

R2P Analysis of the Security Council's Recent Action on Sudan

Introduction

For well over a year, human rights and humanitarian organizations have been calling on the international community to fulfill its responsibility to protect the victims of brutal killings, rapes and other atrocities in the Darfur region of Sudan. In resolutions passed during the week of March 24 – 31, 2005, the UN Security Council made great strides toward fulfilling this responsibility. The Security Council passed three resolutions to address the grave humanitarian crisis in Darfur. The Responsibility to Protect-Engaging Civil Society (R2P-CS) project of the World Federalist Movement-Institute for Global Policy (WFM-IGP) welcomes these developments, as they represent significant, concrete steps toward protecting civilians and ending the crisis.

The three resolutions embody a comprehensive solution, involving deployment of troops with a mandate to protect civilians, sanctions against government officials and other parties who do not comply with international peace agreements, and accountability for crimes committed through a referral to the International Criminal Court (ICC). R2P-CS is pleased that the Security Council responded to the recommendations of the January 25, 2005 International Commission of Inquiry on Darfur^[1], which found that the Government of Sudan (GOS) and the Janjaweed militias are responsible for serious violations of international law, including crimes against humanity and war crimes, and recommended that the international community take immediate action to end the violations.

Following is a brief analysis of the human protection-related aspects of the three resolutions.

Security Council Resolution 1590

Security Council Resolution 1590,^[2] adopted on March 24, 2005, establishes the United Nations Mission in Sudan (UNMIS), which will consist of 10,000 military personnel and up to 715 civilian police personnel. UNMIS will support the implementation of the Comprehensive Peace Agreement. The main components of its mandate consist of monitoring the implementation of the Agreement, investigating violations, assisting in the establishment of the disarmament, demobilization and reintegration program, and crucially “to protect civilians under imminent threat of physical violence,” (Res. 1590, ¶16.1).

While R2P-CS supports the deployment of peacekeeping troops to Sudan, it must be noted that the 10,000 troops are to be deployed in Southern Sudan, and not in Darfur. The resolution does call for an immediate increase in human rights monitors in Darfur, and calls for UNMIS to coordinate “at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur,” (Res. 1590, ¶2). However, in light of the findings of the International Commission of Inquiry on Darfur, there needs to be a much stronger and more effective deployment of troops in Darfur as well, and R2P-CS would like to see a stronger commitment from the international community to take action and bolster the weak and ill-equipped African Union (AU) force in Darfur.

Security Council Resolution 1591

Security Council Resolution 1591,^[3] adopted on March 29, 2005, establishes sanctions against the GOS, as well as all parties to the conflict that impede the peace process or present a threat to civilians. The Council cited the failure of all parties to the conflict to fulfill their commitments of the April 8, 2004 N'djamena Ceasefire Agreement and the November 9, 2004 Abuja Security Protocol. The sanctions include a travel ban and the freezing of all funds, financial assets and economic resources of these parties.

R2P-CS recognizes that the international community must employ all measures available in the policy tool box to avert or end a crisis of this magnitude. In a December 2001 report titled *The Responsibility to Protect*,^[4] a panel of international experts formed the International Commission on Intervention and State Sovereignty (ICISS), and set forth steps the international community should take to fulfill its role to protect populations through diplomatic, economic, judicial and military means. The Security Council applied many of the economic and diplomatic measures called for in the ICISS report in Resolution 1591. It calls for “arms embargoes,” (ICISS, ¶4.7) (which already existed through a previous resolution but was expanded in Resolution 1591 to include more parties to the conflict) “financial sanctions... restrictions on income generating activities... restrictions on access of petroleum products... aviation bans,” (ICISS, ¶4.8) “restriction on diplomatic representation... restrictions on travel... suspension of membership or expulsion from international or regional bodies (and) refusal to admit a country to membership of a body,” (ICISS, ¶4.9). These measures are intended to impede the ability of target governments to interact with other governments or international bodies and hence persuade them to or abstain from certain activities.

Security Council Resolution 1593

Security Council Resolution 1593,^[5] adopted on March 31, 2005, was the most controversial of all the resolutions, and referred the case of Darfur to the International Criminal Court. This referral is supported by the Commission of Inquiry (COI), which concluded that resorting to the ICC “would be conducive, or contribute to, peace and stability in Darfur, by removing serious obstacles to national reconciliation and the restoration of peaceful relations,” (COI Report, ¶648). The ICC is also broadly recognized as a valuable tool by the ICISS Report and the Secretary-General’s report on UN reform, entitled *In Larger Freedom: Towards Development, Security and Human Rights for All*. R2P-CS supports the Council’s conclusion that a referral could a positive step towards protecting the people of Darfur and restoring peace and security.

R2P-CS particularly welcomes that those countries which did not or could not support the resolution for political reasons – particularly the permanent members of the Security Council – abstained from voting instead of opposing the resolution. The four countries that did not approve the resolution were Algeria, Brazil, China and the United States.

R2P-CS has called for Security Council governments in the Permanent 5 (US, UK, China, Russia and France) to restrain from using the veto in situations of potential genocide or other grave crimes against humanity. It is a misuse of the UN Charter for permanent members to use the veto to advance extraneous national political interests. Since the Security Council was established to act on behalf of *all* members of the UN to maintain international peace and security, restraining from the use of the veto for matters involving large-scale loss of life would advance the fundamental purpose of the Council.

The ICISS report calls for “constructive abstention,” and says that there should be “agreed by the Permanent Five a ‘code of conduct’ for the use of the veto with respect to actions that are needed to stop or avert a significant humanitarian crisis,” (¶ 6.21). In addition, the report of the Secretary-General’s *High Level Panel on Threats, Challenge and Change*, entitled *A More Secure World: Our Shared Responsibility*,” recommends that permanent members “pledge themselves to refrain from the use of the veto in cases of genocide and large-scale human rights abuses,” (¶256.)

Conclusion

The failure of the international community to act thus far and the immense suffering and loss of life in Darfur should not be forgotten. However the three resolutions are positive steps toward the protection of civilians in Darfur, and we look to the international community to quickly and effectively implement their promises.

^[1] http://www.un.org/News/dh/sudan/com_inq_darfur.pdf

² http://www.un.org/Docs/sc/unsc_resolutions05.htm

³ http://www.un.org/Docs/sc/unsc_resolutions05.htm

⁴ <http://www.iciss.ca/>

⁵ http://www.un.org/Docs/sc/unsc_resolutions05.htm

The *Responsibility to Protect-Civil Society* Network is a group of civil society organizations dedicated to advancing the “responsibility to protect” principles; sharing information on how governments, international organizations and/or regional organizations respond to large scale threats against civilians; and promoting earlier and more effective responses to emerging crises such as ethnic cleansing and genocide. For more information, please visit our website at: <http://www.wfm.org/protect/>.