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THE LIMITS OF STATE SOVEREIGNTY: DARFUR CRISIS AND THE UNITED NATIONS

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Abstract

The genocide in Darfur, Sudan has left over 300,000 dead, thus bringing the death toll in the entire Sudanese conflicts from 1956 to almost 2 million people and the number of displaced persons to over 2 million. The exacerbation of the crisis is traceable to government's complicity exemplified by its standing order to the United Nations to stay off and evacuate its monitors in what it considered an entirely Sudanese affair that could be resolved without external interference. However, considering the limits of state sovereignty in a modern international system, where membership of the UN, the existence of the Geneva Convention on the Laws of War, Humanitarian Law and other subsisting legal frameworks on war crimes erode absolute sovereignty, the Sudanese government cannot hide under the non-interference in the internal affairs of states clause to prevent the international community from intervention in Darfur. This probably explains the recent approval by the Government of Sudan to finally allow a joint UN-AU troops to restore security, bowing to intense international pressure to do so.

Introduction: Evolution of the Concept of State Sovereignty

In discussing the evolution or emergence of the concept of state sovereignty, the centrality of the impact of the Peace of Westphalia of October 1648; and the idea of global citizenship, which found expression in the thought of the Stoics of the Hellenic Age and Cicero in Medieval Rome, and which has dominated recent political movement, must be taken into account. In the case of the Peace of Westphalia, it must be stated that the ideas emerging from the Protestant Reformation in the 17th century characterised the social environment that facilitated the transfer of authority from the Holy Roman Empire to sovereign states. Deviations from the recognised norms of the sovereign states' system are explained by taking Counter Reformation movements and their modern interactions into account. If the assumption that thought is constitutive of practise holds, state sovereignty can be understood as an institutionalised expression of specific cognitive scripts, a social construction, or to say the least, sovereignty is because we invented it (Philpott, 2001: 97-110). Philpott exposes the temporal and ideational features of this invention in his discussion of the protestant roots of Westphalia.

Reformation ideologies secured sovereignty for the state. Such ideas are a form of social power that underlie and are manifest in more visible instruments of power. In the case of Westphalia, the social power embodied in the Reformation and manifest in the interest of publics, armies, leaders, and states, fuelled the usurpation of Holy Roman authority by an atomized system of sovereign states.

Global citizenship, on the other hand, has brought the concept and place of state sovereignty to the mainstream of current international relations scholarship (Kamau, 2006:1). Theorists have argued that as long as sovereignty remains clearly defined in the context of a political community or entity, the institution of the state as we know it will continue to prosper without change. This school is however contrasted by that, which believes that global citizenship will make state sovereignty pale into insignificance in the light of advances in technology, education, increasing mobility which will ultimately engender modernity or globalism (Kamau, 2006:2).

As the evolution of the concept of state sovereignty progresses, it is pertinent to examine the concept first. Sovereignty literally means independence or autonomy or a community free from external control. For Philpott (2001:16), it means the supreme authority within a territory. This definition refers to the political leadership within an autonomous state that takes decision for the state without recourse to external instructions or script. Here, the leadership is the sovereign as it exercises authority over a nation or a people. The state is thus having the features of a territory, legitimate authority and a people.

In agreement with the view above, Heller (1996) describes sovereign as the externally and internally autonomous limit of authority maintaining its effectiveness with its own means of power, "of which the security and personnel are clearly circumscribed." This conventional level of understanding of sovereignty in modern international politics has been the cause of the confusion in the international system between nationalism and supranationalism; national interest and international law; and raises the question of limits of interference of other states or international organisations in a nation encountering internal strife like Sudan, Somalia, Rwanda, Kosovo, etc. It is also this critical conflict of bounds of state sovereignty that reinforces argument of Masters (1993) that the "international system" is anarchic and futile.

For exponents of power politics, or political realism, including Carr, Morgenthau, Neibhur, etc, states are ontological givens and sovereignty is a natural phenomenon in either an *a priori* or derivative sense. Sovereign states are logically expressions of an international order that is organised by separate groups of peoples with particular interests and ideologies. Sovereignty allows for the free aggregation and institutionalisation of these interests without the limitation of coercive opposition from external sources. The sovereign state thus works towards bordering its interests vis-à-vis other actors with the primary concern of survival characterising its behaviour (Dusen, 2003: 3)

One area where idealists and realists seem to agree, though with separate levels of understanding, is the impracticability of absolute state sovereignty. For the realist, as

power politics galvanises national interest, a state may resort to invading and usurping the sovereignty of other states; just as states compromise sovereignty at times to realise an objective of national economic development or development of military power. States allow foreign investors in form of transnational and multinational companies and go into military treaties and alliances for security. As long as survival and preservation remain states' objectives, the end justifies the means, even if it is giving away part of its sovereignty. For the idealists, state sovereignty is automatically limited by membership of international organisations, bilateral and multilateral agreements and arrangements, and of course, by international law and moral codes on behaviour (Ojo and Sesay, 2001; Oppenheim, 1962; Kaplan and Katzenback, 1976). It is thus arguable that state sovereignty brings one thing to the fore namely, reconciling what is observable and what is possible.

To this end therefore, it is pertinent to settle with the neutral view of Dusen (2001: 4-7) that the international system can be better understood when the ontology of the determinants of behaviour goes beyond the narrowly defined national interests. For liberal theorists like Lomasky (2001: 7) the individual retains ontological significance at the international level and boundaries are thought of in terms of the permeability. The territoriality of sovereignty can limit the designs of ontologically significant individuals. Also critical theorists view sovereignty as a tool of the capitalist for disaggregating proletarian movements. For both however, the permeability of sovereign states vis-à-vis their territoriality and interests is both achievable, and interests are both achievable and empirically observable (Dusen, 2006: 4).

Globalism, beginning with cosmopolitan and universality traditions such as the Kantian/deontological school stresses the immateriality of boundaries, the equal moral value of persons and indeed attributes moral personhood to the state. The sovereign state thus has the same duty to the realisation of universal values as the individual. For Kant (Donaldson, 1992: 145-149) state sovereignty is not an intermediate expression of shared values and pursuits that lies somewhere between the individual and the global.

What we are saying is that the social power of ideas was instrumental in the rise of state sovereignty at Westphalia. Philpott (2006b:11) however, argues that such ideas require ethical space in which to grow and build momentum. As is true of ideas, the ethical constructs that have given rise to sovereign states are discernable and have their own genealogies. Tracing this genealogy back to its origins, both human and metaphysical helps complete the picture of the evolution of state sovereignty.

To put all the above differently, the Treaty of Westphalia of 1648 that ended the Thirty Years War following a challenge by vassals to the overlordship of the Holy Roman Empire, ended the absolute sovereignty of Rome over most of Europe, but also created several other autonomous units free of Rome. The war and treaty completed an age-long question of the moral grounds the Empire had to control the destinies of other states. Following this development, the emergent new sovereign states were bound by law and morality to honour mutually their independence and relate as equal states.

Although events in the 19th century, particularly the emergence and reign of Napoleon Bonaparte were to alter the new political arrangements in Europe, the continent from Westphalia, had come to live with the new ideas of state sovereignty in which multiple states bound by ethics and legal codes would respect one another's sovereignty as against the old system which had many nations cowed under one suzerainty. Moreover, the Treaty of 1648 laid the foundation for an international platform or forum at which states could redress issues of interest, cooperation and conflict. The following centuries produced improved examples of international organisations, including the Concert of Europe, Bismarck's Congress system, 1899-1907 Hague Conferences, International Public Union and the League of Nations- all of which impelled certain compromises of sovereign status.

Contemporary international system, characterized by increased interdependence of states increased role of global and regional organisations, institutionalization of the collective security system, emergence of a New World Order, New International Economic Order, globalization, escalated internal struggles by ethnic groups for autonomy, etc, has

evolved an even different concept of state sovereignty. Nations can no longer take unilateral actions even in matters considered to be overwhelmingly internal. Conventions on War or conduct of Hostilities, Human Rights and Humanitarian Laws, among others, which have been signed by nations to which they are bound, continually deter states, sovereigns, governments, or groups to act irrationally and whoever violates such laws is deemed to be committing war crimes. (Jackson 1990, Gasser, 1993, George, 1999).

The Darfur Crisis

Sudan has been embroiled in ethno-religious and political conflicts that claimed thousands of lives and stifled economic development since 1956 (Sanderson, 1963). However, the last three decades witnessed, what has been described as the worst humanitarian crisis in contemporary world (Youngs, 2004:1). An estimated 800,000 people or more have been killed in acts described as genocide between 2003 and 2006 and about 2 million civilians have been displaced from their homes. There had been conflict between the rebel Sudan Peoples Liberation Movement(SPLM), Sudan Peoples Liberation Army (SPLA) on the one side, and the Sudanese Government and the government-backed notorious Janjaweed militia on the other. The old crisis between the rebel groups and government on the one hand had a headway when they reached a truce. However, as the socio-political heat in Sudan subsided, fresh tension brewed in Western Darfur where the population is uniformly Muslim, but has 30 ethnic groups that are either Arab or African.

The Darfur crisis in Sudan is particularly turbulent and has been described as the worst humanitarian crisis since the Rwandan genocide(O'Fahey, 2004: 4). Arabic elements in Darfur are mostly nomads who inhabit the north and south of the region. The centre is inhabited by African sedentary farmers drawn from the three principal ethnic groups namely, the Fur, Zaghawa, and Massaleit or "Black Africans" (O'Fahey, 2004:5-7). Interestingly, much of racial or ethnic distinction had been obliterated by decades of interracial marriages and economically and socially motivated movements. From 1983 however, racial sentiments had considerably decimated the region, with a sharp distinction between the "Arab" and "Black" or Zurq (IRIN, 2004).

It is pertinent to note that the recourse to racial distinction and acrimonious discrimination from 1983 to date was prompted by economic and political marginalization, tension over land, hunger, scarcity of farmlands and water resources, with resultant severe drought, famine and disease. These depravations, created a social milieu of frustration, anger and aggression, which only exploded as a result of political manipulations and hegemony by the Arabs over the Africans. For instance, the administrative boundary changes imposed by the predominantly Arab regime in Khartoum served to alienate the farming tribes, as did the government backing for the loose collection of Janjaweed nomadic militias, which have come to comprise several thousand fighters of mainly Arab extraction (Youngs, 2004:8).

By 2003, the black population had responded by organising themselves into two rebel groups namely, the Sudan Liberation Movement (SLM) and the Justice and Equality Movement (JEM), citing concerns that Darfur would lose out politically and economically in the division of power and oil revenue between Khartoum and the South in the event of a settlement in the broader civil war. According to the International Crisis Group based in Brussels, Germany:

> The peace talks between the government and the SPLM/A provided the immediate trigger since the Darfur groups feared they would have little leverage after a North/South deal was concluded (ICG, 2004).

The Sudanese government is far from being a neutral party and conciliator in the Darfur rebellion. Snyder (2004) argues that the Darfur rebellion is considered by the government as a greater threat than the activities of the SPLM/A in the south, as the SPLM/A is just a socio-political movement that had never threatened the north militarily. However, support for the Darfur groups JEM and SLM comes from the Muslim population within who had a military pedigree. For instance, Turabi, an old ally of President Al-Bashir up to 1999 is also a radical Muslim cleric linked to JEM. Again Darfur has contributed over 50% to the Sudanese military personnel. The aforementioned factors, coupled with the proximity of that region to the capital (Khartoum) are considered ominous for the Sudanese

government: a successful insurgency in Darfur would not only fuel insurgencies elsewhere, but probably bring down the government and pummel the corporateness of Sudan.

We must make an attempt at this juncture to quickly locate the roots of the North-South rifts and the general class and ethnic cleavages that had etched into the fabrics of the country and caused much interregnum. The crisis can be traced to the incidence of colonialism, which, according to Pogoson (2006: 44) effectively bequeathed a legacy of northern elite domination over the South and the "islamisation" policy resisted by the Southern Christians in its war against the North from independence in 1956, conflict between the Arab Muslim North and the black African and predominantly Christian and animist South. It is however probably more than a North-South or Arab-African conflict if, like Phillips (1995) observes, we take into cognisance

> the complexities of a war fought by multiethnic groups
> where religious differences colour struggles over access
> to land or political power.

The Darfur crisis cannot be fully comprehended without locating it in the general social-ethnic and religious crisis that had plagued Sudan since independence, and it can be argued that the Darfur case is even a continuation of the Sudanese nationality and identity question. With about twenty-eight million people, over four hundred languages, Sudan is unique for being the geographical link between the Arab world and autochthonous Africa with a blend of moderate Muslims and Christians. However, with the continuous hold on to power by the Islamic North, crisis brewed from the predominantly Christian or animist South which sought power in Khartoum. The Centre and South, comprising numerous African ethnic groups detested the rule of General Omar Al-Bashir of the National Islamic Front (NIF) which had placed Islam ahead of other religions in the running of state affairs. Soon, the South, particularly the Dinka group, put up an organised movement (the SPLM-A) to challenge the North, until a peace talk brokered between the North and South triggered off fear, anxiety and rebellion in Darfur which does not want to lose out in the power calculus if the North and South close ranks (Youngs, 2004: 7).

Aside the ethnic, religious and political dimensions to the war, economic interests also feature pillage, land expropriation; trade monopolies, protection money and diversion of relief aid transformed the war between the government and the two rebel groups into an instrument of enterprise (Pogoson, 2006:44-45). The government carries out large-scale violence through the Janjaweed in order to create a conducive atmosphere for continued monopolization of Southern lands for the Arab nomads and the exploitation of the oil in the South. As such, armed conflict is profitable for government and the rebels. This development is reminiscent of the government-backed Hutu Interahamwes in Rwanda through which the Tutsis were massively slaughtered and government and militia leaders became war economy profiteers.

The Darfur crisis has led to a death toll of over half a million so far, displacements of more than 2 million and general fear, anxiety, insecurity, disruptions, suffering, hunger and diseases (Pogoson, 2006: 44). It has thus wrought humanitarian crisis that is arguably unprecedented secondary only to the 1994 Rwandan crisis. As the humanitarian crisis rages in Darfur and the entire Sudan, the attendant famine and starvation attracting relief aid from outside have boosted the war economy. Rebels and government agents hijack the relief commodities which they sell at prohibitive costs and fortunes are made through the "black market" contracts for transportation, money changing, security, and other services provided to international aid organisations (Pogoson, 2006:45).

However, the long suffering masses, the huge other humanitarian problems and the proliferation of small arms, which engendered worse social insecurity, have also attracted international concern and sympathies. Among such concerns is that coming from the UN and AU, who indicated strong interests to maintain peace monitoring troops and resolve the conflict. But the Sudanese government raised strong objection to this, claiming that the Darfur issue is just one of the infinitesimal domestic crises that could be settled locally. This has raised the issue of whether the government can invoke the right of state sovereignty and insulate itself from global influence in a matter that has gone beyond its capacity by virtue of its humanitarian implications.

UN Intervention in Darfur

The huge humanitarian crisis resulting from the conflict, gross violations of human rights and international humanitarian laws and laws of conflict, the degeneration into genocide, and the complicity of government in the matter which heightened the conflict, externalised the Darfur crisis and brought the question of Sudanese sovereignty to question. It is noteworthy that the United Nations takes the issue of humanitarianism very seriously. Indeed, by the close of the 20th century, the international community reviewed its traditional prohibition against military intervention in a fundamental way.

Against the backdrop of the changing nature of conflicts and wars and penetration of atrocities by governments against their own citizens like in Cambodia, Haiti, former Yugoslavia, Liberia, Rwanda, Somalia, Afghanistan, Iraq and Congo-Kinshasa (under Mobutu) to mention a few, the global community declared the right to prompt intervention with armed troops. This is borne by new rational thinking that governments have a right and obligation to intervene in the affairs of other states, and that victims of armed conflicts must remain under the protection of the principles of humanity and dictates of public conscience (Pogoson, 2006:41; Smith, 2004)

The UN Security Council delayed like in the case of Rwanda in 1994, in giving any meaningful consideration to Darfur. Meanwhile, the UN launched the Greater Darfur Special Initiative to raise the sum of $23million in September 2003, which was followed by the warning in November by the UN Office for the Coordination of Humanitarian Affairs (UN-OCHA) that Darfur was already on the path of constituting a major world humanitarian concern. In December 2003, UN Secretary General Kofi Annan, also called the world's attention to the potential combustion in Sudan's Darfur, which prompted the UN fact-finding missions to the place in 2004. In July 2004 the Security Council adopted Resolution 1556 on Darfur advocating the following:

1. Permission of humanitarian access by the feuding parties
2. Cooperation with effects towards mediation
3. Respect for all ceasefire agreements

4. Disarming the Janjaweed by the government
5. Bringing of the Janjaweed leaders to justice

The resolution allowed a thirty day period for the implementation of all the demands to be followed up by monthly updates to be forwarded to the Security Council. It is pertinent to note however, that the UN did not speak with one voice over the implementation of this resolution as different states expressed different opinions over it, thus being divided over intervention in Darfur. This was probably as a result of power politics and self-interest particularly in respect of Sudan's oil. As Pogoson (2006:46) notes, oil fuelled the conflict in the first place, and has been a major stimulant for peace at the same time. While the US, Britain and Norway want to retain the control of the CPA peace process, the UN as a body was even undecided as to the extent of implementing the Resolution on Darfur (Reeves, 2006).

China and Pakistan abstained in the resolution; Russia and Algeria supported it but asked for more time for the Sudanese government. On the second resolution, the four countries abstained on the grounds that the sanctions were inappropriate and as a sign of disapproval of the hard stance towards the Sudanese government as contained in the Second Resolution (Rice, 2006).

These developments caused three things. First, the UN role in Sudan became circumscribed. Second, the UN was largely excluded from investment in the peace process as it also delayed in taking any meaningful steps. Third, as a result of lack of cohesion in the Security Council and threat of veto by Russia and China, the resolution ended up failing to specify the appropriate measures against non-compliance and made only a few demands of the Sudanese government (UN, 2004)

There is no doubt that the early UN measures in Sudan were contributory to the escalation. As a result of divergent interests of individual states, the Security Council could not act effectively; it had neither concrete evidence incriminating the government of supporting the cantankerous Janjaweed, nor a time-table for its disarming, nor the

means to back the resolutions up. Hence, the Janjaweed grew in strength and viciousness and the government commenced a campaign which earned some international support, to end UN and AU's presence or intervention in the Darfur crisis. This demand was backed in May 2004 and in July September 2006 by the hype that the crisis was too insignificant to attract international attention and that Sudanese authorities were capable of arresting the situation. To this end, the government placed severe obstructions in the way of humanitarian and other agencies access to Darfur (Haass, 2003; ICG, 2006:3).

Apparently, the international community is failing in its mission in Darfur. As at 2005, the AU presence in terms of troops was less than 7,000 and the civilian protection was near zero (ICG, 2005:1). However, while the UN and international non-governmental organisations (INGOs) have taken the lead in responding to growing humanitarian needs and authorising accountability measures against those responsible for activities, the AU has the lead for reaching a political solution to the conflict and monitoring the humanitarian and cease-fire agreements. The AU Mission in Sudan (AMIS) has had a positive impact on security in some areas by often going beyond the strict terms of its mandate, but its ability to protect civilians and humanitarian operations is impeded by limited capacity, insufficient resources and political constraints (ICG 2005:1)

In January 2005, the International Commission of Inquiry on Darfur issued its report to the UN Secretary General Kofi Annan, assigning responsibility for massive human rights abuse against civilians to the government of Sudan and its allies, concluding that

> It is undeniable that mass killing occurred in Darfur and that the killings were penetrated by the government forces and the Janjaweed in a climate of total impunity and even encouragement to commit serious crimes against a portion of the civilian population (US Holocaust Memorial Museum, 2006:3).

The Commission did not really find immediate evidence against the government of perpetrating or aiding acts of genocide, government officials were however deemed

culpable of genocide intents. Following this suspicion and the other discoveries, the UN Security Council passed more resolutions to stop violence. On March 31, 2006, they voted with the US abstaining, to refer the situation in Darfur to the prosecutor of the International Criminal Court (*Ibid*).

The precarious situation by February 2006, prompted President Bush to call for the doubling of the number of international troops and for a bigger role for the North Atlantic Treaty Organisation (NATO) in the peacekeeping efforts. Bush's advocacy, coupled with the alarm by Jan Egeland, the UN Coordinator for Humanitarian Affairs that the crisis was worsening and indeed the inability of the AU force (already witnessing a 900% increase in attacks against it) to contain the situation, prompted the UN Security Council resolution on August 31, 2006 authorizing the deployment of UN peacekeepers to Darfur (US HMM, 2006:2).

However, the Sudanese government, from the moment of the passage of that UN Security Council resolution for a multinational force in Darfur has been so uncooperative and continues to vehemently reject the possibility of a multinational deployment. The government even worsened the situation when it challenged the AU about its continued relevance in the advent of the UN forces present in Darfur. It stressed that the AU would have to leave Darfur if it insisted on handing over its mission to the UN on September 30, 2006 (*Ibid*).

What appears a breakthrough was however realised on Friday November 17 2006 when a newly proposed hybrid/ interim force emerged out of discussions with AU, Arab League and African officials in Addis Ababa, Ethiopia. The agreement paved the way for a joint AU/UN peacekeeping force for Darfur composed primarily and led by Africans and funded by the UN. The effectiveness of the force would depend on troop size, command structure and mandate if it must be effective. While the UN advocates a 17,000 large troops with 3,000 police from Africa under UN control structure, the Sudanese government claims that only 12,000 troops will be enough, stressing that only the AU

would be allowed some international logistics support in Darfur, while it would not accept UN command of the force (www.yahoonews.ca ,2006).

The UN intervention in Sudan was reluctantly permitted by the Sudanese government after much international pressure. Among such pressure was the May 15 2005 rally at Downing Street and the Sudanese Embassy in England organised by the Aegis Trust's ProtectDarfur Campaign made up of genocide survivors from Darfur, Rwanda, Bosnia and the Holocaust. The protest was to call on the government of Sudan to use its position at the UN to secure a mandate for peace enforcement in Darfur and to further empower the AU in the area of civilian protection against genocide. There was a more proactive step on October 20, 2006 as 120 survivors from the Holocaust and genocides in Cambodia, Rwanda and Bosnia called on European leaders to impose sanctions on the Sudanese government to stop the conflict in Darfur. The genocide survivors signed an open letter to key European governments ahead of the EU informal Heads of State meeting in Finland (Aegis Trust, 2006:1).

The Sudanese government rejected the UN forces because it desired "justice" only from diplomatic and political means and not by military means at the instance of the UN. Also, the government blamed the Zionists and Israel for the crisis and believed that the UN was an appendage of the former, which it described as an invading force. The Sudanese President particularly stressed that the international community had no business in an exclusively internal matter, claiming that Sudan had a sovereignty that made it illegal for the UN to interfere in its domestic affairs (Barillas, 2006; news.scotman.com)

Also, the US government and the UN had, from June 2006, come under heavy attacks to stop their rhetorics over Darfur and take decisive steps. To this end, between June 29 and 30, US Secretary of State and UN's Annan visited Khartoum respectively with the intent to prevail on Khartoum to reverse the ethnic cleansing and humanitarian catastrophe in Darfur. The Democrat opposition in the US joined the human rights groups by demanding the "strong, sustained leadership from the US" in the crisis, asking the

Secretary of State Powell to make it clear to Sudanese officials that the US expected Sudan's complete cooperation in ending the killing and facilitating the delivery of relief supplies (Afrol News, 2006:1)

The suspicion of Sudanese complicity in the crisis is informed by a number of factors: lack of concrete actions taken by the authorities to stop or neutralise the Janjaweed; the selective way the government is handling rebellious groups, such as its warmness towards the Southern rebels and the Janjaweed while; stoppage of emergency aid from reaching the victims through covert bureaucratized procedure, and the insistence by the government that the Darfur problem was "not critical enough" to attract international intervention.

Has Sudan a Veto?

One pertinent matter arising from the Sudanese government's recalcitrance over external intervention in the Darfur crisis is the old question earlier asked about the limits of the exercise of state sovereignty in the contemporary international system. Has Sudan a veto to stop the UN, AU and international community in the Darfur crisis?

Sudan, on the grounds of principle of non-interference, has consistently maintained that the Sudanese (Darfur) crisis is a purely internal matter over which the government alone has power to deal with. It also claimed that the escalated crisis was wholly an African problem that required only African solution, which Sudan could provide. However, as Sudan came under heavy pressure from the international community to check the degeneration of the crisis to humanitarian catastrophe, the authorities has not been able to arrest the situation unilaterally, thus reinforcing the argument that grave issues as genocide require concerted efforts from the international system.

Sudan has adopted force at times to limit external interference. For instance, in May 2005, the government arrested and detained Paul Foreman, Head of the Dutch wing of the humanitarian-based Medicines Sans Frontiers (MSF). His arrest occurred after the MSF issued a report on rape in Darfur. He was subsequently charged for crimes against the

State. He was ordered not to leave the country until pressure was mounted for him to be released on bail (Aegis Trust, 2006:5). The arrest and trial of Foreman have been described as attempts by the Sudanese government to frustrate external interference and discourage international aid workers. Other attempts included the reported diversion of relief materials by government forces and the permission of Janjaweed militia to carry on with their acts of seizure, looting, pillage and diversion of the goods from which both the government officials and militia profited.

Sometime in June 2006, Sudan suspended the work of all the UN missions in Darfur except that of the World Food Programme and UNICEF after alleging that a rebel leader, Adam Jamous of the SLA flew aboard a UN aircraft, thus insinuating that the rebels were enjoying UN protection. Sudan demanded an explanation from the UN for the action, claiming that:

> The authorities were not consulted, no permission
> was asked for and It was clear negligence… a
> flagrant violation of Sudan's sovereignty (Rice, 2006:1).

In a similar manner, shortly after the November 17, 2006 agreement in Addis Ababa on an AU/UN military arrangement for Darfur, the Sudanese government promptly dismissed the possibility of a UN-commanded force, or control of what it calls the "blue helmets". According to Abdulmohamoud Abdulhaleem, the Sudanese envoy to the UN, the November 17 accord represents

> a new plan that can be largely accepted by Sudan
> and takes 1706 to the graveyard (US HMM, 2006:1).

"1706" was an obvious reference to Resolution 1706 of the UN Security Council. The resolution had in September authorized the setting up of the UN force. In the new arrangement, he believed there would be a "special type of operation" in which the UN would be "paying for the AU to do the job" (Rice, 2006:1) and there would no longer be need for the enforcement of a UN resolution to intervene.

Although the Sudanese government can use covert means to try to frustrate UN and the international community's efforts in Darfur to preserve its "autonomy", there are

adequate mechanisms that can stop Sudan, like any other state from creating artificial insulation in modern international system. The Sudanese government cannot not stop a UN force in Darfur if the UN acts under Chapter 7 of its Charter. It cannot also prevent a multinational intervention if one is mounted either with or without UN authorization.. The reasons are not far from prognosis. First, the Sudanese authorities belong to the UN, an organisation to which nations, by membership, have surrendered some degree of their sovereignty. The Charter of the UN clearly states that, if

> the Security Council deems that the continuance of dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under article 36 or to recommend such terms of settlement as it may consider appropriate (Chapter VI, Article 37:2).

Article 36:1 of Chapter VI grants the UN Security Council the leeway to settle dispute in a manner appropriate and make recommendations. Also, unlike what Sudan considered victory over "blue helmets" and for AU- controlled UN-AU military efforts, the Charter's under Article 53:1 states that all regional arrangements in conflict-ridden areas can only be subservient to and authorized by the UNSC (also, see UN Security Council Press Release, 25 May 2004 and Alvarez, 2005). Hence, the agreement to have AU lead the joint efforts is probably informed by the need to avoid a direct confrontation with Khartoum, which may escalate violence.

The existence of international legal standards, arising from treaties, conventions, protocols, accords, covenants, etc, by which state signatories are bound as "equal sovereigns" impede (positively) state sovereignty for the purpose of checking state excesses and overstretching of state sovereignty. Truly, international law may reflect the lack of international sovereign and thus be enforced only through reciprocity and consent (Starke, 1963; Couloumbis, 1996), the presence of rules guiding war, treatment of combatants and non-combatants, prisoners of war, genocide, war crimes, human rights, etc are binding on all contractual partners or member-states (*pacta sunt servanda*). There are rules governing such domestic crises that may escalate into an international security

issue as ethnic violence and genocide, which are no longer exclusively internal but are matters of international security and humanitarian concern.

International humanitarian law and human rights laws complement the foregoing as it was instituted to protect human beings and safeguard the dignity of man in war or conflict situations (Kaplan & Katzenback, 1976, Onigbinde, 1996). For humanitarian reasons, international humanitarian law limits the right of the parties to a conflict to use methods and means of warfare of their choice and seek to protect persons and property that are, or may be affected by the conflict (George, 1999; Hobsbawn, 1990; Gasser, 1993:16). The four Geneva conventions of 1949 and the additional protocols of 1977 were major breakthroughs in humanitarian law, namely the code of human rights applicable to people involved in or affected by armed conflict, internal or international. That is why in the cases of Iraq, Bosnia, Rwanda and Cambodia, the international community had to act.

The fact is that most nations, including Sudan, are bound by these conventions and protocols as sovereign states within the UN which they freely joined. International humanitarian law, according to Pogoson (2006:37) revolve round the principle of chivalry, which denounces and forbids resort to dishonourable means of conduct of hostilities, and implies forbearance and need for belligerents to be fair in both offence and defence. When these are not demonstrated, states become culpable and may become targets of sanctions or collective security measures for peace enforcement or peacekeeping such as in Sudan.

Sudan therefore has no veto in a matter that clearly constitutes regional and global security threat and enormous humanitarian concern. The statutes and international practice are not on the side of the Sudanese government. They clearly demonstrate that no state enjoys unbridled sovereignty when domestic issues have got out of hand.

Sudan's government is not arresting the ugly situation which has degenerated almost to the level of 1994 Rwanda, nor is it, at best, creating a level playing field. The Sudan

crisis has thus, become regional in all respects: African, Arab and Middle East contexts. The state of Sudan is on the precipice. Unless the government joins hands with the peacekeepers and stop protecting the Janjaweed militia, the "cleansing" of the Black Christians and moderate Muslims, the humanitarian and social crises may become catastrophic.

Conclusion

It has been established that the exercise of absolute sovereignty by a state is no longer tenable in 21st century global system of states. The reasons have been elucidated. Issues of human rights, humanitarian crisis are no longer accepted as purely domestic and therefore not covered by limitations of the principle of non-interference in the internal affairs of states. Sudan has international legal commitments as a member of several international organizations and because it is signatory to many international conventions and protocols on human rights, humanitarian issues and conduct of war and hostilities, which are quintessentially binding on it, its exercise of absolute sovereignty is limited.. Also, international enlightened public opinion is not on the side of the Sudan's claim of right to "absolute sovereignty" it hinges on to stop UN intervention. Already, leaders of African and Arab nations, two regions to which Sudan has bond, are supportive of UN troops' presence in Darfur.

However, the issue goes beyond Sudan and its reluctance to accommodate UN peacekeeping troops. The main issue is UN's slow, indecisive and uncommitted approach to settling the Darfur crisis, which is reminiscent of its disposition towards previous similar crises in Africa like in Rwanda, Liberia, Sierra Leone and Burundi. What appears absent on the part of the UN is political will. Boosted by a political will and a determination to get rid of socialism in East and Central Europe, the North Atlantic Treaty Organization (NATO) neither waited for the UN nor the European Community before it intervened in the grave social and ethnic crisis in Bosnia-Herzegovina. The aftermath of the NATO intervention was the UN's active engagement and a post-conflict management led by Clinton's United States, that included the division of Bosnia into three ethnically pure mini states (Harris, 1996). NATO, led by the US, neither foot-

dragged in intervention nor did the UN accord any importance to Bosnian Moslem threats against intervention.

The case of Sudan should not be different. If it is a mere peacekeeping matter, then consent of Sudan may be sought by the UN. But where it is a question of huge social crisis, genocide and humanitarian crisis like in Darfur, what is required is political will. Any situation that threatens regional peace and security like that of Darfur, deserves urgent intervention by the international community as clearly spelt out in the UN Charter. UN's lack of will in African crises is recurrent and several, and it betrays what appears to be lack of concern about African problems. This has generated questions like whether the black world really matters to the international community dominated by the whites and whether the African life means much to the rest of the world, or whether the UN is indeed a level-playing field for all races of the world.

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