

“Genocide and the Rule of Law,” United States Senate Committee on the Judiciary,
Testimony by Lieutenant General The Honorable Romeo A. Dallaire, Senator, Parliament
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Introduction

In November 2003, then United Nations (UN) Under-Secretary General for Humanitarian Affairs Jan Egeland called Darfur "the worst humanitarian disaster in the world." Three years later, the situation has only worsened, and yet men in suits continue to sit around tables arguing the semantics - then of genocide, and now of what specifically a "hybrid force" should comprise. The people of Darfur have suffered the very worst of what a violent conflict has to offer. Yet targeted brutality, gang rape, abduction, displacement, disease, and starvation are only the tip of the iceberg of what they have endured. Sadly, the words do not exist to properly describe the horrors, or surely action would have been taken by now.

Over a decade has passed since the world ignored Rwanda as all hell broke loose. Rather than sending the reinforcements that could have put an end to the crisis, my force of 2,500 was reduced to just 450 - the effect of direct instructions from callous world leaders. Since that time - and 800,000 deaths later - Rwanda seems to have joined the Holocaust as a convenient catch-phrase; something to be avoided, in theory. The practice - with the possible exception of Kosovo - has left much to be desired.

Certainly, the world cannot be accused of ignoring Darfur, except perhaps when events more directly related to our self-interest have popped up to distract us. There has been no shortage of demonstrations, resolutions, discussions, and conferences on the subject. I myself have, along with many colleagues, risen a number of times in the Canadian Senate to remind Parliamentarians that people are continuing to die. And yet, once again, words have failed. What will finally provide the right motivation to act?

I must admit that I have, on occasion, considered bringing a flak jacket I wore during the Rwandan genocide - a jacket that was blood-soaked from carrying a 12-year-old girl who had been mutilated and repeatedly raped - into the Senate Chamber and throwing it into the middle of the room. Maybe this would finally capture the attention of the political elite in a way that words have failed to do. Maybe it would finally bring home the point that human rights are not only for those who have the money to buy it and sustain it; they are the privilege and right of every human being.

Taking Action: Military Options

What legitimate and effective tools does the international community have to respond to the on-going crisis in Darfur, and others to come? To begin with, in September 2005, world leaders overwhelmingly embraced the concept of the Responsibility to Protect (R2P) in the UN Summit Outcome Document. This principle provides that, if a state proves unable or unwilling to protect its own citizens from genocide, war crimes, ethnic cleansing, and other crimes against humanity, then the international community has the

responsibility - not the right or the option - to provide that protection.

Glimmers of the idea that state sovereignty is not an unalienable right can also be seen in NATO's 1999 campaign in Kosovo. Faced with vetoes by Russia and China against a Security Council-sanctioned intervention, NATO circumvented the UN and intervened nonetheless. Subsequent arguments about the legality of the intervention miss a crucial point: NATO members intervened because the ethnic cleansing had to stop. International law evolves from the actions of States that are undertaken because of a belief that there is an obligation to do so. And the finding by the Independent International Commission on Kosovo that the NATO intervention was "illegal but legitimate" would seem to take a step in this direction.

Of course, I do not advocate illegal actions as a first course. Barring an (illegal) intervention by a coalition of the willing, what options are (legally) available to us?

I still believe absolutely that the most legitimate body to authorize humanitarian intervention remains the United Nations Security Council. Like others, the Security Council has not been idle. In more than half a dozen resolutions - some admittedly watered down under threat of veto - the Security Council has demanded the disarmament of the Janjaweed (1556), threatened sanctions against individuals found to be impeding the peace process (1556 and 1564), banned military flights over Darfur (1591), authorized war crimes investigations by the International Criminal Court (1593) and supported the deployment of troops to Darfur (1706). Not a single one of these commitments has been enforced.

The Permanent Five (P5) must realize that it is in their best interest to uphold the Security Council's legitimacy and effectiveness; their continued relevance depends on learning to see beyond narrow self-interest. Support by the General Assembly - including the P5 - for the reforms proposed by Kofi Annan would go a long way toward reclaiming a key purpose of the United Nations: "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion." If ever there was a chance to rebuild the loss of confidence in global governance following Rwanda, this is it.

Barring a robust Chapter VII intervention, two possibilities remain: an intervention under a Chapter VIII mandate, or an appeal to the Uniting for Peace Procedure.

Under Chapter VIII of the United Nations Charter, regional organizations are authorized to take robust action to deal with matters relating to the maintenance of international peace and security. The African Mission in Sudan (AMIS) could be seen to fall into this category, although Chapter VIII has not been specifically invoked in its case. Doing so would not only authorize the use of force, but would also improve the opportunities for coordination and support from the United Nations and its member countries. .

Uniting for Peace, for its part, is a little-known procedure that, in fact, has been used several times to move the UN forward in the face of Security Council deadlock on

matters that affect international peace and security, most notably for the Korean War and the Suez Crisis. In the face of continued obstruction by certain Permanent Members of the Security Council, it may be time to revive this practice. Any resolution passed by the General Assembly is certainly not binding, but given that it is a forum for all countries, and in which all countries have an equal voice, its resolutions can have significant normative impacts.

Let there be no mistake: if we are to advocate a military mission, it must be one of sufficient strength and conviction to succeed. We cannot afford another Rwanda or Somalia. I simply cannot understand how it is that a world that had no difficulty sending troops by the tens of thousands into the former Yugoslavia cannot muster the necessary force to establish an atmosphere of security in Darfur, and to alleviate the suffering of its people.

Taking Action: Non-Military Interventions

There are also a range of available options short of military force that have either not been explored or that have been held up by politics. Short of force, coherent and consistent pressure from a unified international community is the most effective way of coercing a state that massively abuses the rights of its people; double standards and inconsistent messaging are counterproductive. Respected international figures - be they individuals or states - must proactively rally broad-based support for humanitarian intervention, and develop coherent international strategies.

There has been a lively debate of late over the power of individual citizens in pressuring the Government of Sudan with targeted divestment campaigns - putting pressure on the foreign business interests that, indirectly, make the genocide possible. This is, I believe, a very good approach. Elsewhere, international financial institutions (IFI) present opportunities upon which the international community has yet to capitalize. Sudan is heavily indebted and in great need of financial credibility. The International Monetary Fund and the World Bank enhance the Government of Sudan's credibility through formalized relations. Given that China does not hold a veto in either institution, that these institutions have immense impact on Sudan's legitimacy as a financial actor, and that the Government's ability to maintain centralized power rests on its ability to attract investment, the IFI hold tremendous sway. Were the Group of Eight to link the massive abuse of human beings to endorsement by these institutions, the Government of Sudan would have credible incentives to abide by international law.

In particular, Middle Powers must take on a leadership role; their unifying power cannot be overvalued in this public exercise. While their wealth and influence has increased over the past twenty years, their contribution to global peace and security - specifically humanitarian causes - has lagged behind. And yet, as nations by-and-large without imperialistic histories, their voices stand to have more credibility in nations who are suspicious of Western intent - very real suspicions that can be and have been exploited in Sudan. Support from Muslim nations is key in this regard; the sensitivities and fears of those in opposition to the intervention must be understood and addressed.

Conclusion: The Future of International Humanitarian Intervention

And yet, I do feel that the international community is slowly but surely finding its way. Though not legally binding, a succession of declarations on human rights has slowly chipped away at the argument that actions undertaken within sovereign borders are of no concern to humanity; this was, in fact, a central argument of the International Commission on Intervention and State Sovereignty. Similarly, the establishment of criminal tribunals and of the ICC - which, promisingly, was recently given the jurisdiction to investigate charges of war crimes in Darfur is sending the message that the age of impunity is over.

Separating my statement into military and non-military options may have been a bit misleading in that I do not believe that the two should be mutually exclusive; in fact, as the mission in Afghanistan demonstrates, they can be, should be, and are complementary. Our business in Afghanistan is building peace. It is a controversial business, but one that I wholeheartedly believe is the right one for a new age of humanity.

It may be worth noting that the peacekeeping operations of the Cold War period were also highly controversial to begin with, as many strongly believed that it was not within the purview of the UN. By the 1990s, it had become a central activity. The blue beret became a symbol of the UN - of peace, of hope, and of our unity as human beings. But the Cold War is over, and we are in a new era: one where humanitarian concerns must trump narrow nationalistic self-interest. An era where we must learn to stand together truly united as nations, or risk tearing apart everything we've worked for. Disillusioned though some may be, the ideals of the United Nations are far too important to cast aside so easily.

That being said, the unfortunate truth is that international law is woefully inadequate when it comes to humanitarian interventions. The 1948 Genocide Convention was written while memories of the Holocaust were still fresh, yet it quite carefully excluded the possibility of action without the express authorization of the United Nations - authorization that was slow in coming even in the face of an obvious genocide in 1994. More often than not, invoking the Genocide Convention has simply led to sterile debates over whether a situation is - or is not - genocide. If it is not a genocide, does it make the massive abuse of human rights any less wrong?

We would do well to remember that humans are human - not one of us is more human than the other.