
DRC	Democratic Republic of Congo
DUPI	Dansk Udenrigspolitisk Institut/Danish Institute of International Affairs
FRY	Federal Republic of Yugoslavia
GA	United Nations General Assembly
GoS	Government of Sudan
HRW	Human Rights Watch
ICC	International Criminal Court
ICG	International Crisis Group
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICRC	International Commission of the Red Cross
IDP	Internally Displaced People
IGOs	Inter-Governmental Organizations
JEM	Justice and Equality Movement
NGOs	Non-Governmental Organizations
OAU	Organization of African Unity
P5	Five permanent members of the UN Security Council
RPF	Rwandan Patriotic Front
SC	United Nations Security Council
S-G	Secretary-General of the United Nations
SLM/A	Sudan's Liberation Movement/Army
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNAMIR	United Nations Assistance Mission in Rwanda
UNAMIS	United Nations Advance Mission in Sudan
UNHCHR	United Nations High Commissioner for Human Rights
UNITAF	United Task Force
US	United States of America
USG	Under-Secretary-General
UNYB	Yearbook of the United Nations

1. Introduction

1.1 Background

The 1990s witnessed several armed interventions explicitly supported by humanitarian rationale. With the end of the cold war the political environment has changed in favor of armed interventions with the endorsement of the SC in humanitarian crises. Especially in the first half of the 1990s, liberal-democratic states have been more inclined to support forcible interventions in states whose government is unable or unwilling to stop large-scale violations of human rights. Even the usually skeptic states in the SC China and Russia, have in some cases accepted to abstain instead of vetoing decisions to intervene militarily.

The subject of “humanitarian intervention” is interesting because it is a contradiction in terms and it articulates the inbuilt paradox within the UN Charter. At the center of the dilemma lies the fact that originally the UN is connected with the non-intervention principle but recently it has been an instrument for the justification of the use of force. Today the dilemma consists of the tension between the basic international principle of *non-intervention into a sovereign state* contra the completion of the *protection of human rights by the use of force against a state*. Democratic states face the problem of, on the one hand, answering to “the responsibility to protect” all individuals from gross human rights violations, and on the other hand preserving the principles of state sovereignty and non-intervention which make up the international order.

With the emergence of armed interventions in severe humanitarian crises, the competences of the SC under Chapter VII of the UN Charter have been put into practice. The historical emphasis on the principle of non-interference in a sovereign state has partly been challenged. Some even argue that there has been developed a new norm of collective use of force against states severely violating the right of their citizens. According to some, there has been an evolution in the concept of sovereignty from an “authority” or “right” to a “responsibility”.

1.2 Statement of Purpose

I have a profound interest in international conflicts and human rights as well as the factors that are involved in the interaction and decision making of the actors at the international arena. This is why I find the cross-disciplinary topic of humanitarian intervention particularly exciting to study.

Although the modern implications of the subject of humanitarian intervention is relatively new, there has been a lot written on the topic, theories have been developed and the interventions occurring in the 1990s have been analyzed. Several analytical reports have been published in response to the challenge by the S-G Kofi Annan to the member states to try to procure when, under whose authority and how intervention should occur, e.g., “The Responsibility to Protect” by the International Commission on Intervention and State Sovereignty (ICISS 2001) and “A More Secure World: Our Shared Responsibility” by the High Level Panel on Threats, Challenge and Change (Report 2004), followed by the S-G’s reply “In Larger Freedom” (Report 2005). Reports have also been ordered by several governments wanting policy guidance in the area, e.g., the ones produced by the Danish Institute of International Affairs (DUPI 1999) and the Dutch Advisory Committees on Issues of Public International Law and on International Affairs (AIV/CAVV 2000).

Many researchers have analyzed the empirical cases of interventions occurring before and after the cold war to demonstrate the changing attitude and arguments. In the 20th century cases like the interventions in Northern Iraq (1991), Bosnia and Herzegovina FRY (1992-5), Somalia (1992), Rwanda (1994), Eastern Zaire (1996), Haiti (1994), Kosovo (1998-9) and East Timor (1999) are discussed. In these studies questions about the legality and legitimacy of the respective intervention are dealt with, e.g., by Chesterman or Österdahl, or the authority of intervention, e.g., by Holzgrefe & Keohane or Wheeler, or the arguments used in intervention, e.g., by Beckman. Political aspects such as the primary intentions of the interventions are also discussed in detail in some of the works, e.g., by Hoffman, or the consequences of intervention, e.g., by Ignatieff.

An aspect that has not been analyzed substantively is the factors that determine the decision of the SC whether to intervene in the humanitarian crisis of a sovereign state. Since the end of the cold war there have been cases of humanitarian crises that resulted in external armed intervention with mainly humanitarian justifications such as Somalia, and there have been cases where strong incentives existed but either there was no intervention taking place such as Sudan or the intervention was too late and too little as in Rwanda.

In this thesis I am not putting any personal judgments into whether forcible humanitarian intervention is good or bad, or whether there is a right of humanitarian intervention. I think this has been discussed enough in former research on the issue. My interest is rather to find out what determines the SC’s

decision to intervene or not to intervene militarily in humanitarian emergencies involving large-scale violations of human rights. I will look at the politics as well as the legal and ethical issues regarding the choice by the SC to pursue or not to pursue an armed humanitarian intervention. A factor often mentioned in the conclusive remarks of works on humanitarian intervention is “political will”. “Political will” seems to be a term that is taken as a fact, an uncontested truth. I am interested in looking into this decisive factor more in detail.

The scope of my study will be limited to UN authorized armed interventions (with the consent of the SC). The issue of the legitimacy of unauthorized humanitarian interventions is a controversial question in the theoretical literature. Some researchers defend a *unilateral* right of humanitarian intervention while others strongly oppose it. I choose to concentrate only on UN authorized interventions as my aim is to focus on a theory that is as close to reality as possible. Despite their different points of view, authors belonging to different theoretical schools both deny that the practice of interventions reflects a change in contemporary international law towards a right of *unilateral* humanitarian intervention. The authors conclude that the justifying arguments by intervening states, even though they increasingly reflect the solidarist perspective, rather have referred to Chapter VII of the UN Charter (Chesterman 2001:85; Wheeler 2000).

Since my thesis is revolving around the UN and in particular the SC I do acknowledge the lack of legitimacy of the composition and function of the SC such as the veto power of the P5, the geographical representation of the membership, the dilemma with undemocratic states in the SC, as well as the problem with the SC’s legal and norm-setting activities, the politization, the inefficient decision making process and the national interests of the members. Although the structural legitimacy deficiencies inevitably affect also my reading, it is not the concerned area of study of this thesis.

I will focus my analysis on the current humanitarian crisis in Sudan’s Western region Darfur and why no SC resolution has authorized an armed intervention there. I am well aware that there are other cases of serious humanitarian disasters, particularly in Africa, e.g., Liberia and the DRC where the UN has not interfered militarily to stop the human suffering. I have chosen the current conflict and humanitarian crisis in the Darfur region of Sudan because I have followed the development of the crisis closely since its eruption in 2003 and find it interesting to use Darfur as a case study to enhance my knowledge of the factors that rule decisions on humanitarian interventions in the SC. It is perhaps the biggest case of non-intervention so far in the 21st century. The study is particularly interesting to pursue since there has not been done substantial research on Darfur in this respect.¹

¹ Except for articles by some NGOs, and the American journalists Reeves (Feb. 2005, April 2006) and Kristof (Nov. 2005) who are convinced that genocide has taken place in Darfur and have been promoting intervention to stop the GoS.

I will also analyze the infamous and well-documented failure to intervene to stop the genocide and the following belated intervention in Rwanda in 1994 in order to draw possible links to the current case of inaction of the SC and thereby make accurate conclusions. I realize that by choosing to concentrate on two cases where the SC has been passive I could be creating a self-fulfilling prophecy. I therefore choose to also analyze the factors determining the humanitarian intervention in Somalia. This case is seen as the first time the SC authorized an armed intervention on humanitarian grounds. I will review the practice of the SC and the arguments made before the decision to intervene in Somalia. The main intention of the thesis is not, however, to make a comparative study but to compose a case study on Darfur. The cases have been chosen because of their similarities (African cases and the determination by the SC of the humanitarian crises as “threats to the peace”), and their differences (one led to intervention, another to half-intervention and in the last case there has been no intervention).

I have chosen to focus my analysis around three empirical cases of conflicts in Africa.² The problems that have confronted the international community in Africa regarding humanitarian intervention are perhaps not specific to this continent or its crises but rather a dilemma inherent in the concept and practice of humanitarian intervention. I think that there are, nonetheless, specific characteristics in Africa that has led it to be a testing ground for humanitarian intervention such as the many crises and the lack of national interest for the mayor powers.

My research is limited in the possibility to generalize regarding what is required for an intervention to take place as I intend to perform a deeper analysis of three African cases, and not a quantitative research study. Nevertheless, the result might be relevant for drawing generalizations concerning UN interventions and humanitarian crises in Africa. Thus, the questions that will be examined in this thesis are:

- What are the legal, moral and political factors that determine armed interventions by the SC in African humanitarian crises?
- In light of the new theoretical norm of “the responsibility to protect”, why has there been no decision by the SC to intervene to stop the humanitarian crisis in Darfur?

² I have not included the international crisis of Eastern Zaire (Great Lakes region) in 1996 as part of my analysis; while two resolutions determined the threat to peace and security and authorized Canada, which offered to lead the humanitarian operation, to use all “necessary means” the intervention was never implemented as the situation improved significantly (S/1996/941; S/RES/1078(1996); S/RES/1080(1996)).

1.2.1 Theory

My hypotheses are that humanitarian intervention by the UN is determined by legal considerations, humanitarian concerns and political will. The subject of humanitarian intervention concerns the disciplines of international law, ethics and politics. While not limiting the study to the political aspects I hope to extend the understanding of the empirical cases.

Neither the legal, moral nor political status is clear-cut when it comes to humanitarian intervention. There is a discussion between positivists and counter-restrictionists in international law and between pluralists/realists and solidarists in international relations theory for and against humanitarian intervention. Realists believe in the primacy of the state, the priority of national security, and states as unitary actors. The difference between realism and pluralism is that pluralism considers all organized groups as being potential political actors. Pluralists can accept that NGOs and IGOs may influence governments. Solidarism has a normative component (Baylis & Smith 2005:557, 778).

The legal capacity of UN forcible humanitarian interventions can be interpreted in different ways. The disagreement between positivists and counter-restrictionists is mostly a debate concerning whether there is a right of *unilateral* humanitarian intervention which is not part of the scope of this thesis. But although UN humanitarian interventions seem to be generally accepted in the West this is not the fact in the rest of the world which is why the positivists and counter-restrictionists' arguments in the legal discussion might be the same arguments as used in the process in the SC in front of a humanitarian crisis. Positivists emphasize non-intervention and state sovereignty but collective use of force while counter-restrictionists focus on the articles in the UN Charter involving the protection of human rights and customary international law.

When treating the legal considerations I study the law from my perspective as a political scientist. I consider the dependency of the law on interpretation and implementation by the SC. I will study the change that has taken place regarding the consideration of a "threat to international peace and security" in article 39 of the UN Charter (leading to authorization of enforcement measures in the humanitarian crises of Somalia and Rwanda).

The solidarist perspective will reflect the humanitarian concerns. The normative concerns go both ways as well. When is humanitarian intervention by military force justified? How to balance the suffering caused by systematic human rights violations with the suffering caused by military interventions? What is a just war? I study the conditionality of state sovereignty and international peace on human rights completion and the norm of "the responsibility to protect" in cases of "loud emergencies". In relation to this it can be discussed whether the SC, and not only states, has a moral obligation. It might seem difficult to have an ethical discussion about an institution that operates merely in the field of politics and law.

Nevertheless, there are researchers who discuss the norm-setting activities of the SC such as Hoffman and Österdahl. The UN introduces norms such as human rights that affect the traditional norm of state sovereignty (Hoffman 1996:14-16, 18, 27; Österdahl 1998:110-111, 127).

Pluralists and realists would probably argue that the will and resources of the powerful states in the SC is required in order for a humanitarian intervention to take place. I look at the political factors regulated to some extent by international law and order.

The political aspect deals with core values such as justice and state sovereignty but also looks at pragmatic considerations such as power politics and national and strategic interests. The political will probably differ with regard to states' competing political priorities/interests and also from case to case. The power relations in the SC are also of importance. I will study factors that mobilize political will to intervene as well as circumstances that discourage political leaders. The role of the media and NGOs will be looked at.

1.2.2 Terminology

This thesis will analyze the practice of so called forcible humanitarian interventions³. The definition of humanitarian intervention that will be applied in this thesis is: *Military coercive interference undertaken by the UN in the internal affairs of a state with the purpose of addressing massive human rights violations or relieving widespread human suffering* (See also Mayall 2004:121).

My definition is not restrained entirely to the standard legal definition of humanitarian intervention stating that the intervention has to be without the consent of the government of the target state. In some cases the will of the state can be ambiguous to determine. In the case of Somalia there was no authority at all because the state had collapsed and in Rwanda it is argued that the intervention was carried out with consent.

The often central division between *collective/multilateral* (= UN authorized) and *unilateral* (=non-UN authorized) intervention is not regarded in this thesis as I have chosen to merely study interventions endorsed by the SC. In this thesis "humanitarian intervention" will be used for UN interventions in humanitarian

³ "Humanitarian intervention" does not necessarily imply the use of military force. It traditionally has the aim to help victims of political and natural crises of an urgent character without distinction to nationality. Resolution 43/131 of 8 December 1988 of the GA concerns "the humanitarian assistance to victims of natural disasters and similar emergency situations". This resolution gives the NGOs free access to the victims and appeals that their work should not be interfered nor by the receiving state nor by its neighbours even though the main responsibility is upon the affected state (A/RES/43/131). Resolution 45/100 on 14 December 1990 reinforces the access of humanitarian help by creating "relief corridors" but still reaffirming the sovereignty of the states. These resolutions are non-binding and rest on the good will of the receiving state (A/RES/45/100).

crises although other authors might use this term for non-UN authorized interventions.

To the term “human rights” I apply a broad definition including individual and collective rights as laid down in national and regional bills of rights and international human rights documents (Cf. Nowak 2003:4). The types of human rights that will be relevant in this thesis are the rights to be protected from genocide, mass killings and ethnic cleansing. The use of the term “humanitarian” may also need to be specified. Humanitarian law, especially the four 1949 Geneva Red Cross Conventions and Additional Protocols of 1977, only becomes effective in the event of armed conflicts. It “defines minimum standards for international and non-international armed conflicts to protect combatants as well as civilians affected by armed conflicts” (Nowak 2003:38).

“Power” is also a central concept and is used in this thesis both in terms of influence (“soft power”) and in more material terms (“hard power”). The former includes the power of norms highlighted by solidarists. The latter relates to the power of states referred to by realists but also to the power of other actors such as IGOs and NGOs recognized by pluralists. In regard to “soft power” and the media, the “CNN or BBC effect” will be discussed. This factor refers not only to these channels but represents the power of all the media in a general way.

1.3 Method

The method I use is qualitative (Landman 2003:19) and the analysis is concentrated to the case of Darfur while comparing it with Somalia and Rwanda. The study is mainly deductive (Landman 2003:15); I will derive the factors concerning three cases and one in more depth by applying three sets of hypotheses. The thesis is an empirical study (*ibid*) of the factors that determine the choice of the SC whether to intervene in humanitarian crises in Africa.

I will not give a thorough historical background of the subject of armed interventions or the conflicts, nor will I describe all cases of humanitarian intervention in the 1990s. My objective is to focus on the response in the SC to the crises in Somalia, Rwanda and particularly the Darfur region in Sudan.

I will present the legal framework in the UN Charter; the principle of state sovereignty and non-intervention as well as the possibility of collective use of force and the expanded definition of “threat to the peace”. I will look at the covenants and declaration of human rights, in particular the Genocide Convention, and what some people mean is the responsibility by the international community to protect civilians against similar atrocities. My last hypothesis is that the member states in the SC are driven by pragmatic concerns such as national and strategic interests and influenced by power relations.

I will analyze two cases of humanitarian intervention by looking at the factors relevant for the action by the SC. I will start the empirical analysis with the intervention in Somalia in 1992 because this case was decisive in connecting the relationship between human tragedy caused by the internal conflict and international peace and security. Continuing the review I will study the case of Rwanda in 1994. These cases will then be compared with the discussion and situation of inaction in the SC concerning the Darfur crisis.

I will examine which were the decisive legal, moral and political arguments for and against intervention concerning the empirical cases in the resolutions of the SC, the meeting records, presidential statements, the S-G's reports and the findings of the Inquiry Commissions. In the analysis I will also cover possible factors other than the explicit considerations that could be decisive for states' interventions in humanitarian crises.

I understand that the domestic decision making process in the member states of the SC also is of importance for the resolutions adopted in the SC. Nevertheless, I choose to concentrate on the process in the SC meetings. The circumstances surrounding and the factors bearing on the vote by each member state are partly assumptions that I make from what is known about the position of the individual member states in earlier cases in the SC.

1.3.1 Material

My selection of material has been thoughtfully made with respect to quantity and quality. For the theoretical section of the thesis I have mainly used secondary sources that consist of literature on humanitarian intervention in international relations theory. I concentrate on recently published research from the legal, philosophical and political disciplines even though the idea of humanitarian intervention can be traced in works more than a century back in time (Cf. Beckman 2005:14; Chesterman 2001:24-25).

It is rare to find recent literature on the topic that rejects humanitarian interventions completely. Most authors find it problematic to disregard the factual authorized interventions that have taken place in the 1990s. Wheeler (2000), Tesón (1988) and Walzer (2004) support a solidarist theory of international relations. They are mainly concerned with the ethical considerations. However, non-Western countries and states in the developing world do generally not support interventions. The universality of human rights is also contested by some of these states (Österdahl 1998:123). Mayall (2004), Welsh (2004) and Jackson (2000) are proponents of a pluralist theory. Vincent (1974) and Chesterman (2001) represent the positive international law and have a rather critical view towards humanitarian intervention.

The cases of Somalia and Rwanda are well accounted for but there is not yet extensive research done on the SC's response to the Darfur crisis. The UN

documents that I have used as primary information for the empirical cases are from 1992-1993 (Somalia), 1994 (Rwanda) and 2004-2005 (Sudan). I have used documents of the SC as I consider the meetings in this UN organ to be the best to analyze because it is the executive power of the UN. Besides, the SC is dealing with concrete and current issues such as authorizations of armed interventions with purported humanitarian motives while, e.g., the GA is dealing with more general issues.

The documents have been retrieved from the Official Document System of the UN (ODS). I have not been able to study the deliberations in the SC's informal consultations on the cases since I have no access to these documents (not accessible to the general public in ODS). I realize the problem of the reliability that it might entail to only have the published material such as meeting records from the official meetings. (It is often uttered in the UN that the "real" intentions and arguments in the SC are expressed "behind the doors" from the public eye.) Nevertheless, I think that I have been able to deduce relevant and comprehensive answers from the material that I have selected and been permitted to analyze, also considering the time constraints.

1.3.2 Disposition

The thesis is divided into three theoretical sections (chapter 2) representing the different hypotheses I pose about the aspects that might be relevant for the decision to intervene in humanitarian crises by the SC: legal considerations, humanitarian concerns and political will. In the empirical section (chapter 3) I initially study the relevant factors that determined the SC's response to the conflicts in Somalia and Rwanda, the two cases of comparison. Thereafter, I present the background to the crisis in Darfur and make a detailed analysis of the process in the SC from May 2004 to February 2005 concerning Darfur and why there has been no decision to intervene, which is the case study of this thesis. Finally, I conclude what factors that have shown to be relevant in the decision by the SC whether to intervene in African humanitarian crises (chapter 4).

2. Factors concerning UN Humanitarian Intervention

2.1 Legal Considerations

The relevant principles discussed by positivists are non-intervention, state sovereignty and international peace, as well as collective use of force, “threat to the peace” and “all necessary means” which refer to different articles in the UN Charter. Counter-restrictionists emphasize the human rights components and bring up the argument of customary international law in light of the interventions carried out in the 1990s.

2.1.1 Principle of Non-intervention

The legal status of humanitarian interventions can be interpreted in different ways. The international system urges the states to protect the human rights universally and at the same time forbids intervention in sovereign states. Article 2(4) of the UN Charter prohibits “the use of force against the territorial integrity or political independence of any state”. The principle of state sovereignty, founded in 1648 with the treaty of Westphalia, is considered an important liberal cornerstone. The sovereignty and non-intervention principle recognizes the equality among all member states irrespective of size and power (Ignatieff 2001:42; Hoffman 1996:12; Taylor & Curtis 2005:414). Positivists highlight the function of the non-intervention principle as protector of state sovereignty; “if a state has a right to sovereignty, this implies that other states have a duty to respect that right by refraining from intervention in its domestic affairs.” (Vincent 1974:14-15) The external sovereignty of one state is constrained by the internal sovereignty of every other state (Ramsbotham & Woodhouse 1996:35). However, many mean that the interdependence in the contemporary society and the increased acceptance in the 1990s of interventions in humanitarian emergencies has weakened the state’s autonomy and transformed traditional state sovereignty (Hoffman 1996:15; Chesterman 2001:151).

The prohibition of the use of force might be the most solid argument against any kind of armed intervention. The use of armed force, i.e. war, to implement human rights is a serious step to take and the law is very restrictive in this sense (Beckman 2005:14, 64, 76, 295). Some positivists mean that when the principles in the UN Charter conflict with each other “the maintenance of peace” must be held before the other values. The prohibition on the use of force exists because the main purpose of the UN is to preserve and restore the peace (article 1(1) of the UN Charter) (Chesterman 2001:222). According to some researchers, peace can therefore be seen as remaining superior to the moral argument of human rights. It can be claimed that it is significant to preserve the international legal system in order to maintain and restore peace. International stability and peace can also be seen as a condition for human rights fulfillment (Hoffman 1996:19, 23). Chapter VI of the UN Charter states that the SC shall call upon parties to settle disputes by

peaceful means. Article 41 of Chapter VII permits the SC to decide on measures not involving the use of armed force such as sanctions against member states.

The counter-restrictionists interpret the UN Charter differently than the positivists. They highlight that the purpose of the UN is to protect human rights in addition to maintain international peace and security (article 1 binds these together). Some counter-restrictionists suggest that the preamble and articles 1(3) and 55, encouraging and promoting human rights, and 56, stating that all members pledge themselves to take joint and separate action for this achievement, provide enough grounds for a legal right to intervene (Wheeler & Bellamy 2005:559-560; Dupuy 2004:603).

2.1.2 Collective Use of Force

Article 2(7) of the UN Charter mentions that there are exceptions to the principles of non-use of force and non-intervention with the application of Chapter VII such as the right of individual or collective self-defense or collective security action mandated by the SC.

The SC has the responsibility to maintain “international peace and security” but also the authority to use force in case of a “threat to the peace, breach of the peace, or act of aggression” according to article 39 of the UN Charter. The discussion on UN humanitarian intervention entails that the SC lately has widened its interpretation of what constitutes a “threat to the peace” according to article 39 and included gross violations of human rights and humanitarian law (Österdahl 1998:25, 112, 114).

The UN’s interventions in Somalia and Rwanda support the argument that the SC see itself as empowered under Chapter VII to authorize armed interventions to end massive human rights abuses (Holzgrefe & Keohane 2003:41). Positivists stress, however, that in most cases the SC has not explicitly authorized interventions with humanitarian reasons but has referred to actions under Chapter VII, e.g. spill-over consequences such as flows of refugees, which constitutes a “threat to the peace” in article 39 and the need to use “all necessary means” in article 42 (Taylor & Curtis 2005:415).

Some liberals claim that it is necessary to intervene in “failed states” as self-defense; the collapsed states will affect the liberal states in the form of immigration flows and economic crisis (Wheeler & Bellamy 2005:560; Dupuy 2004:603).

2.1.2.1 Customary law

Counter-restrictionists also refer to customary international law since there has been a practice of interventions in the 1990s with statements of humanitarian motives by Western states as evidence of *opinio juris* (Welsh 2004:55; Wheeler &

Bellamy 2005:560). According to classical lawyers, however, this goes against the Vienna Convention which states that treaty provisions prevail over customary rule. The intervention has to get the status of *jus cogens* in order to be considered legal (Byers and Chesterman 2003:180). Non-Western states are opposed to this since it seems to propose that the actions of the Western states are more important than the outspoken opposition to these actions by non-Western states (Welsh 2004:55).

2.2 Humanitarian Concerns

The African continent has experienced and experiences many humanitarian crises. According to the S-G's report to the SC on 13 April 1998, "since 1970, more than 30 wars have been fought in Africa, the vast majority of them intra-state in origin. In 1996 alone 14 of the 53 countries of Africa were afflicted by armed conflicts, accounting for more than half of all war-related deaths world wide and resulting in more than 8 million refugees, returnees and displaced persons." (S/1998/318 Para 4)

Solidarists argue that there exists a moral obligation to intervene in some circumstances; intervention is sometimes morally required to stop the slaughter of the citizens of other states. Some claim that the argument of a moral duty is much stronger than the proposition of a legal right because even though the right make intervention possible it does not conclude it (Chesterman 2001:236; Wheeler 2000:12, 296; Walzer 2000:xii-xiii, 107). The UN affirms not only the right of states but also the rights of people. The solidarist theory emphasizes individuals as the central subjects of international law. The view is that it is the will of the people that gives the states their legitimacy, and the right of states is drawn from the right of individuals. The solidarist theory means that states have to earn their right to sovereignty and the protection from intervention that it provides. If states do not comply with human rights norms they have rejected this right and can be subject to intervening forces. State sovereignty is conditioned on the completion of human rights (Wheeler 2000:28; Tesón 1988:153; Taylor & Curtis 2005:415; Wheeler & Bellamy 2005:561).

Criticism against the pluralist explanation is that it does not consider power based on norms. Solidarists argue that even brutal states are aware of the importance of justifying their actions; the power of shaming of norms of humanitarianism is different from power of domination. Another objection against the pluralist position is that it fails to realize that leaders might genuinely believe in the norms of humanitarianism and therefore approve of it (Wheeler 2004:39).

Realists refute the argument that states have a moral duty to intervene to protect humanity (Wheeler & Bellamy 2005:558). Ethical objections argue that the state only has moral duty towards its citizens and its objective is to further the national interest (Welsh 2004:57-59).

2.2.1 Human Rights and Humanitarian Law

The protection of human rights is mainly expressed in articles 1(3), 55 and 56 of the UN Charter, the UDHR and in the covenants on human rights such as CESC, CCPR, CERD, CEDAW, CAT and CRC. Most states are signatories to human rights conventions but the problem is that none of the obligations in the multilateral human rights treaties can be enforced by any external actor. The domain of human rights is principally reserved to the competence of the states (Holzgrefe & Keohane 2003:43-44; Wallensteen 2002:64).

Solidarists believe the UN should intervene in cases of so called “loud emergencies” including genocide, ethnic cleansing, mass killings and famine (Wheeler & Bellamy 2005:576). The philosopher Michael Walzer argues that humanitarian intervention is reserved for “extreme humanitarian emergencies” or violations that “shock the moral conscience of mankind” (Walzer 2000:xii-xiii, 69, 107).

Some argue that because of the evolution of humanitarian law, genocide can also be seen as constituting an exception to article 2(4) of the UN Charter. According to the UN Convention on the Prevention and Punishment of the Crime of Genocide (1948) armed multilateral responses are legitimate (Welsh 2004:54-55). But the Convention is weak concerning implementation, not including binding mechanisms. States can call upon “the competent organs of the UN to take actions as they consider appropriate” in accordance with article 8 of the Convention so it is up to the SC to authorize “all necessary means” after having declared the genocide a “threat to international peace”. The UN can also choose to refer the genocide crime to the ICC. The Convention can be referred to in criminal trials after the fact. Genocide is therefore punishable in theory but in practice often unchallenged when it is carried out (Shue 2004:19).

2.2.2 Responsibility to Protect

The S-G Kofi Annan has taken a strong personal stance on the issues of humanitarian intervention, supporting the development of an international norm of intervention to stop the slaughter of people (Annan 1999; Roberts 2004:86). In the GA in September 1999 the S-G urged the international community to move “from a culture of reaction to a culture of prevention”. A majority of the member states do not, however, approve of his position as the statements in the general debate of the GA’s fifty-fourth session demonstrate (Roberts 2004:86; UN Chronicle 1999). Many member states do, nevertheless, accept the authorization of the SC of intervention in cases of extreme humanitarian crisis. In spite of that, some states such as China, Russia, India, Syria and Sudan continue to guard the sovereignty principle against what they call “human rights imperialism” by the West (UN Chronicle 1999; Wheeler 2004:40).

In any case, Annan's campaign has contributed to a change in the debate of the issue. His perspective received support in the report by the ICISS that proclaims "intervention for human protection purposes" and reflects a solidarist perspective (Roberts 2004:87; ICISS 2001:xiii). Many NGOs in the field of human rights and humanitarian relief believe in and work for the norm of the responsibility to protect. NGOs played a significant role for the adoption of the UN Organization and continue to be relied on for information by the UN monitoring institutions (Keck & Sikkink 1998:80, 85).

Walzer (2000, 2004) discusses "the theory of just war", a theory that is critical to when and how to use war. According to Walzer's argument wars can be irrational but sometimes need to be fought. He denies that the theory moralizes war (Walzer 2004:x-xi, 14). Pluralists present the moral defense against intervention that the individuals are better protected by upholding the international order since there is no consensus on what principle should govern a right of humanitarian intervention or what constitutes atrocities serious enough for intervention (Wheeler & Bellamy 2005:559; Welsh 2004:64).

2.3 Political Will

In most works on humanitarian intervention it is concluded that intervention requires "political will", the problem is the absence of the will to act at all. Not much research has been done on developing this aspect. I believe that what determines the direction of political will in favor or against UN humanitarian intervention is national and strategic interests of the member states. States have both mutual and competing political priorities. National interests can be a positive factor for intervention and strategic interests may be negative for the prospects of intervention. Interests are not immutable, however, and therefore the media and non-governmental actors can sometimes influence the governments to act. Behind the different priorities lie other conditions such as public willingness, risks, resources and power relations.

2.3.1 National Interest

For an intervention to take place it is necessary with strong political leadership and a state pushing and offering troops to the operation (ICISS C 2001:211). The leadership can come from a powerful state such as the US, or a state that has some cultural or geographical connection to the state, or has leverage in terms of its neutrality such as Canada. Political leadership is best conveyed through the SC (ICISS C 2001:210).

The factor of national interest is generic and can be affected by public willingness, the media and NGOs, in addition to practical considerations such as military capacity, risk of the lives of their soldiers, and the prospect to succeed.

2.3.1.1 Public Support

It is of importance that the information about the seriousness of the situation reaches the SC (from NGOs and the UN Secretariat) in order for it to act. Public awareness, willingness and support also seem to be a factor that can influence political will. The democratic government wants to fulfill the wish of its citizens and in times of elections this factor should be even more influential.

The media has a significant role in making people aware of human suffering in other parts of the world. The “CNN or BBC effect” can work both ways though. It can be positive for intervention in the sense that it shows the need for intervention in a humanitarian crisis, and wakes the empathy of the viewers that makes them push their government to act. However, it can also turn the other direction when it demonstrates the danger for the soldiers to be in the crisis and risk their lives that makes the viewers oppose the intervention (Wheeler & Bellamy 2005:565, 576). It can also work against intervention in that specific humanitarian crisis when other conflicts overshadow that crisis.

In some cases human rights and humanitarian NGOs manage to mobilize political leadership. NGOs have “soft power”; they are using ideas and values to pressure states morally and politically (Nowak 2003:258). Their work includes collecting facts, observing, reporting/publishing information and lobbying the public and persons in power (Nowak 2003:261; Keck & Sikkink 1998:19). However, the voice of the NGOs is not always heard.

2.3.1.2 Prospects, Costs and Risks

In calculating the prospect for success of the interventions states might consider how likely it is for the intervention to make a difference, i.e. prevent the country from emerging back to crisis, and the existence of a good exit strategy. The conflicts are local and complex involving inseparable perpetrators and victims and deeply rooted causes (Kaldor 1999:2; Mayall 2004:127-128). The intervening forces must often stay on to make sure the violations are not recurring (Walzer 2004:70-71). In practice humanitarian interventions are often short term; perform a quick action to instantly relieve the suffering and then hand over to the UN peacekeeping operations to do the reconstruction work. There is no will to stay on as long term operations are costly (Wheeler & Bellamy 2005:571; Walzer 1999:13; Ignatieff 2001:44; Wallensteen 2002:255).

There is an unwillingness of states to take on this responsibility due to the costs and seemingly small benefits involved. The leaders of intervening states are foremost concerned with the lives of their soldiers and the public opinion at home.

Military officers have the perception that there should be no casualties of their soldiers. Solidarists argue that this is not reasonable, and think that politicians and militaries should consider justice as an important factor. In many cases ground

troops and large-scale force are needed and the use of force will be ineffective if there is no risk-taking and spending involved. Furthermore, solidarists present the argument that doing nothing about the humanitarian crisis will also turn out to be costly as instability and lawfulness not only affect the victims in the war but also spread to the rest of the world (Walzer 2004:15, 17, 20, 67, 73).

2.3.2 Strategic Interest

In some cases less admirable motives for opposition to humanitarian interventions are present such as in the case of oppressive regimes that want to prevent their monopoly from being threatened, or intervention to be directed at them the next time (ICISS C 2001:207).

Mutual gains such as resources, support, or sharing of similar religious or cultural values with the target state might be factors that make some states oppose interventions in for them strategic regions or countries. Some states in the SC are more concerned about upholding a good relationship with their trade partners than protecting human rights.

2.3.2.1 Power Relations

Positivists and pluralists stress that the principle of state sovereignty has not been eroded but only transformed in the international society. The sovereign state remains a holy unit and is still protected by the doctrine of non-intervention (Chesterman 2001:91-92; Taylor & Curtis 2005:416; Shue 2004:11). Many countries in the developing world are supporters of a pluralist view on humanitarian intervention. They mean that the principle of state sovereignty protects weak states against powerful states and is essential for the equality in the international community (Welsh 2004:66; Roberts 2004:88).

The structure of the SC with the veto power of the P5 is to many a great obstacle for intervention to take place. As in all politics the mighty will be the ones who decide where and when to intervene since they have the power to make it happen. There is, as we all know, a disparity between established norms and the actual situation. Some arguments against humanitarian intervention stress the selectivity and inconsistency of the practice of humanitarian interventions. It is not likely that there will be an intervention in any of the P5. Moreover, it can be argued that the “collective security” is not working since there is no multinational force in the UN, the coalitions that physically intervene are delegated by the SC to act in the name of the members of the organization (Pouligny 2000:72-74; Ignatieff 2001:40).

The US and China are representing opposite sides on the issue of humanitarian intervention. In the general debate of the GA in 1999 China’s Foreign Minister said that any deviation from the universally recognized norms governing international relations would “lead to the rule of hegemonism” (UN Chronicle

1999). Positivist arguments against multilateral interventions refer to dangerous consequences with the interventionist trend and the problem of changing the legal rules after a practice of the powerful states (Österdahl 1998:123; Byers & Chesterman 2003:203). It is also a problem that states can use humanitarian intervention as an excuse to intervene on grounds of national interests, i.e. case of abuse (Wheeler & Bellamy 2005:558).

Another sensitive relationship is the one between West and Islam. The Arab world is mostly against humanitarian intervention. Some states are very hostile to especially the US accusing it of having hidden motives for intervening. Pluralists argue that the UN is dependent on the US's approval of an intervention as the US has the resources needed to add to the strained budget of the UN (Wheeler 2004:38).

At the fifty-fourth session of the GA in September 1999 the President of Algeria, representing the OAU, criticized the blurring of humanitarian aid and interference in internal affairs, saying that OAU member states remained “extremely sensitive” to any undermining of their sovereignty, because they had “no active part” in the decision making of the SC (UN Chronicle 1999). The OAU's adoption of the principle of *uti possidetis, ita possideatis*⁴ in 1964 influenced the view of non-interference and territorial integrity as part of the African countries search to establish self-determination after European decolonization (Mayall 2004:120; Jackson 2000:327; Walzer 2004:68). The purpose of the creation of the OAU itself in 1963 was to make Africa stronger against external intervention. African nationalists wanted Africa to be able to solve its own problems. In practice, however, it was difficult for the OAU to intervene without help with resources and experience from the outside world. It is likely that the UN is the one deciding and managing the interventions into humanitarian crises because of the lack of external interests. The OAU also adopted the condition in 1993 of intervention only in association with the UN. In the future it is realistic that the UN will be running the operations in collaboration with regional organizations as local states have an interest in putting an end to conflicts that often spill over borders (Mayall 2004:122, 128, 130). With the creation of the AU in 2002 the organization has, despite debts from the OAU, gained more credibility from the rest of the world and got the chance to show its abilities. The AU has added the new article 4(j) to its Charter that gives the member states the “right to request intervention from the Union in order to restore peace and stability” (AU Charter).

⁴ Latin for “as you possess so you may possess”

3. Cases of UN Humanitarian Intervention in Africa

3.1 Cases of Comparison

In the following two sections I will look at the decisions the UN made in the cases of Somalia and Rwanda for further understanding of the relevant factors for humanitarian intervention. I will analyze what indicators determined the intervention in Somalia. Thereafter, I will examine the reasons for the failure to intervene in time to stop the genocide of 800.000 Rwandans and what factors that determined the intervention that was finally carried out.

3.1.1 Somalia

With the unanimous adoption of resolution 794 on 3 December 1992 the SC approved a humanitarian intervention in Somalia under American command called “Operation Restore Hope” or UNITAF. The SC authorized France and Senegal to use “all necessary measures” under Chapter VII to assure the security of the humanitarian relief operations. Resolution 794 reinforced the connection between humanitarianism/human rights and international security. “The magnitude of the human tragedy” constituted a “threat to international peace and security” according to the resolution. Most members of the SC would normally not justify an intervention merely on humanitarian foundation but demand referral to article 39 of the UN Charter in the resolution. Somalia was highlighted as a “unique” situation that needed an “exceptional” reaction in the preamble of the resolution to distinguish it from other cases. It was seen as a “failed state”, the government had collapsed and therefore it was not a classical intervention against the will of the state (S/RES/794; Dupuy 2004:601; Baylis & Smith 2005:565, 567; Pouligny 2000:70-71).

The deliberations in the SC and in resolution 794 focused on humanitarian rationale for intervening. “The magnitude of the human tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance” was mentioned as a cause (S/RES/794). The resolution was adopted under Chapter VII but the debate in the SC stressed the humanitarian reason for intervening. The S-G said that the SC had “established a precedent in the history of the UN: it decided for the first time to intervene militarily for strictly humanitarian purposes” (UNYB 1993:51).

It seems that the members of the SC had the solidarist notion of state sovereignty as conditioned on the responsibility of human rights completion in mind and believed in the norm of humanitarianism when they decided to authorize an intervention in Somalia. There was consensus in the SC about the moral responsibility of the SC to end the tragedy of which the UN Secretariat reported that two million people in Somalia could die if the security was not restored in order for the relief operations to deliver supplies. Only the US and Cape Verde

mentioned the international dimension with the trans-boundary effects of the conflict with repercussions on neighboring states that imperil the stability of the whole region (S/PV.3145).

There was no active opposition from any of the SC members to the intervention on humanitarian grounds in Somalia, not even from Zimbabwe which was the only member remaining in the SC that had opposed the intervention in Northern Iraq. It is said that the African states agreed to intervene in Somalia because they felt ashamed of the human tragedy and that African attempts to solve the conflict had not worked (Wheeler 2004:35).

The moral awareness of people in the West of the suffering in Somalia and especially the effect of the CNN images on the American public was a decisive factor in pressuring the US government's decision to intervene in Somalia (Wheeler & Bellamy 2005:564). The Presidential election campaign in 1992 included concerns about the Somali starvation because of the strong media coverage of the crisis (Wheeler 2004:38). Therefore, it was the right time for intervention as no other conflicts overshadowed.

The President of the ICRC Cornelio Sommaruga began lobbying in December 1991 and January 1992 with the outgoing S-G Perez de Cuellar and incoming S-G Boutros Boutros-Ghali to move robust action in Somalia onto the international radar screen. In mid-January the ICRC publicly reported that hundreds of thousands of refugees from the conflict were on the brink of starvation in the camps (ICISS B 2001:94).

Objection to the pluralist point of view is that there was no apparent national interest for the US or any of the P5 to intervene in Somalia. But it can also be said that the administration had an interest in following the will of the American public to do something about the disaster reported in the media.

Although the operation was able to save some Somalis from starvation the operation ended in failure in political terms; the combats resulted in killed Pakistani soldiers and eighteen dead US Army Rangers being dragged through the streets of Mogadishu in front of the cameras leading to withdrawal of the American troops (Shue 2004: 24; Mayall 2004:132). The Horn of Africa was no longer a US foreign policy priority after the end of the cold war; the US was not committed enough to the operation to risk its soldiers in Somalia. The case also demonstrates how the CNN effect works in both ways. When the American public saw the horrific images of the US Army Rangers in Somalia the US could do nothing but withdraw from the crisis. The lessons had been learned from the experience in Somalia and the new American foreign policy directive in the US, only allowing participation in UN security operations when American interests were involved and when there was a clear exit strategy, was an outcome of this (Mayall 2004:133-134).

Member states of the SC afraid of weakening the sovereignty principle, such as China and India, expressed their reservation to the resolution by stressing the exceptional action in view of the unique situation in Somalia and stressed that the government had ceased to exist (S/PV.3145). They were apprehensive about creating precedents for intervention and would otherwise have blocked the intervention (Roberts 2004:84). A pluralist view would explain the case of Somalia by emphasizing the power of the US over the UN. According to a pluralist perspective there has not emerged a new norm but this is only a demonstration of Western power and its interests.

To conclude, the case of Somalia was the first time the UN intervened on primarily humanitarian grounds which is in line with the solidarist perspective. The norm to protect was considered important. It is not clear whether it was the determining factor though. The intervention was consistent with the UN Charter; the SC determined that the tragedy constituted a “threat to the peace” under article 39, which speaks in favor of the positivist view. Furthermore, pluralists think that the situation did not signify an explicit breach of state sovereignty as it was an intervention in a so called “failed state” and the resolution stressed the “uniqueness” of the situation (Taylor & Curtis 2005:416).

There was apparently no national interest involved, which talks against the pluralist/realist argument. However, there could have been domestic political will in the US to intervene because of the awareness and compassion of the American public through the media about the crisis (“CNN effect”). Additionally, the advocacy role of the NGOs, such as the ICRC’s President, might have been a relevant factor.

The political will was conveyed in the case of Somalia but the US was not willing to intervene at any stake. The Americans thought the prospect was that the US would succeed, and that there would be no American casualties. There was neither any planned exit strategy before intervening. The US withdrew when there were fatalities among its own soldiers.

3.1.2 Rwanda

The UN operation in Rwanda (UNAMIR) and NGOs on the ground, which had first-hand information of the situation, tried to warn the SC about the seriousness of the conflict. They referred to the responsibility by the international community to intervene.

Rwanda demonstrates the limits of the international norm to protect people from genocide as the Convention on Genocide does not include enforcement measures; it is up to the will of the member states. However, the Convention explicitly opens the opportunity of bringing a situation to the SC. Despite that the S-G on 4 May pronounced that genocide was taken place in Rwanda there was no reaction in accordance with the Genocide Convention (S/1999/1257). The member states did

not call the genocide by its real name because that would have made it harder to justify the passivity and choice not to intervene (Mayall 2004:135). The report of the Independent Inquiry on Rwanda states that even if members of the SC did not have a responsibility explicitly, they had a duty morally (S/1999/1257).

An American journalist was told by a White House official that there was no public support for US participation in an intervention in Rwanda. Solidarists would stress that this was a question of leadership, a case in which the public base had to be created (Melvern 2000:203). The conclusion of the report by the Independent Inquiry tells that the failure came down to the absence of will to act (S/1999/1257). It is not likely that the SC would have opposed any state willing to intervene to stop the genocide when it was carried out (Wheeler 2004:36). It seems that the international community was held back by the lack of will of the major powers to get involved in Rwanda. There was no direct national interest of the P5 in the country.

In resolution 929 on 22 June 1992 the SC called “the magnitude of the humanitarian crisis” a “threat to peace and security in the region”. Acting under Chapter VII of the UN Charter it authorized the member states offering troops to use all necessary means to achieve the humanitarian objectives (S/RES/929). Statements by France, who led the international force Opération Turquoise that was carried out through resolution 929, expressed a solidarist belief in “a more just society” and “the moral duty to act” (S/PV.3402).

No countries voted against resolution 929, but Brazil, China, New Zealand, Nigeria and Pakistan abstained in the voting (S/PV.3392). Opération Turquoise was mandated by the SC to set up safe havens until UNAMIR II was able to accomplish its humanitarian role (S/RES/929). Some argue that the French led intervention in Rwanda was an obvious example of “abuse”. President Mitterrand wanted to improve his position in Africa. France had supported the Hutu government for twenty years, e.g., with troops, and was now concerned that the country would be turned over to the Anglophones’ influence if the Tutsis and exile Rwandans would take the power. The operation was solicited by the old Rwandese government (Wheeler & Bellamy 2005:565; Ignatieff 2001:41; Nowak 2003:313, 321). The RPF did not approve of the French intervention (Mayall 2004:137).

Despite early warnings, Opération Turquoise was decided on too late to stop the genocide in Rwanda, which began on 6 April 1994. This failure has been damaging to the credibility of the UN and the international community in general. The UN was very busy at the time with conflicts in many parts of the world. Rwanda was a low priority area in the UN. The civil war in FRY overshadowed the crisis as the West had national interests in this region (Reeves Feb. 2005). The Rwandese government that was a non-permanent member of the SC at the time also contributed to the silence from the SC (S/1999/1257).

The media failed to obtain action in the case of Rwanda partly because it had its focus on South Africa, and the coverage on the situation in Rwanda depicted it as an intractable and intertribal conflict in stereotypical images of a tribe massacre (ICISS C 2001:213). There was no “CNN effect” in this case, and Rwanda also shows the selectivity of the media focus; it gave attention to Somalia and Bosnia but not to Angola, Liberia, the DRC, Rwanda and Sudan.

Despite the lack of media exposure, most people would deny that the SC was not aware of what was going on in Rwanda because of the warnings from the troops in Rwanda, particularly from UNAMIR’s Force Commander Romeo A. Dallaire of Canada and the reports by NGOs such as HRW. The RPF stated already on 13 April that what was happening was genocide. These actors could not convince the SC of a norm of the responsibility to protect the victims in Rwanda. It was a failure not to listen to the warnings, a failure in the response of the S-G, the UN Secretariat and the SC according to the Independent Inquiry on Rwanda (S/1999/1257). First-hand information of the situation on the ground is crucial in the decision making process whether to intervene. Although most people argue that the SC was informed about the severity of the crisis in Rwanda there have been some changes in this procedure in recent years including permitting certain non-state bodies to give testimony to the SC (Roberts 2004:91-92).

The reasons for the passivity of the SC and all other states in front of the genocide were, according to Annan in his 1999 annual report to the GA, the concern “to pay the human and other costs of intervention, and the doubts that the use of force would be successful” (Annan 1999:21). The grounds for not intervening included the concern of external powers to risk the lives of their soldiers to save strangers. Some say that no government has risked its troops in conflicts were it believed there was a high risk of casualties (Wheeler & Bellamy 2005:576). Some pluralists argue that the failure was based on ethical considerations, which entail a stronger compassion for fellow citizens than for citizens of other countries (Roberts 2004:82). The experience of the US in Somalia in 1992 had made it reluctant to participate in any operation in Africa. The new presidential directive included a more restrictive and defensive attitude.

China made pluralist references to state sovereignty and the importance of following the norm in the UN Charter as opposing arguments to intervene in Rwanda. Resolution 929 also stressed that the situation in Rwanda constituted a unique case (S/RES/929).

It is said that British and American diplomats rejected a resolution presented by a group of non-permanent members of the SC calling for enforcement measures in the beginning of May. The UK and US had argued that future action in Rwanda would have to be taken through the OAU that had a “key role to play”. On the contrary, the non-permanent members meant that the magnitude of the Rwandese tragedy required that efforts be taken under UN auspices, with all that implied in terms of political engagement and resource commitment (Melvern 2000:192).

3.2 Why no Humanitarian Intervention in Darfur?

3.2.1 Crisis in Darfur

Sudan is the biggest country in Africa and it has many regional wars. The war in the Southern part of the state (“the North-South conflict”) between the GoS and Southern dissident groups had been going on for 22 years in 2004 and before that for 17 years, which is 39 years out of the 48 years of the country’s independence (SC/8249; S/PV.5082). It was Africa’s longest running civil war before a CPA was reached in January 2005 (S/RES/1627). Now the ICG warns for a new war in Eastern Sudan. The East, like the South and Darfur, has legitimate claim on greater power and wealth sharing in a new federal government (ICG January 2006).

The crisis in Darfur, an area the size of France in Western Sudan, has been going on for more than three years. The conflict erupted when the two insurgent groups SLA and JEM in February 2003 attacked the national forces. The rebellion, who draws the bulk of its support from the region’s three main ethnic groups of African ancestry, think that Darfur is unjustly marginalized politically and economically in Sudan and they react to the atrocities by the “Janjaweed” militias in the area (ICG March 2006). The GoS’s forces and its allied “Janjaweed” militias return the attack from the rebellion with massacre on the civilian population. The uprising has developed into a local civil war with more than 180.000 people dead (450.000 from violence, disease and malnutrition according to another estimation) and 2.5 million IDP and 200.000 Sudanese refugees in Chad with a serious famine disaster on the way (3.8 million affected by the conflict according to some assessment) (Sudan Tribune May 2006; Reeves April 2006). The S-G describes the situation in Darfur as “the world’s worst humanitarian crisis” (S-G May 2006).

3.2.2 Analysis

After this introduction to the conflict in Darfur I will analyze the main process and discussion of the Darfur crisis in the SC from May 2004 to February 2005. I have chosen this time period because it is when the crisis was an actuality and a decision would have been critical. By studying the SC resolutions, presidential and S-G statements, the report of the S-G’s Commission of Inquiry on Darfur and the pertaining meeting records I hope to be able to get an insight into why there has been no decision by the SC to intervene militarily in the humanitarian disaster in Darfur.

I will particularly focus on the statements by three of the major powers and permanent members in the SC (US, China and Russia) and by Sudan because of the Chinese and Russian outspoken skepticism about the concept of humanitarian intervention, the sponsorship of the most important resolutions and the strong

words by the US and the relevance of knowing what the target state Sudan utters. The decisions in the SC resolutions and what is stated in the SC meetings is not telling “the whole story” straightforwardly. But it is possible to, behind the words and from what is not said, interpret and conclude certain factors relevant for the decision not to intervene in Darfur.

While analyzing the UN documents I also have in mind the political context and circumstances surrounding the different positions. I need to take into consideration certain national and strategic interests and the relationship to Sudan of the members of the SC throughout my analysis. I have not studied the domestic decision making process concerning humanitarian intervention in any specific state more in detail and therefore I make an evaluation of possible factors that could effect the decisions of state leaders.

The discussion on the Darfur conflict in the SC started late. The conflict erupted in February 2003 but first in the end of May 2004 did a SC presidential statement express its grave and deep concern over the continuing reports of large-scale violations of human rights and of international humanitarian law in Darfur and condemn the acts. The SC stresses that the GoS committed itself to neutralize the armed Janjaweed militias in April 2004. Nevertheless, it also welcomes the announcement by the GoS that it will issue visas to all humanitarian workers and acknowledges the appointment of a Fact Finding Commission by Presidential Decree (S/PRST/2004/18). I can conclude from the resolutions that there has been a pattern of the GoS to make certain concessions in order to not face the risk of the international community deciding on sanctions against Sudan. In the middle of June 2004 the SC unanimously adopts resolution 1547 in which it makes a passing reference to the responsibilities of the GoS, condemning all acts of violence and violations of human rights and international humanitarian law by all parties in Sudan. It welcomes the S-G’s proposal to establish UNAMIS as a special political team to aid implementation of the CPA between SPLA/M and the GoS (S/RES/1547). These documents were mainly statements of concern and did not threaten nor sanction any enforcement measure against the GoS.

However, on 30 July 2004 the SC adopts the much stronger resolution 1556 by 13 votes in favor to none against, with 2 abstentions (China, Pakistan) (S/PV.5015). Acting under Chapter VII of the UN Charter the SC demands that the GoS disarm the Janjaweed militias and bring to justice its leaders and their associates who had incited and carried out violations of human rights and international humanitarian law in Darfur. The SC determines that the situation in Darfur constitutes a “threat to international peace and security and to stability in the region”. The SC further requests the S-G to report in 30 days, and monthly thereafter on the progress. It expresses its intention to consider further action including measures as provided for in article 41 of the Charter⁵, in the event of non-compliance (S/RES/1556).

⁵ Article 41 of the UN Charter states that the SC may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, including complete or partial

The SC decided that all states would take the necessary measures to prevent the sale or supply, to all non-governmental entities and individuals, including the Janjaweed, operating in Darfur, of arms and related material (*ibid*).

Statements were, e.g., made by the representatives of China, Pakistan, Sudan and the US on the discussion of resolution 1556 (S/PV.5051). The representative of China said that the humanitarian situation in Sudan called for speedy relief followed by political negotiations for a comprehensive agreement at the earliest stage, while respecting the sovereignty and territorial integrity of the country. China believed that Sudan would honor its commitment to disarm the Janjaweed militia. Expressing support for the leadership role played by the AU, including its deployment of monitors and protection force, he stressed that the GoS bore the primary responsibility to resolve the situation in Darfur. China thinks that the international community should make every effort to assist the GoS. China regretted that while the draft resolution had been amended, it still included references to mandatory measures that were not helpful and which could further complicate the situation. China was therefore abstaining in the voting on the resolution (S/PV.5051; SC/8160). In considering the standpoint of China in connection with the adoption of the Chapter VII resolution 1556, I think it is of interest to know that China has growing mutual strategic interests with Sudan, which can be a possible reason for why it is defending the importance of keeping the good relationship to Sudan. Sudan is an important oil source for China to help fuel its modernization plans and also a growing market for Chinese arms and other industrial goods. Sudan needs the arms and the political protection in the SC that China provides (ICG 2002:68-69). China is also against humanitarian intervention and all components that might erode the sovereignty principle and include interference with a state's internal affairs. I believe that the caution and opposition also may consist of a concern that the international community can start to question the Chinese Tibet situation.

The representative of Pakistan said the people and Government of Pakistan were as concerned as other members of the international community. All those suffering in Darfur were part of the Islamic umma. The SC must encourage cooperation with the GoS, not complicate it. He said his country had consistently counseled a calibrated approach to the situation in Darfur. While Pakistan appreciated the amendments made to the resolution such as the inclusion of the principle of preserving the territorial integrity of Sudan, the final text lacked the necessary balance. It was regrettable that compromise had not been possible and Pakistan could, therefore, not support the text. Pakistan did not think that the threat or imposition of sanctions against the GoS or that the adoption of the resolution under Chapter VII were advisable. Pakistan trusted that the SC would not need to take further measures (S/PV.5051; SC/8160). Pakistan's wish for what it called a "balanced" approach towards Sudan and its opposition to sanctions against Sudan makes me pose the question whether Pakistan has, like China and

interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Russia, national interests in the country. I consider that the cultural affinity might be a relevant factor; the representative of Pakistan is also mentioning this connection in his statement about the “Islamic umma”.

In response to the text’s adoption, the representative of Sudan said he was “overwhelmed with sadness at the SC’s hasty adoption of the resolution at a time when the GoS was racing against time to implement its agreement with the UN”. The military rebellion in Darfur had occurred when the GoS had been on the verge of achieving an end to the Naivasha negotiations and ending Africa’s longest-running civil war. The rebellion had destroyed peaceful coexistence in Darfur, precipitating a humanitarian crisis. The GoS had entered into obligations covering humanitarian, human rights, security and political issues (S/PV.5051; SC/8160).

At last, the representative affirmed that when his Government had signed the obligations in good faith, it had not thought that it would be utilized to penalize the GoS, whether or not it had fulfilled its commitments. The GoS was fully aware that some activists in the US administration had worked to foster the rebellion. He said that the consultations on the resolution had shown a division in the SC between those members that wished to allow adequate time for the AU’s efforts and those insisting on adopting the resolution irrespective of the decision taken by African leaders. The US Congress had decided that genocide and ethnic cleansing were taking place in Darfur, contrary to the judgment of the AU Summit. While the resolution claimed to support efforts of the AU, it hijacked the issue of Darfur from the AU, he said (S/PV.5051; SC/8160).

As can be seen from the statement by Sudan after the adoption of resolution 1556, the GoS is defending itself against the allegations taken on by the international community. For me it seems like the GoS is downsizing the gravity of the situation in Darfur, denying involvement in the violations and blaming the dissident groups. I would also say that the GoS appear to not fully recognize the problem in Darfur. In arguing that the GoS and AU (which the GoS prefers as main actor) need more time it presents the concessions made and that is in the process of fulfilling its obligations. In its statement Sudan expresses grave accusations against the US. The very hostile attitude that is demonstrated towards the US in the speech indicates the seriousness of the resolution just adopted. Sudan declares its support for the AU. But considering the circumstances that the capacity of the AU is very limited and that there are too few AU troops in place in Sudan (there are currently only 7000 personnel (Kristof Nov. 2005)) the mentioned support of the GoS is no longer seen in such a favorable light. The GoS also wants to direct the focus to the North-South conflict.

The US, which is the main sponsor of the resolution, said that the GoS has done the “unthinkable”; it has fostered an armed attack on its own civilian population and created a humanitarian disaster. The responsibility lies with the GoS. To suppress the rebel uprising, the GoS commenced a “campaign of terror” against

innocent civilians. Having passed nearly four weeks since the signing of obligations the GoS has still not fulfilled its promises (S/PV.5051; SC/8160). The US is the driving actor in endorsing measures and presents the most indicting position against the GoS. The representative describes the mean and dishonest intentions of the GoS by its support of the Janjaweed militia. I find it clear that the report of the American representative is the statement that uses the most normative and emotional language, e.g., referring to the “unthinkable” of the acts of the GoS and its “campaign of terror” against its population. With the declaration “it is time to start the clock ticking on the GoS” (S/PV.5051) the US might even be interpreted as indicating possible future intervention if the requirements are not met. The US is assuring that “the purpose of the resolution is to relieve the suffering of Darfur, not to punish Sudan” (*ibid*).

Early September 2004 Jan Pronk, the Special Representative of the S-G to Sudan, reported to the SC that Sudan has not disarmed militias, including the Janjaweed which is under the influence of the Government, ended impunity or stopped attacks on civilians in Darfur. However the GoS has made some progress towards meeting the requirements of resolution 1556, including improved security for some IDP (S/PV.5027; SC/8180). As I mentioned above, the GoS is recurrently promising concessions and fulfilling a few of the requirements of the SC so as to avoid more severe measures from the SC. It is also continually throwing the blame on the insurgencies.

On 18 September 2004 the SC adopted resolution 1564 by vote of 11 in favor, none against and 4 abstaining (S/PV.5040). The representative of the US, who co-sponsored the text of the resolution along with Germany, Romania, and the UK, said that the SC acted today because the GoS had failed to fully comply with resolution 1556. It recognizes that the GoS has met some of its obligations but it has not done so voluntarily, rather with reluctance and delays under intense pressure from the international community according to the US (SC/8191; S/PV.5040). The SC, again acting under Chapter VII, calls on Sudan’s full compliance with the security and disarmament obligations in Darfur. It declares its intention to consider additional measures as contemplated in article 41 such as actions to affect Sudan’s petroleum sector and the GoS or individual members of the GoS, in the event the GoS fails to comply fully. This resolution also calls for the establishment of a Commission of Inquiry by the S-G in order to immediately investigate reports of violations of international humanitarian and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations (S/RES/1564). The US called the crisis uniquely grave and said it “constituted the largest humanitarian disaster in the world” (S/PV.5040). The US is once again making a declaration including normative humanitarian values, and the representative is this time using even stronger words in estimating the size of the crisis in Darfur according to my interpretation. But despite the “big” condemning words from the US there has not been any decision on the American side to propose an armed intervention in Sudan to halt the currently “largest humanitarian disaster in the

world". This speaks in favor of the materialists and realists who state that it all comes down to that the intervening actor has to see the national interest and gains in order to risk its human and material resources.

The US defines the crisis as "genocide" in September 2004 but has referred the case to the UN, which it is entitled to according to article 8 of the Genocide Convention. The US might not want to be blamed for not doing anything, and can blame it on the function of the SC. It comes down to the opposition in the SC from China, Russia and Pakistan and the structure with undemocratic with veto power to stop an intervention. There has been a genocide debate in the US, 2003 was election year and in 2004 the media pressured the US government to do something. On September 9, 2004, Secretary of State Colin Powell told the Senate Foreign Relations Committee, "genocide has been committed in Darfur and that the GoS and the Janjaweed bear responsibility-and that genocide may still be occurring." President Bush echoed this in July 2005, when he stated that the situation in Darfur was "clearly genocide." (US Dep. State A) The US has political interest in Sudan such as "counter-terrorism, regional stability, internal peace, protection of human rights and humanitarian relief" according to its website (US Dep. State B). One can also speculate about the interest of the US in the oil resources, stability is needed for US companies to work in Sudan.

An alternative reason for the inaction of the US and the UN might be that the SC wants to give the AU a chance to lead the operation in the Darfur crisis; the resolutions on Darfur put a strong emphasis in welcoming and supporting the leadership role and engagement of the AU in addressing the situation in Darfur. What is perhaps more likely is that the major powers are content that they do not have to act in the crisis themselves but can hand it over to AU. The US and UK initiative of "an African problem demanding an African solution" have both been welcomed, e.g., by African policymakers and criticized by the international community (Cf. Mayall 2004:130). Considering what I mentioned before about the insufficient capability of the AU it is not realistic that the AU can manage to take the responsibility for the Darfur crisis itself.

Several speakers commended the balanced nature of resolution 1564; recognizing the positive steps taken by the GoS while it also highlights that much remain to be done for full compliance. Representatives of the states that had abstained in the vote (Algeria, China, Pakistan and Russia) expressed reservations about the text. Russia insisted that the threats of sanctions were far from the best method to ensure compliance that should instead be sought through approved diplomatic means. Others added that the resolution did not sufficiently take into account the efforts of the GoS (SC/8191; S/PV.5040). As with China, I am aware that Russia has strategic interest in Sudan's oil sector, which I think can be a reason for its protest against putting sanctions on Sudan's petroleum market. I also know that Russia is an opponent of humanitarian intervention, which in turn probably has to do with the Russian governments infamous atrocities against the people of Chechnya.

A cynic like myself might also suggest that the Chinese and Russians benefit from the suffering in Darfur as it makes the Sudanese market unattractive or impossible to invest in for Western companies because of the sanctions against Sudan, and therefore leaves China and Russia without competition.

The representative of Sudan described the resolution as a “fatal blow” and stated that the GoS had honored its commitments. The hastiness and pressure linked with the resolution was only aimed at pleasing the US Congress, which believed it was “the sole conscience of the world” (SC/8191; S/PV.5040). Sudan is repeatedly accusing the US for not having honest intentions and showing double-morale. The representative might be correct in its claim, but from a solidarist perspective it should not be omitted that the leaders in the US actually might believe in the norm of human rights. Furthermore, I think it is important to make clear that even if the US might have concealed motives it does not make the violations by the GoS less serious.

In his monthly briefing in October 2004 Pronk warned that the Sudanese conflict could widen into regional, even global confrontation if not properly addressed. He concluded that there had been no improvement in the key areas of human security and ending impunity, but there had been signs of progress on the political front (S/PV.5050; SC/8206). One month later Pronk told the SC that the Darfur situation is deteriorating and he suggested a three-pronged approach to reverse the current trend, including deployment of a third-party force, the AU⁶, to effectively deter violations, an acceleration of all negotiations and the holding accountable of all political leaders for ongoing violations (S/PV.5071; SC/8236). The humanitarian catastrophe of 2003 and the first six months of 2004 had been allowed to happen because the international community had not yet decided to act, Pronk said. That had changed with resolution 1556 and 1564. If the sorrow continues in Darfur, it is despite those resolutions. In concluding his statement Pronk said that action was required. It is the duty of the international community to consider further action if the action taken so far proves to be insufficient (*ibid*). In my reading, Pronk is insinuating the fact that it really comes down to a choice and decision by the SC to act and fulfill its duty to take “further action” if there is no change in the situation in Darfur representing a solidarist perspective of the responsibility to protect. But as we will see there will be no future strong action by the SC on Sudan despite the worsened security situation in Darfur. Instead the SC is focusing its attention on the peace process of the long civil war in the South of the country.

On 19 November 2004 the SC declares its support for the signing of a Memorandum of Understanding in Nairobi between the GoS and the SPLM/A promising to reach a CPA concerning the North-South conflict before the end of

⁶ AU’s Peace and Security Council makes the decision (PSC/PR/Comm.(XVII)) to deploy AMIS on 20 October 2004 (PSC/PR/Comm.(XVII)) but the deployment of the military component of AMIS will not be completed until 28 April 2005 (PSC/PR/Comm.(XXVIII)).

the year (S/RES/1574). The SC unanimously adopts resolution 1574 at the same meeting. With the resolution the SC extends the mandate of UNAMIS established by its resolution 1547. It expresses its serious concern of the growing insecurity and violence in Darfur and its implications for international peace and security and stability in the region. In accordance with its previous resolutions on Sudan the SC decides to monitor compliance by the parties with their obligations and to take “appropriate action” against any party failing to fulfill its commitments. However, with this resolution the SC is not acting under Chapter VII of the UN Charter (*ibid*).

A significant observation that can be made from the content and voting of the studied resolutions above is that the SC in resolution 1574 appears to be taking back its threat of sanctions that it previously (in the two former resolutions) held towards the GoS. Acting under Chapter VII of the UN Charter, resolution 1556 talks about “further action” with possible sanctions and resolution 1564 about “additional measures”. This menace is omitted in the following resolution (1574) where the unclear term “appropriate action” is used and not adopted under Chapter VII. In resolution 1556 and 1564, moreover, the SC determines that the situation in Darfur “constitutes” a threat to international peace and security while it in resolution 1574 more vaguely talks about the “implications” for international peace and security. The fact that China, Pakistan and Russia did not abstain in the voting on the last resolution further supports this remark. The reason for the “withdrawal” of the threat of sanctions (and possibly underlying intervention) seems to be the indications of an approaching peace agreement between the GoS and the SPLA in Sudan’s Southern conflict. I think that the way the representative of the UK, at the SC meeting in Nairobi, tries to explain that resolutions 1556 and 1564 were not diminished by the new resolution (S/PV.5082), raises well-grounded suspicion. The British representative stressed that the UK is of the opinion that the road to a political solution to the crisis in Darfur goes through the completion of the peace process in the North-South conflict (SC/8249; S/PV.5082).

In its resolutions on Sudan the SC is always reaffirming its commitment to the sovereignty, unity, territorial integrity, and independence of Sudan (S/RES/1547; S/RES/1556; S/RES/1564). Especially China and Pakistan are putting emphasis to this in their statements. In resolution 1574 the text goes even further and recalls the importance of the principles of good-neighborliness, non-interference and regional cooperation (S/RES/1574). Pakistan reaffirmed the importance of the close and fraternal relations between Pakistan and Sudan as well as the unity and territorial integrity of Sudan in its statement at the meeting in Nairobi (SC/8249; S/PV.5082).

In a briefing to the SC in the beginning of December 2004 the USG for Political Affairs Kieran Prendergast reported that despite some calm earlier in the month of November in connection with the agreement of the Memorandum of Understanding the security situation rapidly worsened towards the end of the

month. Ceasefire violations took place on both sides. The latest clashes threatened to plunge Darfur into chaos. Prendergast hoped that the conclusion of peace talks in the North-South conflict to a CPA would have far-reaching consequences to the whole of Sudan (SC/8262; S/PV.5094). The conflict between the insurgent in the South of Sudan and the GoS has in some aspects overshadowed the Darfur crisis; it has been considered more urgent to solve because of its length and comprehensive peace talks.

In February 2005 the UNHCHR Louise Arbour presented the findings of the International Commission of Inquiry on Darfur to the SC. S-G Annan called the report “one of the most important documents in the recent history of the UN” and said that the report demonstrated that “the last two years had been little short of hell on earth for the people in Darfur and that hell continued today despite the attention the SC had given to the crisis” (SC/8313).

The Commission determined that large-scale war crimes and crimes against humanity had been committed by the Sudanese government officials and the Janjaweed militia between February 2003 and mid-January 2005. Furthermore, murder, torture, enforced disappearances, destruction of villages, rape and forced displacement continued to be committed against the people of Darfur. The Commission established that the GoS and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law. The acts of the government forces and militias were conducted on a widespread and systematic basis and, therefore may amount to crimes against humanity. Most attacks were deliberately and indiscriminately directed against civilians (S/2005/60).

Many NGOs⁷ and officials had been waiting for the Commission to present that, once again, genocide had been committed in front of the eyes of the international community (another Rwanda), but the Commission could not determine that the GoS had pursued a policy of genocide⁸ (S/2005/60). The crucial element of genocidal intent appears to be missing in the case of Sudan at least as far as the central government authorities are concerned (*ibid*).

⁷ Amnesty International, HRW, the ICG and several relief organizations have reported actively from the conflict. See, e.g., Amnesty International: www.amnesty.org (see especially “Darfur: ‘Too many people killed for no reason,’” <http://www.web.amnesty.org/library/index/engaf540082004>); Human Rights Watch: <http://hrw.org/campaigns/darfur/index.htm> (see especially “Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan,” <http://hrw.org/reports/2004/sudan0504/>) and International Crisis Group: www.crisisgroup.org (see especially “Darfur: The Failure to Protect,” <http://www.crisisgroup.org/home/index.cfm?id=3314&l=1>).

⁸ It can be complicated to document the crime of genocide. According to the 1948 Convention on the Prevention of Genocide, genocide is a crime with the intent to destroy all or part of an ethnic, racial, national or religious community. It is difficult to make out that intent, to know what was in the mind of the killers (Bosco 2005). Generally, the policy of attacking, killing and forcibly displacing members of some tribes does not evince a specific intent to annihilate, in whole or in part, a group distinguished on racial, ethnic, national or religious grounds (SC/8313). Furthermore it is hard to categorize the victims and the aggressors (Bosco 2005).

Those identified as possibly responsible for the above-mentioned violations consist of individual perpetrators, including officials of the GoS, members of the militia forces, members of rebel groups, and certain foreign army officers acting in their personal capacity (S/2005/60). It is important to stress however that nothing in the Commission's report preclude the possibility of individuals being convicted of acts of genocide in relation to events in Darfur. Personal criminal responsibility is not determined by government policy. The Commission's conclusion that no genocidal policy has been pursued should not, as unfortunately appear to be the case, be taken as in any way detracting from, or belittling the gravity of the crimes perpetrated.

The report strongly recommends that referral to the ICC is the best way to halt ongoing violations, prevent future ones and bring alleged perpetrators to justice (S/2005/60). As the SC has stated repeatedly, the situation constitutes a threat to international peace and security. Furthermore as the Commission has confirmed and several reports by NGOs before it, serious violations of international human rights law and humanitarian law by all parties are continuing. The Commission believes that the prosecution by the ICC of persons responsible for the most serious crimes in Darfur would contribute to the restoration of peace in the region (*ibid*). Thus, another reason that there has been no decision to intervene militarily in Sudan is the possibility the SC has of referral to the ICC. The ICC, designed in part for the purpose of addressing crimes, which threatened international peace and security, could be activated immediately (SC/8313).

The S-G called for urgent action by the SC to halt the killing and protect the vulnerable in Sudan. "The full range of options should be on the table, including targeted sanctions, stronger peacekeeping efforts, new measures to protect civilians and increased pressure on both sides for a lasting political solution." The S-G stated that "the power, and the responsibility to do something about this grave crisis are in the hands of the SC" (SC/8313). As mentioned before the S-G strongly advocates the responsibility to protect.

3.2.2.1 Observations

From the analysis of the process in the SC, I can draw conclusions to why there has been no decision to intervene in Darfur by applying my hypotheses. Although the humanitarian disaster strongly supports an intervention, the political circumstances as well as some legal requirements work against it.

The SC has, in its resolutions on Darfur, expressed its "grave concern" over and "condemned" the humanitarian and human rights situation, it has determined that it constitutes a "threat to international peace and security and the stability in the region" and it has decided on sanctions against the GoS under Chapter VII, but the critical terms of the possibility for the member states to use "all necessary means" have been omitted. The main reason for this is that no member state has

offered to contribute with resources to an eventual “humanitarian intervention” in Darfur, which in turn is dependent on several more or less important factors.

China, Pakistan and Russia use legal positivist references to the “sovereignty” and “main responsibility of the target state to protect its own citizens and solve the crisis” in their statements. They argue that the UN can declare its concern about the situation but should not interfere, not with sanctions and certainly not militarily. These countries also often refer to the importance of diplomatic and peaceful means under Chapter VI of the UN Charter.

Pluralists would stress that a major factor is that none of the P5 sees that it has a strong enough national interest in Darfur to offer its troops to an armed intervention. As mentioned in the analysis above, the US Department of State declares on its website that it has political interests in Sudan. There seemed to be political will in the US in 2004 when it described the crisis as genocide and took on a solidarist standpoint - after pressure from the media. The incentives seem not to be strong enough though to volunteer American resources for a humanitarian intervention in Darfur.

There should be a domestic interest to find a solution to the humanitarian crisis in neighboring Chad that has received many refugees. The AU is involved in the conflict in Darfur. The regional organization is a third party in the peace negotiations between the GoS and the two rebel groups JEM and SLA/M and has also sent 7000 troops to Darfur (ICG 2004:1-11). The US and the UK have referred to that the conflict as solely African problems. The introduction of the US African Crisis Response Initiative and similar by France and the UK, i.e. an effort in order to strengthen African capacity in peacekeeping operations, has not been welcomed by all states. Some argue that the major powers invoked this initiative only to reduce the pressures on themselves for direct intervention and that they want to induce Western policies on African nations (Mayall 2004:130). The AU is dependent on the UN and the powerful states according to a pluralist opinion. An international response is required for an armed intervention to happen. The statements by the GoS and China that the SC should leave the Darfur conflict up to the AU alone might be of a dishonest nature. They probably appreciate that not more foreign troops are present in Sudan. The inexistent opposition of China and Sudan to the employment of the AU operation in the country point to the weak prospects the AU had to make any considerable difference without sufficient resources.

From their statements in the SC, it is obvious that the US and China as well as Russia deeply disagree on the issue of humanitarian intervention in general. China abstained to all Chapter VII resolutions. China and Russia have strategic oil interests and are trading weapons with Sudan. They are also skeptic against eroding the principle and sovereignty because of concern that an intervention can be directed against them regarding Tibet respectively Chechnya.

Pakistan is another state that abstained to all Chapter VII resolutions and expressed its opposition to sanctions against Sudan. Its resistance to UN interference in Sudan might be because of its cultural/religious affinity to the GoS and/or because of fear of receiving the same treatment by the SC. Another reason that might have contributed to hesitance to intervene in Sudan by none of the Western States is the latest development in the political arena concerning what Muslims regard as an attack against Islam with the US intervention in Afghanistan and Iraq. An intervention could be misinterpreted as another chapter in “West’s war on Islam”. The GoS has also threatened that if there will be an intervention in Sudan it will lead to complications with the support of the Organization of Islamic Countries and the Arab League (Slim 2004).

Another important reason for the choice by the SC not to intervene in Darfur may be that the crisis has been overshadowed by other conflicts such as the intervention in Iraq. The US and UK, which have the ability to intervene, were busy in this conflict area and the media cameras were also focused on that conflict. Furthermore, the limelight taken by “the North-South conflict” from the crisis in Darfur can also be a factor that contributed to the unwillingness of the SC to intervene in Darfur. The UN feared that international confrontation with the GoS over Darfur could unravel the unstable peace process in the North-South conflict. According to an article in Washington Post, “the US has put strong diplomatic pressure on the GoS to make peace in the South, so that it can focus on ending the crisis in Darfur” (Kanina 2005). Yet, even though the CPA was reached in this conflict in January 2005, the absence of political will to intervene in Darfur is the same, which in part undermines the importance of this aspect.

The “CNN effect” has not happened in the case of Darfur. It was not until the summer and fall of 2004 that the crisis got coverage in the media. Lately there has been some reporting from the Darfur refugees in Chad. The public opinion in the country that intervenes is important for the possibility of intervention according to the experience from Somalia. The conflict has got low priority in the UN too. The SC did not have a significant discussion about Darfur until July 2004—one and a half year after the conflict arouse.

The GoS has itself contributed to the downsizing of the severity of the conflict and denied involvement in the crisis. The US and NGOs have went out hard to criticize Sudan but the GoS has masterly obstructed the criticism in the SC by making just enough concessions to make the international community believe that it is responsive to pressure and not face interference. Both the media and NGOs (relief organizations) have been thwarted by the GoS.

In spite of the improvements that were done to the reporting system after the failure of the UN in Rwanda, the calls for intervention and responsibility to protect the civilians in Darfur, from NGOs and relief organizations in Sudan, have not been fully acknowledged by the member states of the SC. Theory and practice are not harmonious. In theory the SC should intervene to protect civilians against

genocide and other atrocities but in practice hundreds of thousands of African lives are not enough to generate the necessary “political will”.

The S-G and his representatives (Pronk and Prendergast) as well as the US have used strong normative language about the magnitude of the humanitarian crisis in Darfur. The US has even called the situation “genocide”. However, the Americans have still not offered troops for a humanitarian intervention in Darfur. According to the Genocide Convention they have the right to ask for action by the SC. In this respect it can be discussed which is worse: avoid calling “the G-word” by its name to not have to intervene, or call it by its name but not intervene.

Now when the International Commission of Inquiry on Darfur has determined that there has been no genocide in Darfur (even though very grave atrocities have been committed by the GoS and its allied Janjaweed militias) it is even less likely that there will be an armed intervention. Unfortunately the incentive, if there has ever been any, is even smaller now and, if there is perceived to be a duty or responsibility of states to intervene in genocide cases, the pressure on those who have the power to make the choice in the case of Darfur has been diminished.

4. Conclusions

I will conclude the thesis by drawing some possible generalizations from the cases of analysis about what determines SC's decisions to, or not to, intervene in humanitarian crises in Africa.

There are many similarities between the situation in Rwanda and Darfur. Despite the fact that it has been ten years since the case of Rwanda, and the political awareness concerning humanitarian crises has increased there are still factors that obstruct, limit, and delay UN action. Both in the case of Rwanda and Darfur the target states managed to block the criticisms against it in the SC. They continued to deceive the UN about their involvement in the atrocities committed. Also, in both cases the crises were overshadowed by other conflicts, and there was originally no national interest by any of the P5 to intervene. Moreover, there were concerns by the P5 to pay humanitarian and other costs and risks to intervene. Differences between the cases of Somalia and Rwanda and the case of Darfur is that in Somalia the US offered its troops to participate in a UN intervention, and the OAU or AU was not present to provide an alternative to UN action.

The most important factor for a decision by the SC to intervene seems to be that there is a state that is pushing for an intervention and offering its military resources. The requirement for this is political willingness and leadership, which in turn can be determined by national interest and influenced by public awareness.

As implied above, another condition is that one of the P5 has a national interest in the area, which is one of the major arguments by the realist theory. The interest can be of economic importance (markets, resources and investments) but also consist of security threats from the crisis. The interest aspect can work both for and against intervention though. Special relationship with the country/mutual strategic interests can also be a determinable factor for opposing intervention considering the case with China and Russia's wishes to maintain the favorable situation for their interests in Sudan.

In order for the intervention to happen the active state is often "close" to the state in crisis. Closeness does not have to be measured in geographic terms but can also include aspects such as compassion, e.g., the possible empathy the American public and/or leaders felt in face of the starving Somalis. The awareness and support of the public (domestic and international) is an important factor that can influence the decision of leaders to intervene in humanitarian emergencies.

The media plays a role in informing the public about humanitarian disasters which in turn can react and put pressure on its government to do something about it. The "CNN effect" is said to have been very significant in the decision of the US government to intervene in Somalia. The "double edged sword" of the CNN effect can be demonstrated by the case of Somalia, it can put pressure on governments to intervene but also to withdraw the troops when casualties are brought home. The

US experience in Somalia led to hesitation over Rwanda and has most likely also been present in the case of Darfur. There was no CNN effect in favor of intervention in the cases of Rwanda and Darfur.

NGOs play a part in trying to create a domestic and international political rationale for leaders in democratic states to meet the needs of populations in despair. Another aspect of significance for intervention to take place is that no other conflict overshadows the crisis and absorbs the concentration of the SC. This factor is time related and was rather specific to the situation in Darfur where the attention given to the lengthy North-South conflict as well as the focus on the war in Iraq possibly strained the alternatives that could be acted on by the SC.

The world's decision makers estimate the prospect to succeed and the risk for their soldiers' lives. Whether the conflict is perceived as intractable or there to be a chance to make a change is also a decisive factor. The existence of an exit strategy is also a determining aspect since the state want to perform a quick operation and then get out. The necessity to stay on in today's conflicts has led many states to hold a non-interventionist approach.

The problem of selectivity of armed interventions stated by the pluralist argument is highly relevant. It seems to depend on the interests of the P5 and circumstances surrounding each specific case, which is damaging to the credibility of the UN and Western states.

That the intervention would be consistent with the UN Charter, and therefore legally justified, is probably another factor that affects the decision of world leaders. There can be seen an expanded interpretation of article 39 of the Charter of what constitutes "threat to international peace and security" through which the UN can authorize intervention to address threats that emerge from humanitarian crises. The SC determined that the conflict constituted a "threat to international peace and security" in Somalia, a "threat to the peace in the region" in Rwanda and a "threat to international peace and security and the stability in the region" in Darfur. In Darfur, however, the SC did not authorize the member states to use "all necessary means" to end the crisis, and therefore there has been no intervention.

Regarding the expanded notion of "threat to the peace" most instances have not involved humanitarian concerns as the only legal justifications for intervention. The resolutions have often referred to trans-border effects (either through the flow of refugees or the spillover effect of civil war) as well as the "exceptional situation" that needs a "unique response" thereby enabling non-interventionist states like China to support the action taken by the SC in Somalia (S/PV.3145) and abstain rather than voting against it in Rwanda (S/PV.3392). The intervention in Rwanda is, however, a possible exception that mentioned humanitarian concerns (the genocide) alone as the basis for intervention.

The authorization by the SC to intervene is another factor that bears on world leaders' decision. In the case of Somalia the SC authorized "the S-G and the member states" and in the case of Rwanda "France and Senegal" to use force/take "all necessary measures". However, at the stage when the SC gives its endorsement to the intervention a decision has probably already been made in favor of intervention in one of the member state that has offered to intervene.

One hopes that human rights and humanitarian law is the fundamental guiding principle for the SC's decision. This demands, however, a solidarist/counter-restrictionist spirit; that the leaders believe in a norm to protect when the target state is not and that they also act on their moral concern. In Somalia the crisis was described as a "human tragedy" that required intervention and in Rwanda the "humanitarian crisis" (after the genocide) was a condition for the SC to finally intervene. The conflict in Darfur has been described by the S-G as "the largest humanitarian disaster in the world" and the International Commission of Inquiry on Darfur has determined "large scale war crimes and crimes against humanity" in Darfur but there has been no decision in the SC to intervene. Therefore, from what can be deduced from these three African cases, the humanitarian vulnerability factor may be a condition for intervention to take place on humanitarian grounds but it is not the only stipulation to be met. From the cases that I have analyzed in Africa there seem not to be developed a new norm for intervention when grave atrocities are taking place inside the borders of another state. Somalia is a case that seems to show a developing international norm while Rwanda and Sudan are cases that demonstrate the limits of this norm and rather witness interventions in humanitarian emergencies as exceptions. The SC is still considering each case on its political merits. Interventions in Africa in the future will probably be limited and exceptional if there is no strong national interest to intervene; and the interventions will most likely be carried out involving the UN in relationship with regional organizations such as the AU.

By pursuing this analysis I have learnt considerably about the issue of humanitarian intervention and the function and response of the SC in dealing with intractable international conflicts leading to gross violations of human rights and humanitarian law. I have, above all, confirmed my hypothesis about the great overall impact of political circumstances and factors such as the importance of political willingness and the power relations among the member states of the UN. I have acquired understanding about the complexity of the term "political will", got a sense of how it is determined (whether it is obtained or falls short) in regard to armed interventions.

The discussion regarding the factors that determine a choice to intervene is still highly relevant and will most likely continue for some time. The normative value of the "responsibility to protect" in theoretical terms is probably recognized in most liberal-democratic states; the international society should not stay passive when governments commit grave violations against human rights (threatening international peace and security). But moral arguments weigh against national and

strategic interests as well as power relations and practical considerations. Mostly non-Western states are objecting by referring to neo-imperialism and negative effects on the international order. Since no consensus exists, or can be expected to develop on “the responsibility to protect” in the international community at large it is not a realistic accomplishment for the near future. In order for there to be a decision to intervene the P5 must agree to not use the veto to stop an armed response to a humanitarian crisis. Additionally, the political will must be generated, the states have to be persuaded to see the atrocities as part of their “national interest”, and if policymakers do not respond they must be held accountable, which is the toughest factor to attain.

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