Application of the 'Responsibility to Protect' norm to the International Community's Response to the Humanitarian Crises in Zimbabwe and Darfur.

by

Patrick Dzimiri
Student Number: 28457600

A Thesis Submitted in Partial Fulfilment of the Requirements for the Degree:
Doctor Philosophiae (DPhil) International Relations

in the Department of Political Sciences at the

UNIVERSITY OF PRETORIA
FACULTY OF HUMANITIES

SUPERVISOR: DR YK. SPIES

February   2016

DECLARATION

I hereby declare that the dissertation submitted for **Doctor Philosophiae (DPhil)** International Relations at the University of Pretoria, apart from the help of the recognised, is my own work and has not been formerly submitted to another university for a degree.

Patrick Dzimiri

February 2016.

Signature……………………….. Date………………………

i

ABSTRACT

The Responsibility to Protect (RtoP) is an interdisciplinary normative framework that reconceptualises state sovereignty as a responsibility rather than a right. It obliges states to protect their people from humanitarian catastrophe, and in the event of state failure or unwillingness to heed this responsibility, requires of the broader international community to assume the residual duty to protect. When the principles of RtoP were endorsed by world leaders at the United Nations' 2005 World Summit, it seemed as though the normative regime was gaining currency in international relations. However, the operationalization of RtoP continued to be dogged by controversy and conceptual ambiguity. This prompted UN Secretary-General Ban Ki-Moon in January 2009 to appeal to the international community to strengthen the "doctrinal, policy and institutional life" of the norm.

This study responds to Ban's call and seeks to complement efforts of scholars across the world to refine the conceptual parameters of RtoP. Two African case studies of humanitarian crisis during the first decade of the 21st Century, respectively Darfur and Zimbabwe, are analysed. In both cases there is ample evidence that the governments in question defaulted on their sovereign responsibilities, thus necessitating RtoP-guided action by the international community. Based on an inventory of responses to the two crises by non-state, individual state and broader intergovernmental entities, the study finds that the behaviour of these actors complied at different times and to varying extents with the triadic RtoP sub-responsibilities of prevention, response and rebuilding. A specific analytical instrument – the RtoP 'Tool Box' developed by Gareth Evans in 2008 (and expanded on in 2013 by the International Coalition of the Responsibility to Protect) – is applied to derive at summative conclusions about the appropriateness of specific responses in each of the three RtoP sub-responsibilities.

A salient finding is the extent to which politicization of RtoP undermines its operationalization. From lack of political will to implement decisions or to respond to early warning of looming catastrophe; to real or perceived agendas that mask the agendas of intervening entities, the RtoP debate is continuously subject to a political narrative. This is evidenced by the fact that neither

Darfur nor Zimbabwe has seen timeous or effective responses to humanitarian crises that were induced by their own governments.

As has become evident in the decade since the World Summit endorsed RtoP, there is no global consensus yet on the norm. This is glaringly evident in terms of its implementation (or lack thereof). However, based on analysis of the two cases studies the study highlights the extent to which the norm has guided responses by a wide spectrum of actors. RtoP principles have become an indelible part of the discourse on humanitarian intervention, both when the norm is invoked explicitly (the case of Darfur) and when major actors downplay its invocation (the case of Zimbabwe). The impact of the norm is thus diminished by the international community's piecemeal, *ad hoc*, and uncoordinated application thereof.

DEDICATION

I dedicate this study to my wife Christina and kids. I also dedicate this work to all RtoP deserving victims of state-orchestrated violence in Zimbabwe and Darfur

ACKNOWLEDGEMENTS

ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
ACIRC	African Capacity for Immediate Response to Crisis
ACSP	Arab Collective Security Pact
AIPPA	Access to Information and the Protection of Privacy Act
AMIS	African Union Mission in Sudan
ANC	African National Congress
APO	African Press Organisation
ART	Antiretroviral Therapy
ASFB	African Stand-by Force Brigade
AU	African Union
AUHIP	African Union High-Level Implementation Panel
AUPSC	African Union Peace and Security Council
BDP	Botswana Democratic Party
BMATT	British Military Advisory Training Team
BRICS	Brazil Russia India China South Africa
CAR	Central African Republic
CCJP	Catholic Commission for Justice and Peace
CHOGM	Commonwealth Heads of Government Meeting
CHRA	Combined Harare Residence Association
COSATU	Congress of South African Trade Unions
CPA	Comprehensive Peace Agreement
CSO	Civil Society Organisation
CSU	Counselling Services Unit
DDPD	Doha Document for Peace in Darfur

DDR	Disarmament Demobilisation and Reintegration
DLF	Darfur Liberation Front
DPA	Darfur Peace Agreement
DRC	Democratic Republic of the Congo
ECOWAS	Economic Community of West African States
EFA	Education for All
ESAP	Economic Structural Adjustment Programme
EU	European Union
EUFOR	European Force
FBO	Faith -based Organisation
FEWSN	Famine Early Warning Systems Network
FFAMC	Fiscal and Financial Allocation Monitoring Commission
FTLRP	Fast Track Land Reform Programme
GDP	Gross Domestic Product
GNU	Government of National Unity
GoS	Government of Sudan
GoZ	Government of Zimbabwe
GPA	Global Political Agreement
HI	Humanitarian Intervention
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
HS	Human Security
ICC	International Criminal Court
ICG	International Crisis Group
ICI	International Commission of Inquiry

ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICRtoP	International Coalition on Responsibility to Protect
IDP	Internally Displaced People
IGO	Inter-Governmental Organisation
IHL	International Humanitarian Law
IL	International Law
IMF	International Monetary Fund
INGO	International Non-governmental Organisation
IPS	International Peace and Security
IR	International Relations
ITU	International Telecommunication Union
JEM	Justice and Equality Movement
JOC	Joint Operations Command
JOMIC	Joint Monitoring and Implementation Committee
LOMA	Law and Order Maintenance Act
LRF	Legal Resources Foundation
MCPMR	Mechanism for Conflict Prevention, Management and Resolution
MDC	Movement for Democratic Change
MDC-T	Movement for Democratic Change – Tsvangirai
MDG	Millennium Development Goals
MIGS	Montreal Institute for Genocide Studies
NAM	Non-aligned Movement
NATO	North Atlantic Treaty Organisation

NCA	National Constitutional Assembly
NCI	National Commission of Inquiry
NCP	National Congress Party
NGO	Non-governmental Organisation
NWO	New World Order
NYS	National Youth Service
O' Level	Ordinary Level
OAU	Organisation of African Unity
OHCHR	Office of the High Commissioner for Human Rights
ONHRI	Organ on National Healing Reconciliation and Integration
OPDS	Organ on Politics Defence and Security
PAP	Pan-African Parliament
PDF	Popular Defence Force
PHR	Physicians for Human Rights
POSA	Public Order and Security Act
PSC	Peace and Security Council
QD	Quiet Diplomacy
R2P/RtoP	Responsibility to Protect
RDP	Reconstruction and Development Programme
RWP	Responsibility While Protecting
SA	South Africa
SADC	Southern African Development Community
SAF	Sudan Armed Forces
SALC	South African Litigation Centre
SATAWU	South African Trade and Allied Workers Union

SEOM	SADC Election Observer Mission
SLA-AW	Sudanese Liberation Army of Abdul Wahid
SLA/M	Sudan Liberation Army/Movement
SLM	Sudan Liberation Movement
SPLM	Sudan People's Liberation Movement
SRF	Sudanese Revolutionary Front
SSR	Security Sector Reform
SWAPO	South West African People's Organisation
TRC	Truth and Reconciliation Commission
UAL	Union of the Arab League
UDI	Unilateral Declaration of Independence
UK	United Kingdom
UN	United Nations
UNAMID	United Nations - African Union Mission in Darfur
UNCHR	United Nations Charter on Human Rights
UNDP	United Nations Development Programme
UNHRC	United Nations Human Rights Council
UNGA	United Nations General Assembly
UNICEF	United Nations Children's Education Fund
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UNS-G	United Nations Secretary-General
US	United States
USAID	United States Agency for International Development
USSR	Union of Soviet Socialist Republics

W2I	Will to Intervene
WB	World Bank
WFP	World Food Programme
WMD	Weapons of Mass Destruction
WHO	World Health Organisation
WSOD	World Summit Outcome Document
WTO	World Trade Organisation
WW1	World War 1
WW2	World War 11
ZADHR	Zimbabwe Association of Doctors for Human Rights
ZANLA	Zimbabwe African National Liberation Army
ZANU-PF	Zimbabwe African National Union - Patriotic Fund
ZAPU	Zimbabwe African People's Union
ZCBC	Zimbabwe Catholic Bishops Conference
ZCC	Zimbabwe Council of Churches
ZCTU	Zimbabwe Congress of Trade Unions
ZESN	Zimbabwe Electoral Support Network
ZHDA	Zimbabwe Humanitarian and Development Assistance
ZIDERA	Zimbabwe Democracy and Economic Recovery Act
ZIMSEC	Zimbabwe School Examinations Council
ZIPRA	Zimbabwe African People's Revolutionary Army
ZJC	Zimbabwe Junior Certificate
ZLHR	Zimbabwe Lawyers for Human Rights
ZPP	Zimbabwe Peace Project
ZRP	Zimbabwe Republic Police

FIGURES

TABLE OF CONTENTS

CHAPTER ONE

INTRODUCTION

1.1 THEMATIC BACKGROUND TO THE STUDY

The protection of populations at risk is an historical concern of the international community and is addressed in various legal documents and customary provisions. Article 24 of the United Nations (UN) Charter bestows pivotal responsibility on the United Nations Security Council to preside over the maintenance of international peace and security, and the Charter also recognises the legitimate, if ancillary, role of regional organisations. In the course of the evolution of international humanitarian law (IHL), the discourse is informed by the international community's adherence to legal obligations under human rights covenants and treaties, the evolution of municipal law, and the developing practices of states, regional organisations, and the UN Security Council itself.

The most recent codification within the discourse on international humanitarian obligations is represented by a nascent, normative regime known as the 'Responsibility to Protect' (RtoP, or 'R2P', as it has become popularly known). It entails the re-conceptualisation of state sovereignty as a 'responsibility' rather than a 'right' as implied by the original Westphalian concept (Evans 2008; Thakur 2011). The essential contention is that the legal principle that runs concomitant to state sovereignty, namely 'non-intervention', should never be allowed to shield crimes against humanity. For this reason, it is emphasised that sovereign states have a primary obligation to protect populations within their jurisdiction from catastrophic harm caused by internal wars, insurgency, and ethnocentric violence --- to name but a few scenarios. The international community also has a continuing moral duty to assist states with capacity-building in order to meet their domestic responsibilities in this regard, but in crisis situations (where the state in question is unable or unwilling to protect its own people) the principle of non-intervention should yield to that of responsibility borne by the wider international community (ICISS 2001; Ban 2009). RtoP is, therefore, part of the normative and legal, but also highly political and

1

contentious, debate on coercive action to be taken against a sovereign state for the purpose of protecting people at risk.

As a more nuanced contribution to the debate on humanitarian intervention, RtoP does not merely focus on the international community's reaction to crises but, more importantly, embraces a continuum of continuous vigilance on matters of human security. In this regard, three key responsibilities are bestowed on states in the global society of nations. Firstly, a 'Responsibility to Prevent', which entails a duty to address the root causes, as well as direct consequences, of internal conflicts and other man-made catastrophes. Secondly, a 'Responsibility to React' --- that is, a duty to respond to situations of serious humanitarian crises with appropriate (and, in some cases, unilateral) measures, such as sanctions, while in more extreme cases, military intervention for the protection of civilians in life-threatening situations. Finally, there is a 'Responsibility to Rebuild', which is meant to provide, after humanitarian intervention, assistance with recovery, reconstruction, reconciliation, and addressing the causes of the crisis the intervention was designed to arrest or avert, so as to prevent a possible recurrence (ICISS 2001a: x). These three components of RtoP are essential for a holistic, legitimate and accountable approach to human security.

The conceptual parameters of RtoP have been hotly contested, notwithstanding the detailed 2001 Report of the International Commission on Intervention and State Sovereignty (ICISS) and the endorsement of RtoP principles by world leaders at the United Nations' 2005 World Summit. Disagreement about the scope and limitations of the RtoP, especially in regard to its legitimacy and legality of operationalisation, has been compounded by its rhetorical use in debates on international crisis situations. Hence, in January 2009, UN Secretary-General Ban Ki-Moon appealed to the international community "to give RtoP a doctrinal, policy, and institutional life" (Par.1.2). The inability of the international community to reach consensus on the parameters for the implementation of the RtoP, as witnessed during the controversy that followed the intervention in Libya during 2011, is testimony to the fact that much needs to be done in terms of research on this subject.

This study is, in part, a response to Ban's call, and it aimed to strengthen the body of literature on the RtoP, especially from an African perspective. As explained, much of the literature on the RtoP

has focused on Africa, on the one hand, because the continent is rife with unresolved conflicts and, on the other hand, because the conceptual roots of the RtoP are so firmly planted in African soil (Luck 2008; Williams 2009: 413). Africa is also pertinent because the African Union (AU) has distinguished itself as the first regional, inter-governmental organisation to adopt the RtoP as part of its Constitutive Charter. The two case studies that were used for this study are the humanitarian crises in Sudan's Darfur region (2003-2004) and in Zimbabwe (2000-2010). Both cases involved evidence of large-scale, government-orchestrated crimes against humanity, and attracted significant international attention, albeit with vastly different outcomes and approaches. They were examined in order to determine the extent to which RtoP principles guided the international community's response, either explicitly or implicitly.

In the case of Darfur, the uneven distribution of wealth and development, coupled with environmental degradation and the resultant pressure on resources (primarily land and water), have been cited as the root causes of the conflict, but commentators mostly agree that the circumstantial causes were manipulated by the Sudanese government (Lippman 2007: 93; Mamdani 2008: 6). Leading up to the crisis, and stretching over a period of three decades, the Darfur region is said to have been systematically denied essential services and to have received minimal support from the government in Khartoum. Thus, the central government perpetuated the colonial policies of exclusion, thereby marginalising the Darfurians socially, politically and economically.

These political actions triggered armed revolt, and in response the government launched a brutal 'counter-insurgency' campaign (Loeb 2013; Ismail 2013; Daly 2010; Mamdani 2009; Mbuen 2009; De Waal 2005; Williams and Bellamy 2005). During June 2003, the region descended into full-scale civil war. Various reports on the conflict corroborated allegations of the Sudanese government's 'crimes against humanity', drawing on the definition in the Rome Statute of the International Criminal Court (ICC) of acts committed as part of widespread or systematic attacks directed at a civilian population (Amnesty International 2007). The situation attracted widespread condemnation from the international community with the United States (US) even labelling the situation as 'genocide' (Bah 2010; Daly 2010; Mamdani 2008). Spill-over effects of the conflict took on a regional dimension and, during December 2005, Chadian President Idriss Déby accused Sudanese President Omar Ahmad al-Bashir of trying to destabilise his country by exporting the

3

war from Darfur into Chad (UNCHR2005). The crisis presented a major challenge for the (then) newly established AU, with the realisation that its African Standby Force Brigade (ASFB) lacked the capacity to address the Darfur crisis efficiently. This resulted in the hybridisation of the AU's intervention mechanism, as authenticated by its joint venture with the UN to form the United Nations-African Union Mission in Darfur (UNAMID), an unprecedented step in the UN's approach to conflict resolution and, arguably, a major achievement in the discourse on RtoP operationalisation.

In the context of Zimbabwe, the causes of the crisis also date back several decades and involved the deliberate marginalisation of certain sectors of the population. The government-orchestrated *Gukurahundi* (Total War) of 1983 killed more than 20 000 Ndebele-speaking people in Matabeleland and, after some years of relative calm, there came in 1998 the disastrous Fast-Track Land Reform Programme, FTLRP (Sachikonye 2005a; Raftopoulos 2006; Stiff 2000). The idea of 'empowering people through land', as claimed by the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF), heralded a setback for productive commercial agriculture and, subsequently, transformed Zimbabwe from being the 'breadbasket of Southern Africa' to a country wracked by famine. Since the introduction of the FTLRP, the country experienced a decade of conflict over governance and political space. In May 2005, *Murambatsvina* (Operation Restore Order) left thousands of urban dwellers in Zimbabwe homeless when the government, through the police and army, conducted a massive campaign to destroy what it alleged were "illegal structures" (Dzimiri and Runhare 2012; Bratton and Masunungure 2007; Tibaijuka 2005; HRW 2005).

Persistent government-supported violence against opposition supporters reached a peak during March 2008, when the ruling ZANU-PF lost national elections and the incumbent Mugabe regime refused to concede to its rival, the Movement for Democratic Change (MDC). The country descended into violence, the collapse of basic services and infrastructure, and a mass outflow of human resources. These, together with the effects of a disastrous cholera epidemic, caused an economic meltdown. The drawn-out deadlock over a power-sharing deal struck during September 2008 only served to prolong the humanitarian crisis. The RtoP dimension of the crisis was raised by several stakeholders, but this was met with ambiguity by political leaders in the region and was inconclusively debated at the intergovernmental level. Nevertheless, many Zimbabweans and a

significant number of international state and non-state actors agitated for an intervention by the international community --- and this makes the case for empirical clarification.

Coinciding with developments in both these case studies has been a fast-moving and highly politicised debate on the RtoP. But the debate has been overshadowed by the high-profile Libyan intervention during 2011, and the contested merits of potential intervention in Syria. However, the RtoP discourse requires more comprehensive academic attention. The RtoP is not a synonym for humanitarian intervention: it is not a mere knee-jerk reaction to an event. More importantly, it addresses a nuanced continuum of responses, including preventive measures. It stands to reason that some elements of RtoP can therefore be operationalised in a discreet manner, even at the bilateral level, and not necessarily as part of a larger, collective initiative, sanctioned by the UN Security Council. It is in this regard that this study aims to make a contribution to the discourse by using two recent case studies (the humanitarian crises in Zimbabwe and Sudan's Darfur region), and determining the actual extent to which RtoP principles guided the international community's responses. By compiling an inventory of responses related to the triad responsibilities of preventing, reacting, and rebuilding in each of the two cases, conclusions were reached on the instruments that were available to, and the extent to which they were used by, the international community in the operationalisation of the RtoP.

1.2 Preliminary Literature Overview

In this section, a preliminary overview of available literature was undertaken in the main thematic areas relevant to this study. First, the broad humanitarian intervention discourse from which the RtoP emanated; second, the discourse related to the RtoP's conceptual development; third, studies done on the humanitarian crisis in Zimbabwe; fourth, literature on the crisis in Sudan's Darfur region --- and finally, following on this brief overview, an indication was given as to where this study attempted to make a contribution to the body of literature. This overview was expanded upon in the subsequent chapters of the thesis.

1.2.1 The Humanitarian Intervention Discourse

Since at least the end of World War II, humanitarian intervention has been a subject of debate within the discipline of international relations (IR), but there is no universally accepted definition of the concept. Abiew (1999: 31) postulates that "the theory of intervention on the grounds of humanity recognises the right of one state to exercise international control over the acts of another in regard to its internal sovereignty when contrary to the laws of humanity". Humanitarian intervention, therefore, involves the threat or use of force across borders by a state or group of states, aimed at ending widespread and grave violations of the fundamental human rights of nationals of, and people residing in, the territory of another state (Holzgrefe 2003; Matlary 2006; Akokpari 2008). Ryniker (2001) cautions that, from an international humanitarian-law perspective, it is a contradiction in terms to speak of humanitarian 'intervention' or 'interference', as the term 'humanitarian' should be reserved to describe actions intended to alleviate the suffering of victims. The argument advanced by this thinking is that the impartial provision of humanitarian aid or assistance cannot be condemned as interference with, or infringement of, a state's national sovereignty. Of significance to the new humanitarian intervention paradigm is that it describes as 'human' the populations to be protected, and as 'humanitarian' the crisis they suffer from; also implied is the intervention that promises to rescue them, and the agencies that seek to carry out that intervention (Mamdani 2008).

Scholars such as Buchanan (2003), Holzgrefe and Keohane (2003), Ignatieff (2004) and Matlary (2006) have made incisive contributions to the multifaceted concept of humanitarian intervention. Buchanan (2003) addresses what he calls 'the illegal reform justification' and acknowledges the controversy surrounding the notion of humanitarian intervention. He presents the argument that humanitarian intervention actions are justified as being intended for the common good --- that is, saving humanity at risk. In the same vein, Holzgrefe (2003) proffers a review of the multifaceted nature of humanitarian intervention by exploring the ethics of humanitarian intervention, and distinguishing between various theories according to the source, object, breadth, and weight of moral concern. He utilises ethical theories such as utilitarianism, natural law, social contractarianism, legal positivism, and communitarianism as a gateway to discuss the practice of

6

humanitarian intervention, and argues that for a proper understanding of the notion of humanitarian intervention one cannot separate issues of legality from questions of morality.

Holzgrefe and Keohane in their 2003 study examines humanitarian intervention in the context of state failure at the global level and explores fundamental issues of moral theory, processes of change in international law, and how the conceptualisation of sovereignty is shifting as a result of changes in human rights norms. The authors provide a justification for using force preventively in cases of extreme danger, especially when terrorists would develop weapons of mass destruction (WMD). It is argued that the group of states that intervenes must always get the blessing of the UN Security Council and, in lieu of that, must present compelling moral justification for their actions.

Augmenting this global perspective is the contention that recent developments and some practices of 'nation-building' or democratic intervention for so-called 'regime change' have complicated the debate and may represent a weakening of the concept of non-intervention. Matlary (2006: 5-9) argues that, in an era of globalisation, the state is no longer the referral point and that the notion of 'insider versus outsider', where the border is the key 'gate keeper', has been deconstructed. The new international human security paradigm, suggesting a borderless world, envisions a situation where the plight of citizens inside the state becomes the concern of the international community. Thus, this has become the basis for invoking the RtoP concept.

In his study on the legitimacy of humanitarian intervention in international society, Wheeler (2002;2001) investigates the concept from the perspective of pluralist, solidarist, and realist theories. He argues that the issue of intervention for human-protection purposes arise in cases where a government has turned the state machinery against its own people or in situations where the state has collapsed into lawlessness. Pluralist international society theorists such as Bull (1977), Clark (2005), Buzan (2004) and Holsti (2004) posit that states are capable of agreeing on certain minimum conditions for statehood, the most critical one being the reciprocal recognition of sovereignty and the norm of non-intervention. The contention here is that, in the absence of consensus on what constitutes gross human rights violations, the principle of humanitarian intervention becomes obsolete. Solidarists such as Evans (2008) and Thakur (2007) argue that

there is a legal right and moral duty of humanitarian intervention, especially in exceptional cases of human suffering, and this is provided for in the UN Charter on Human Rights (UNCHR) and also in international customary law. Realist theorists such as Wheeler (2001), Morgenthau and Thompson (1985), on the other hand, assert that states should not intervene for the primacy of humanitarian motives and that states have no business risking the lives of their soldiers or those of non-military personnel to save strangers. For the realists, unless vital interests are at stake, states should not intervene for human protection purposes. This approach, then, automatically questions the altruistic motives of entities engaged in or propagating intervention.

Teson (1998) acknowledges the unintended consequences of humanitarian intervention, such as the death of innocent civilians, but invokes the doctrine of 'double effect' from the just-war paradigm, according to which it is said to be permissible for the interveners to cause the death of non-combatants if, by so doing, they prevent much greater harm. As such, just-war theory envisages that the intervener must at least prove that intervention is justified *post-ad bellum*. Theorists from different perspectives agree, however, that (for various reasons) humanitarian intervention is actually a rare phenomenon. Ignatieff (2004) laments this reality and asserts that professed 'neutrality' is the major obstacle to intervention, especially when observers adopt a middle-of-the-road position. The UN's failure to prevent genocide in Bosnia and Rwanda, for instance, has been attributed to the adoption of a position of neutrality.

Literature shows that humanitarian intervention has never been without controversy, both when it did occur as in the case of Somalia (1992), and when it failed to materialise as in the case of Rwanda (1994). As Evans (2008) points out, the 1994 Rwandan genocide, in particular, exposed the devastating results of inaction and prompted widespread international introspection on this crucial norm --- hence, the ICISS investigation and related studies in the late 1990s and early 2000s.

1.2.2 The Discourse on the RtoP's Conceptual Development

Theoretically, the notion of RtoP is linked with the re-emergence of ethical considerations in the practice of humanitarian intervention in the post-Cold War political order. This can be broadly situated within normative IR theory. This branch of IR theory, as pointed out by Frost (2000: 11), "... proffers simple and practical answers to complex issues in the conduct of IR, more specifically the vexing question on what to legitimately do when a state infringes on the rights of its people". Despite changing the vocabulary of 'humanitarian intervention' to 'RtoP', the normative value of RtoP is that it pins the responsibility to protect citizens to the state at the national level, and to the UN through the Security Council at the international level --- the UN Security Council is, therefore, considered the epicentre of RtoP at the international level. In this regard, Thakur (2007: 247) observes that RtoP is more of a linking concept that bridges the divide between the international community and the sovereignty of states.

At the theoretical level, the RtoP is also linked to the 'English School' of IR, which places emphasis on 'shared norms and institutions within global society'. This tradition gives a human-focused approach to the discourse on IR --- and this is essential because, as Jackson and Sorensen (2007: 133) claim, "IR as a special branch of human relations focuses on basic values such as security, order, justice, and independence and not only self-interest as purported by the realist school of thought". They explain that the normative contribution of the 'international society concept' lies in its call for national responsibility, international responsibility, and an overarching humanitarian responsibility. On national responsibility, Machiavellian philosophy holds that states should always put their nation and citizens first and avoid taking unnecessary risks with their welfare and security. Baylis and Smith (2008) elaborate on international responsibility, noting that states derive their foreign obligations from their membership of international society. As Jackson and Sorensen (2007) explain, this involves upholding citizens' rights as beneficiaries of government and, as defined by international law, government as a duty-bearer to citizens under its protection. They note how this international obligation is complemented by humanitarian responsibility in which, by virtue of existing in a community of humankind, states should exhibit fundamental respect for human rights obligations not only inside their own countries but also in a global context.

9

The existence of a substantial number of works on RtoP especially as it relates to African conflicts, demonstrates the existence of a strong link between the concept and the continent of Africa. The original idea of responsible state sovereignty was popularised by Francis Deng in an article titled "Frontiers of Sovereignty" (1995), and later in a 1996 joint publication with Roberta Cohen titled "Sovereignty as Responsibility: Conflict Management in Africa". In these two pieces, the connection between sovereignty and responsibility is strongly emphasised (Glanville 2014; Spies and Dzimiri 2011; Sarkin 2009; Melber 2009). The conviction is that if nations fail to conduct their internal affairs in line with international standards, "other nations do not only have a right, but have a duty to intervene" (Etzioni 2006: 74).

Supporting literature also shows that the path to the evolution of the RtoP norm owes much to Africa's sheer number of conflicts and humanitarian crises, and failure by the international community to prevent and respond to crises such as in Rwanda, Somalia and Darfur (Huisingh 2013; ICRtoP 2013; Kassner 2013; Evans 2008; Thakur 2007). These crises, in combination with others beyond Africa, such as in Cambodia, East Timor and Bosnia, gave impetus to the crafting of the RtoP as a normative framework for responding to political situations threatening human security. According to Edward Luck (2008), Special Adviser to the UN Secretary-General on the Responsibility to Protect, RtoP emerged "quite literally, from the soil and soul of Africa". Williams (2009: 413) reinforces this viewpoint and observes that Africa "is one of the most important crucibles in which R2P was forged". At the African continental level, Article 4 of the AU Constitutive Act (2000) embraces the RtoP concept, representing a major departure from its predecessor, the Organisation of African Unity (OAU's) strict non-intervention principle (Murithi 2009). Mwanasali (2008: 9) calls this "a movement from non-interference to non-indifference". As Kioko (2003: 3) explains, the Act endows the organisation with the right to intervene, while simultaneously articulating a commitment to conflict prevention and a responsibility to override the non-interference principle in "grave circumstances", defined as war crimes, crimes against humanity, and genocide.

The pioneering study that resulted in codification of the RtoP norm was done by the Canadian government-sponsored ICISS, and the Commission's 2001 Report is therefore used as a core reference in this study. In an attempt to transcend the debate about non-intervention versus the

right to intervention in the affairs of sovereign states, the Commission replaced the idea of the "right" of states or the international community with that of "responsibility". The Commission responded to the vexing question of when it is appropriate and necessary for the international community to take coercive action against a state for the purpose of protecting people at risk in that particular state. It concluded that, in situations where the state in question is unable or unwilling to protect its own people --- in other words, where it is not living up to its own responsibility to protect --- the principle of non-intervention yields to responsibility borne by the wider international community (ICISS 2001a: x). This argument has been expanded upon by proponents of the RtoP, such as Evans (2008), Powell (2005), Matlary (2006) and Puley (2005).

A significant step in the development of the RtoP norm, that also received wide scholarly attention, is the global endorsement by the 2005 World Summit in its 'Outcome Document', WSOD (ICRtoP 2013; Evans 2008; Bellamy 2009). According to Loiselle (2013), the 2005 WSOD accorded the RtoP international recognition as a framework for responding to global humanitarian crises. Following the endorsement by over 150 heads-of-state-and-government, the RtoP morphed from a "concept --- an idea --- to a principle" (Bellamy 2009: 6). Another milestone in the conceptual history of the RtoP took place in 2009 when UN Secretary-General Ban Ki-moon released a report entitled, 'Implementing the Responsibility to Protect'. Ban proposed three pillars to be followed when intervening for human-protection purposes. The emphasis of the first pillar is on responsible sovereignty, which is defined as state protection of its people from atrocities. The second pillar emphasises the international community's prevention role through capacity-building in order to assist concerned states to deliver on their protection mandate (Bellamy 2012; Thakur 2011; Weiss et al 2011; Ban 2009).

Since 2001 and the RtoP Report by the ICISS, there have been mixed responses to the operational utility of the norm. Weiss (2004: 135) warned that the norm will be tantamount to abuse as a "trojan horse". Scepticism over the norm intensified after the 2011 Libyan intervention which was spearheaded by the North Atlantic Treaty Organisation (NATO). Several commentators expressed the view that the military component of the norm was too hastily deployed without exhausting the non-coercive measures of the RtoP (Johansen 2011; O'Connell 2011; Roberts 2011). The fact that this intervention resulted in regime change prompted Bellamy (2011a: 20) to lament that it is "neo-

imperialist interventionism dressed up in humanitarian garb". Chimni (2013: 1) labelled the intervention in Libya as "imperialism with a human face". Perceptions that RtoP was being selectively applied as weapon of the mighty against the weak, created global divisions in the fragile 2005 consensus on the norm (Breakey 2012; Petrasek 2013; Sarkin 2012). Evans (2011: 40), however, still maintains that the Libyan intervention was a "textbook case" for RtoP operationalisation intended to halt "imminent mass atrocity crimes".

Dunne (2013: 443) brings in a new dimension of burden-sharing that has not been accorded attention by most scholarship on the RtoP. In light of the challenge of selectivity and partial application of the RtoP, he examines how "special responsibilities" can bridge the polemic divide between intervening for human protection and the burden of sharing the cost of intervention.

1.2.3 Research on the Humanitarian Crisis in Zimbabwe

The humanitarian crisis in Zimbabwe since 2000 has generated a great deal of academic and political debate. From a socio-historical perspective, Mlambo (2003) and Ndlela (2003) trace the genesis of the crisis to mismanagement and growing corruption within the ruling ZANU-PF and the 2000 FTLRP, as well as Zimbabwe's costly 1998 military intervention in the Democratic Republic of the Congo (DRC). Hawkins (2003), in his study on the contagion effects of the economic crisis in Zimbabwe, predicted the risk of lasting damage to the regional economy and its people, as well as rendering largely ineffective the Southern African Development Community (SADC's) mechanisms for ensuring stability and adherence to democratic principles and good governance.

In an article, "Zimbabwe: Long Road to Recovery", Hawkins (2008) conducts an incisive discussion of crimes against humanity in Zimbabwe by making specific reference to acts such as unlawful arrests, imprisonment, beatings, killings, and threats that were committed by the ruling party in its campaign against supporters of the opposition MDC. Arguing from an international law perspective, Hartwell (2008) augments this view by asserting that the Rome Statute's definition of crimes against humanity has placed the Zimbabwean President, Robert Mugabe, in a confrontational position *vis-à-vis* international law. The potential international legal repercussions

of his actions may explain why Mugabe has held on to power regardless of the humanitarian crisis facing the country.

Raftopoulos (2006) discusses the authoritarian politics that has been the modality for land invasions by the Mugabe regime. The problems relating to the legacies of the political economy, the politicisation of nation and race, and the challenges of developing democratic alternatives in the current global context are also elaborated upon. From a different perspective, MacLean (2002) utilises the 'political economy of conflict' dimension and the comparative politics approach in his explanation for the deterioration of governance structures and leadership failure in Zimbabwe, equating the country to other African states that had 'collapsed' in recent history, such as Liberia and Sierra Leone.

In accounting for the food crisis in Zimbabwe as an humanitarian issue, the 2000 United Nations Development Programme (UNDP) Report on the FTLRP lamented the decision to evict nearly 3 000 white commercial farmers from their land (and productive farming), and concluded that it was a total abdication of the Zimbabwean government's responsibility to feed the nation. In the same vein, Sachikonye (2005a) highlights Zimbabwe's negative transition from being a net exporter of food to becoming, at the time, the biggest food importer in Africa, resulting from implementation of the FTLRP. Likewise, Richardson (2004) blames the Zimbabwean government for entrusting inexperienced and poor farmers, who have little knowledge of modern farming techniques, with the responsibility to provide food for the country.

From the viewpoint of political landscape, Scarnecchia (2006) makes an interesting comparison between the Fascist cycle in Italy during the period 1920 to 1924 and Zimbabwe in the period 2000 to 2005 in order to explain the phenomenon of the militarisation of the state. The comparison focuses on the state's use of paramilitary organisations or militias (for example, the War Veterans' Association) to maintain and regain control, and the abuse of legislative and judiciary powers to protect the ruling party's interests. Rupiya (2005) cites operations like *Gukurahundi* and *Chinyavada* in the 1980s, as well as the 2005 *Murambatsvina*, as clear test cases of military-style governance in Zimbabwe. In all these operations, the army and the air force were seen as

13

spearheading government policies, instead of them focusing on the provision of human (and state) security.

Adding to the political dimension, Meredith (2007) elaborates on the military style of governance by tracing it as far back as the 1980s when Mugabe unleashed a campaign of mass murder and terror against his political opponents. He argues that in the 2008 post-election phase, the same strategy was a common feature when armed gangs were used to crash political opposition, subvert the rule of law, undermine the judiciary, harass the independent press, and vilify the small white community. Colvard and Lee (2003) portray President Robert Mugabe and his inner circle as having placed themselves above the law, hence abandoning the principles of good governance and democracy.

However, the neo-liberal position of ascribing the humanitarian crisis in Zimbabwe to ZANU-PF governance, especially the focus on symptoms like the increased militarisation of domestic politics, party-political violence, shrinking domestic spaces, executive lawlessness, questionable electoral conduct, and overall economic collapse in the land reform regime, is refuted by Ndlovu-Gatsheni (2006: 3-12). She argues that the neo-liberal perspective reduces the crisis in Zimbabwe to the mere problem of governance and that it traces the genesis of the crisis to the year 2000, ignoring earlier antecedents that are equally important. In the context of the FTLRP, she contends that the Zimbabwean crisis was provoked by a nationalist attempt to solve the delayed national question of land redistribution, and that this happened at a time dominated by the aggressive and 'disciplining' forces of neo-liberalism --- for example, the economic structural adjustment programmes (ESAPs) of the World Bank, cosmopolitanism, and globalisation.

Despite diminishing international attention to the crisis in Zimbabwe, there is ample evidence that the crisis was not addressed in line with RtoP precepts. There is a view that attempts to bring a political solution to the crisis were eclipsed by the fact that ZANU-PF still wielded most power and that the opposition was reduced to a mere marginal player in the post-crisis scheme of things (Mazarire 2013). According to some observers, the re-emergence of ZANU-PF's hegemonic tendencies and resistance to political reform compromised human security and demonstrated the

international community's failure to deliver on RtoP in Zimbabwe (Muzondidya 2013; Raftopoulos 2013).

1.2.4 Research on the Humanitarian Crisis in Darfur

With regard to the humanitarian crisis in Darfur, Mamdani (2007) in an article "The Politics of Naming: Genocide, Civil War and Insurgence" does a comparative analysis of the Iraqi and Darfur crises to expose the politics of naming in humanitarian intervention. The author notes that the number of casualties in both cases is similar, the perpetrators of violence are both government-sponsored paramilitaries, but the crises are named differently. It is said to be an insurgency and counter-insurgency in Iraq, while that of Darfur is termed genocide. Mamdani, therefore, raises questions such as: who has the power to define a crisis as a genocide, civil war or insurgency, and who is labelled the infiltrator in these scenarios? What messages does this naming bring, and with what consequences to those affected, as well as to regional and world politics?

Murithi (2008) analyses the Darfur crisis within the broader framework of social inequalities and marginalisation of Darfurians by the Khartoum government. He alleges that since the attainment of independence in 1956, the Darfur region suffered from marginalisation by the government in Khartoum, both at the level of economic and political process, and this generated popular discontent in the region. In accounting for the humanitarian intervention dilemmas and complexities, the author presents a national dimension in which the Khartoum regime sees the conflict as an internal issue that justifies the traditional Westphalian principle of non-intervention in the affairs of sovereign entities. At the international and regional level, the author mentions the competing and multi-layered agendas of some actors, and notes that the Sudanese government views the Darfur crisis through the prism of the post-September 9/11 'War on Terror'.

Frank (2006) utilises the realist paradigm in accounting for the uneven or unbalanced reporting and perception of humanitarian disasters by the Western media. Test cases are drawn from six 2005 disasters, namely the two Gulf Coast hurricanes, the Bam and Kashmir earthquakes, the Darfur crisis, and the Asian tsunami. According to the article there appears to be no link between the scale of the disaster and the media interest it attracts. Western interests are said to be 'the pre-

15

condition for significant coverage of [a] humanitarian crisis' and economic interest is a better indicator of the level of media attention than human suffering (Frank 2006: 282-283). According to Frank, in the case of Sudan's Darfur region there is no economic angle to the issue, but political interest is said to be the main driving force for 'humanitarian' intervention. He, therefore, deduces that media reporting on the Darfur crisis is mired in misunderstanding of the causes and nature of the crisis, thereby presenting a confused picture for genuine humanitarian intervention. The article concludes by arguing that, in any humanitarian crisis, suffering by itself does not create an interest for intervention, but that the deep-rooted interests of the interveners themselves are actually defining the parameters of the crisis.

Lippman (2007: 193) has voiced concern about the international community's lack of concern about, and attention to, the gross and systematic violation of human rights in Darfur, the same kind of indifference that exacerbated the 1994 Rwandan genocide. Just like Rwanda, Darfur is "a slow-motion genocide'' that has methodically unfolded before the eyes of the international community. On a comparative note, Lippman asserts that the only difference between the 1994 Rwandan genocide and Darfur is that of the numbers involved, and that the situation in Rwanda was "not just a conflict, but an organised attempt to do away with a [specific] group of people". The question of when is it appropriate to intervene in such a crisis, and the extent to which the international will to protect exists, is a major conceptual dilemma in the evolving RtoP doctrine.

The debate on the ambiguity and politics of naming the genocide in Darfur is presented by Prunier (2007) who, like Mamdani (2007), questions whether the conflict in Darfur qualifies as genocide. He also reflects on whether or not applying the term 'genocide' inhibits proper understanding of the crisis and the appropriate response mechanism. Prunier's main thesis is that, despite the controversy surrounding the naming of the Darfur crisis, the ever-deteriorating humanitarian situation has been evidence enough to demand humanitarian intervention. The main causes of the crisis should, moreover, not be reduced to a mono-cause, because the situation is clearly rooted in complex ethnic and historical factors. As in the case of Zimbabwe, the Darfur crisis warrants a deeper analysis, because the international community's responses seem to be spawned by mutually-exclusive perspectives on its causes.

16

Kindiki (2007) investigates and compares crimes against humanity from Darfur to the Holocaust, and the atrocities committed in Rwanda and the former Yugoslavia. In this regard, he justifies forcible humanitarian intervention by any grouping of states, whether inside or outside the AU or UN framework. Complementing the above notion is Kupferberg (2008), who locates intervention in the Darfur crisis in the context of 'just war theory'. Cases of government-orchestrated violence and militarisation of the state, amongst other crimes against humanity, are said to be clear evidence that governments which do not exercise the responsibility to protect their own people, forfeit their right to sovereignty and non-intervention. As such, the international community has a responsibility to protect the inhabitants of that state.

An analysis of the role of military response to the mass killings in Darfur is also proffered by Williams (2006) in an article, "Military Response to Mass Killing: The United Nations (UN) Mission in Sudan". He castigates the use of violence to quell violence, and uses Darfur as a case in point in which the international community supported a weak military response by the AU's unprepared and under-funded force. The author also decries the fact that despite huge expenditure on military interventions by the world's governments every year, very few such interventions have been successful in protecting civilians against genocide, ethnic cleansing, and other crimes against humanity. As noted by Evans (2011), Darfur is one such RtoP case that demonstrated the international community's inaction and complicity.

1.2.5 Situating the Study within the Context of the Existing Literature

It is evident that much scholarly effort has been channelled towards defining and examining the merits and demerits, legality, and political motives behind humanitarian intervention. However, as noted by Thakur (2007), focusing exclusively on the abovementioned tends, to be backward-looking and subjective, and would limit the possibilities of mapping out a clear way forward with regard to the future of the RtoP.

Many scholarly contributions remain prescriptive (speculative) and descriptive in nature, rather than proffering a test case on the applicability of the RtoP framework. A need exists for more studies that critically test, against empirical evidence sourced from recent case studies, the

17

operationalisation of the full spectrum of principles that inform the RtoP concept. This is where this thesis attempted to make its main contribution.

As demonstrated above, the literature on the humanitarian crisis in Zimbabwe contributed by scholars like Mlambo (2003), Ndlela (2003), Hawkins (2003), Rupiya (2005), Meredith (2007) and a host of other writers, provide a solid basis for understanding the scope and nature of the crisis and its social, economic, and political dimensions. One major shortcoming is that these scholars have glossed over the possibility of invoking the RtoP norm in the crisis situation in Zimbabwe --- a specific focus of the proposed research that should augment the ethical debate and enrich the available literature.

In the case of the Darfur crisis, the work of scholars such as Prunier (2007), Williams (2006), Kupferberg (2008) and Mamdani (2007) concentrate on the genesis and naming of the crisis rather than on testing the applicability of the RtoP principles. The few cases where RtoP has been implemented explicitly (for example, the 2011 African intervention in Libya and Côte d'Ivoire) have mired the debate in political semantics, and there is a necessity for more level- headed, empirical and systematic research on the extent to which RtoP has actually permeated the actions of the international community since the 1999 call by UN Secretary-General Kofi Annan for a reinterpretation of the sovereignty-human security nexus. The call by his successor, Ban Ki-moon, a decade later for more research to strengthen the development of the RtoP norm, should be kept in mind as well. African case studies are particularly germane to the RtoP debate in light of the conceptual genesis of the norm, and continued contributions to the discourse, especially as concerns implementation of the RtoP, should be a priority for African scholars.

1.3 Formulation of the Research Problem

In its 2001 Report, the ICISS noted that its constitutive mission was "to build a broader understanding of the problem of reconciling intervention for human protection purposes and sovereignty". More specifically, it was to attempt to develop a "global political consensus on how to move from polemics --- and often paralysis --- towards action within the international system,

18

particularly through the United Nations". This compelling objective informs the fundamental research problem targeted by this study as encapsulated by the following research question:

To what extent (implicitly or explicitly) did R2P principles, relating to prevention, reaction and rebuilding, guide the international community's handling of the humanitarian crises in Zimbabwe and Darfur?

This question gives rise to a number of subsidiary research questions:

i. Is there global consensus on the conceptual parameters of the nascent RtoP doctrine and, if not, what are the gaps that inhibit operationalisation of the norm?

ii. What were the deficiencies in the implementation by the governments of Zimbabwe and Sudan of pillar one of the RtoP concept that necessitated the international community's resort to pillar two and, more specifically, pillar three of the RtoP norm?

iii. What instruments were used by the international community in operationalising its 'responsibility to prevent, react and rebuild', and with what effect?

In both case studies there is ample evidence to prove that the governments in question defaulted on their responsibilities to protect their own peoples; in other words, pillar one of the RtoP was not applied. There is also evidence in both cases that the international community (or certain elements within it) attempted to apply pillars two and three of the RtoP. In this regard, various instruments were employed to prevent these crises, react to humanitarian exigencies, and rebuild communities after intervention (the latter does not apply to Zimbabwe). These actions support the notion that RtoP represents a significant theoretical contribution to the debate on humanitarian intervention. However, the political consensus implied by the 'World Summit Outcome Document' (WSOD) remains rather fragile and rhetorical. This has been evident in the failure of the international community to facilitate a lasting solution in the case of Darfur, and its reluctance to intervene substantively, or to invoke the RtoP explicitly, in the humanitarian crisis in Zimbabwe. There exists an imperative, then, to broaden the global consensus not just around the principles of RtoP, but indeed in regard to the actual operationalisation of these principles through the available instruments.

The fundamental research assumption is, therefore, that RtoP principles did play a discernible role in the international community's responses to the humanitarian crises in Zimbabwe and Darfur,

19

but that the inconsistent, ambiguous (especially, in the case of Zimbabwe), and incoherent implementation of these principles pose a serious challenge to the conceptual discourse.

1.4 Research Methodology

Methodology in the context of an academic thesis implies the existence of a research design. This design details a plan which encompasses all the aspects of the proposed study, from the level of conceptualisation of the problem right through to presentation of the relevant evidence and communication of the findings (Babbie 2008; Grinnell and Stothers 1988).

1.4.1 Research Approach

This particular study is primarily a literature-based analysis of the implementation of RtoP principles by the international community in two recent humanitarian crises (serving as case studies). A qualitative and analytical approach was used in evaluating the extent to which RtoP principles have been invoked, either explicitly or implicitly, in the case of Zimbabwe and in the Darfur region of Sudan.

As is preferred in the course of qualitative research --- and in light of the relative embryonic nature of the RtoP's application by the international community --- an inductive approach, which leaves an open opportunity for broad phenomenological debates and additional research on the theme, was employed. In this manner, it is foreseen that the research added value to the existing body of knowledge on the RtoP. The use of quantitative information was limited to strengthening the research with statistical facts --- for example, to indicate the scale of a particular humanitarian crisis. The data was, however, assessed qualitatively.

1.4.2   Data-Collection Procedure

Given the qualitative nature of this study, the researcher used a synergy of both primary and secondary data sources. As revealed by the preliminary literature survey and references, a copious amount of literature on the subject matter exists. Significant primary sources, notably the official

ICISS Report, the Charters of the AU and the SADC, and resolutions by key inter-governmental organisations (IGOs), notably the UN and the AU, guided the legal parameters of the study. Additional primary sources utilised include reports compiled by humanitarian agencies, official government reports, speeches by key decision-makers, and policy documents. Secondary sources dealing with the evolution and practice of humanitarian intervention and, specifically, the development of the RtoP concept were critically examined in a bid to establish the extent to which a global consensus is taking shape in the discourse on humanitarian intervention. Abundant commentary on the RtoP discourse generally, and the two case studies specifically, can be found in periodicals, the media, and academic texts.

Research was conducted in a scientific manner and empirical data was, therefore, collected from available and verifiable sources. Only data sources that are available and accessible in the public domain was used, thereby eliminating ethical problems.

1.4.3 Case Study Approach

Case studies emphasise detailed contextual analyses of a limited number of events or conditions and their interrelationships (Babbie 2008; Creswell 2007; Hancock and Algozzine 2006). Case study research methodology implies an empirical inquiry that investigates a contemporary phenomenon within its real-life context, when the boundaries between phenomenon and context are not clearly evident and defined, and in which multiple sources of evidence are utilised (Babbie 2008; Creswell 2007). Case studies are, therefore, appropriate when there is a unique or interesting story to be told, and are often used to provide context to other data as part of a more holistic mosaic.

An exploratory case study of the humanitarian crises in Zimbabwe and Sudan's Darfur region was, therefore, undertaken in order to provide the contextual framework for examining the application of RtoP principles. This case-based approach helped to ascertain the extent to which the RtoP has been conceptualised and operationalised in the African context. These two cases were selected because they contain important comparable, yet distinct, elements in terms of RtoP-led responses by the international community. Although this study is not a comparative one *per se*, the use of two case studies should allow for findings on similarities, as well as differences, in the application

21

of the RtoP norm, thus facilitating a degree of prediction as far as other cases are concerned (which is one of the advantages of a comparative analysis).

1.4.4 Conceptual Demarcation of the Study

The guiding theoretical framework for this study is the fundamental principles of the RtoP. The latter concept is situated within the broader framework of the critical human security paradigm in IR theory, which is the antithesis of the realists' conception of security in which the state is the primary reference point (Buzan 1991). The RtoP builds on the new human security paradigm as it emphasises that, if human security is under threat or where the state in question abdicates its duty to provide security for its peoples, it becomes imperative for the wider international community to exercise the duty to protect or safeguard humanity from both violent and non-violent threats. For this study, therefore, the extent to which the governments of Zimbabwe and Sudan exercised (or did not exercise) their protective responsibility against human threats, as well as the support received (or withheld) from international, regional and sub-regional organisations, is of fundamental importance and will be critically examined from the available evidence.

In order to analyse the many different RtoP responses of the international community in the two case studies under review, and encapsulating the spectrum of responsibilities related to prevention, reaction and rebuilding, a conceptual ordering device is required. In this regard, the RtoP 'Toolbox', compiled by Gareth Evans (2008), was used. This 'Toolbox' provides both the direct and structural frameworks upon which the prevention, reaction and rebuilding elements of the RtoP can be operationalised. According to Evans (2008), prevention manifests itself in the form of direct and structural political/diplomatic, economic, constitutional, and security sector measures **(**See Figure 1, page 65). With regard to reaction, the 'Toolbox' suggests that when prevention fails, political, economic, security-sector, and constitutional measures should be directly invoked (**see** Figure 2, page 69). The last component focuses on rebuilding, hence the need to invoke structural economic or social, political or diplomatic, constitutional or legal, and security-sector measures (See Figure 3, page 71).

22

In each case-scenario, an 'inventory' of the RtoP-informed international responses was provided and then, finally, evidence from both cases was combined and applied in terms of the 'Toolbox' so that deductions and inferences can be made about the utility of the various instruments that are available to the international community.

1.4.5 Chronological and Geographical Delimitation of the Study

The chronological scope of this study is focused on the first decade of the 21st Century. During this period, the landmark 2001 Report of the ICISS was published, and both the case-study humanitarian crises reached their peaks. Another crucial development was the reconstitution of the OAU into the AU, which was formalised in 2002. This heralded a new era in the continental conflict-intervention regime. However, it is important to add that the conceptual demarcation of this study cannot be limited in such a clinical manner, as the RtoP discourse is part of an on-going normative debate that transcends the period of the demarcated case study.

In respect of the geographical demarcation of the study, the two cases were selected given the comparatively volatile status of peace and security on the African continent. Bad governance and human rights violations are some of the major political pathologies facing Africa, and insistence on the principle of non-interference (by both progressive and conservative African countries) exacerbates the resultant humanitarian ramifications. Linked to the geographical demarcation it should be added, however, that the study employed at least three levels of analysis: the global/transnational level (where the normative RtoP discourse is located), the international/regional level (in terms of bilateral and multilateral responses to these cases), and the state level (where the humanitarian crises originated, and where the Westphalian sovereignty principle was used as a shield to block foreign intervention).

1.5 The Conceptualisation of Key Terms: 'Humanitarian' and 'Intervention'

Defining 'humanitarian intervention' is vital for delineating and distinguishing the concept from other related concepts such as 'humanitarian aid', 'peace-keeping' and 'peace-making'. The theory

and practice of humanitarian intervention is rife with disagreement on what actually constitutes a universally applied definition of the concept. 'Humanitarian' refers to the logic behind or the motive for intervention which, in this case, is to rescue human lives at risk from politically orchestrated violence and oppression (Coady 2002). On the other hand, 'intervention' denotes action meant to correct or save the lives of victims of oppression (Coady 2002). Furthermore, 'intervention' has a distinct coercive implication, and this fits the description by Kardas (2003: 24), that HI is nothing more than "… military intervention in a state, without the approval of its authorities …with the purpose of preventing widespread suffering or death among … [its] inhabitants". Another, more elaborate definition, offered by Parekh, again cited by Kardas (2003: 24), sees HI as:

> "… an act of intervention in the internal affairs of another country with a view to ending the physical suffering caused by the disintegration or gross misuse of authority … [by the] state, and helping [to] create conditions in which a viable structure of civil authority can emerge".

A common feature is that most scholars define HI in militaristic terms as coercive action taken by states at their own initiative, and involving the use of armed forces for the purpose of preventing or putting a stop to serious and large-scale violations of fundamental human rights, in particular the right to life, inside the territory of another state (Robinson 2008; Coady 2002; Verwey 1998).

From the above definitions, it is clear that scholars do agree, to a certain extent at least, on three key aspects, namely the use of military force, the absence of the target state's permission, and the agency of intervention. The military dimension envisages that, where humanitarian catastrophe involves deliberate use of force, the only way to contain or handle it is through military means. This recalls the realist mindset that only force can restrain force. On the absence of the target state's permission, the contention is that the state in question is the culprit --- hence, that government would not sanction intervention by foreigners for humanitarian purposes. This is typical of situations where there are severe violations of human rights by the authorities or governing elites, and also in circumstances where the state has completely collapsed (as in Libya).

Fundamental to the definition of HI is also the need to distinguish between peace-keeping, peace-making, and humanitarian intervention, since the three are often confused. According to Garrett

(1999), peace-keeping entails assisting conflicting parties to honour peace agreements and is meant to bring about order in conflict zones. Humanitarian intervention, if it occurs, would precede peace-keeping in the sense that the latter can only take effect once a peace agreement is in place. Unlike humanitarian intervention where intervention forces can decide to act with or without UN authorisation, in peace-keeping the primary actor is the UN (Garrett 1999). However, this does not mean that the UN centralises peace-keeping operations, since regional security mechanisms (such as those under the Economic Community of West African States (ECOWAS), the Intergovernmental Authority on Development (IGAD), or the AU) can also perform the task with or without a UN mandate, especially under very serious and pressing circumstances.

The definition of peace-making proffered by former UN Secretary-General Boutros-Boutros Ghali in 1992, suggests that it involves those peaceful initiatives as provided for in Chapter VI of the UN Charter which is meant to bring hostile parties to an agreement. The objective of peace-making, therefore, is to end the hostilities or violence between conflicting parties by means of negotiation, conciliation, or arbitration. Boutros-Boutros Ghali stressed the need for preventive diplomacy and strengthening UN peace-keeping and peace-making as response mechanisms in dealing with humanitarian catastrophes. Such measures should be put in place in a bid to attain sustainable peace and minimise human suffering. This however, connects peace-making in an implicit sense to the praxis of humanitarian intervention.

For the purposes of this discussion, a definition can be derived from a fusion of the abovementioned definitions: humanitarian intervention is any forcible action taken by states, or concerned parties, to put an end to man-made catastrophes committed by repressive governments.

1.6 Structure of the Study

Apart from this chapter, the study is composed of six other chapters;

Chapter 2: Theoretical Evolution of the Humanitarian Intervention Regime

This chapter will trace the evolution of the humanitarian intervention regime and explore how the debate has unfolded within the discipline of international relations (IR). The conceptualisation of

25

humanitarian intervention will be proffered from various theoretical perspectives, notably its accommodation within the new human security paradigm that increasingly impacts on international law. Ethical, legal and political justification for humanitarian intervention will be discussed against the backdrop of the practical and theoretical obstacles faced by proponents of humanitarian intervention.

Chapter 3: The 'Responsibility to Protect' --- A Normative Continuum

This chapter will investigate the most recent theoretical contribution to the humanitarian intervention discourse, namely the RtoP concept. Conceptual, institutional and practical progress in making the RtoP part of a normative international regime will be contextualised by examining the institutionalisation of the principle at the global level and, more specifically, at the regional level (the African continent). More importantly, this chapter will provide the primary theoretical framework for subsequent analyses of the two case studies.

Chapter 4: Application of the 'Responsibility to Protect' --- The Case of Zimbabwe

This chapter will focus on the anatomy of the humanitarian crisis in Zimbabwe in order to assess whether the three RtoP pillars were applicable. An assessment of regional, continental and international crisis-response mechanisms will be undertaken in order to compile a comprehensive 'inventory' of international responses that were guided by RtoP principles.

Chapter 5: Application of the 'Responsibility to Protect' --- The Case of Darfur

This chapter will commence with a critical analysis of the origins, scope and nature of the crisis in Darfur in order to assess whether or not the crisis justified invoking RtoP principles. A comprehensive 'inventory' of regional, continental and international responses to this crisis will be compiled, as viewed through the theoretical prism of the RtoP norm.

Chapter 6: A Summative Evaluation of the RtoP Prevention, Reaction and Rebuilding Tools Utilised in the Cases of Zimbabwe and Darfur

The objective of this chapter will be to provide a summative analysis of the two cases and to make deductions and inferences from the extent to which RtoP principles have been operationalised in both. As an analytical tool, the RtoP 'Toolbox' of Gareth Evans will be utilised, and the effectiveness of various 'tools' in the operationalisation of, respectively, the Responsibility to

26

Prevent, the Responsibility to React, and the Responsibility to Rebuild, will be analysed and evaluated.

Chapter 7: Conclusion

In this chapter, the initial research propositions of the study will be revisited. The findings of the substantive chapters will be synthesised, and the summative conclusions will be applied to the original research questions. Shortcomings and gaps in the application of the RtoP will be identified with a view to make recommendations that may strengthen the norm and assist with its operationalisation. This concluding chapter will also offer recommendations for complementary and future academic research into the main and secondary themes of the study.

CHAPTER TWO

THEORETICAL EVOLUTION OF THE HUMANITARIAN INTERVENTION REGIME

2.1 INTRODUCTION

The primary focus of this chapter is to give an account of the evolution of the humanitarian intervention (HI) regime by briefly reflecting on the pre-20th Century thinking on humanitarian intervention, even though it predates the discipline of IR. This will be followed by a discussion on the genesis of IR in the wake of World War I (WWI) with the aim of illustrating how idealism informed this new discipline and guided the simultaneous evolution of HI throughout the inter-war period and beyond World War II (WWII). It will become evident that the praxis of humanitarian intervention has been impacted by the sheer magnitude of conflicts and the extent of the suffering of civilians in the 20th Century. This chapter will, therefore, focus on how violent destruction and its consequences accelerated the call for, and the rationalisation of, humanitarian intervention. Furthermore, it will pay attention to the discovery by Western allied forces of the Holocaust, leading to the Nuremberg trials after WWII, and how these developments assisted in the codification of the UN Charter. The development and practice of humanitarian intervention in the cold war era and during the post-cold war years will be examined in a bid to demonstrate continuity and change in the discourse on global humanitarian intervention. The conceptualisation of humanitarian intervention will be proffered from various theoretical perspectives, notably its accommodation within the new human security paradigm that has increasingly impacted upon international law (IL). The ethical, legal and political justification for humanitarian intervention will also be discussed, against the backdrop of practical and theoretical obstacles faced by proponents of HI.

28

2.2 PRE-20TH CENTURY THINKING ON HUMANITARIAN INTERVENTION

Nikolaos (1996: 12), quoting Plato, contends that, "human responsibility develops as a result of moral understanding; hence, moral responsibility [and that] knowledge and reason can fulfil human nature and guide human action to[wards] … objective justice". The idea of justice is central to the concept of HI and, therefore, the earliest manifestations of HI thinking are in the writings on international law (IL) scholars such as Grotius, Vitoria, Vattel, and others. The conventional debate about HI can be traced back specifically to the 16th and 17th centuries, where a nexus between natural law and HI was proposed in the works of Hugo Grotius (1583-1645), particularly in his *De Jure Belli ac Pacis* of 1625. Grotius justified the use of force for ending human suffering and, as such, his work has been the precursor to theorising on humanitarian intervention throughout the 18th and 19th centuries (Abiew 1999).

The justification by natural law scholars (such as Grotius and Vettel) of the use of force for humanitarian purposes, ties in with the 'just war' doctrine, which is also integral to the development of the concept of HI. St Thomas of Aquinas is renowned for conceptualising the notion of a 'just war' in an attempt to account for when war is deemed consistent with justice and when it is not. This emanates from the fact that the use of force or war for intervention purposes is normally regarded as unlawful. Pertinent to the 'just war' paradigm is its interaction with humanitarian intervention. Rockwell (2003) notes that the confluence of HI and 'just war' theory is armed humanitarian intervention, rather than mere humanitarian aid. Precisely, HI implies the violation of the castle of state sovereignty, especially if there are fundamental human rights to be protected. In order to be 'just', therefore, humanitarian-oriented intervention must aim to minimise the suffering of innocent people, *not* the annexation of or interference with the territorial integrity of the target state. This is embodied in customary IL where, under certain circumstances, states are duty-bound to disregard state sovereignty in order to preserve common humanity (Baylis and Smith 2008; Nikolaos 1996). This also links HI with human rights, as will be demonstrated in later discussions.

In addition to the intellectual foundation of humanitarian intervention, religious belief systems and practices have also been pivotal in its development and practice. The Ottoman Empire's human

29

rights violations in the 19th Century fuelled several humanitarian interventions by states adhering to Christianity. In these cases, intervention was initially triggered by religious solidarity, whereby humanitarian considerations were assimilated into religious ones (Nikolaos 1996). The religious character of classical intervention cases implied that faith was treated as a unifying force beyond the local jurisdiction and as a distinctive feature among nations. The Crusades of the 11th to 13th centuries (1096 to 1270) can also be regarded as precursors to HI, since they laid the foundation for the modern-day conception and practice of HI.

Justification proffered for other interventions was that of rescuing "neighbouring peoples who are oppressed on account of adherence to the true religion, or by an obvious tyranny ..." (Abiew 1999: 47). Thus, intervention was a means of defending not only Christianity but humanity in a broader sense. A case in point was the 19th Century intervention (1827 to 1830) by France, Great Britain and Russia in Greece after the Treaty of London of 6 July 1827. According to Nikolaos (1996: 45), the stipulations of the London Treaty, which authorised the intervention, held that the intervening states were motivated to act by "sentiments of humanity". The motive was to mitigate the oppression of Greek Christians by the Ottoman Empire --- integration of HI into natural law discourse triggered human solidarity in the face of humanitarian crisis. According to Arntz, cited in Abiew (1999: 47), when a government, even acting within the limits of its sovereignty, violates the rights of humanity either by measures contrary to the interests of other states or by executive injustice or brutality, with serious injury to our moral minds and civilisation, the right to intervention is legitimate. The American action in Cuba in 1898, which culminated in Cuba's independence, was informed by the same mind-set. In response to the atrocities committed by the Spanish against the Cubans, the US Congress adopted a resolution on 20 April 1898 in which it explicitly intimated that, "the abhorrent conditions [in Cuba] … have shocked the moral sense of the people of the US …" (Stowell 1921: 122).

Similarly, the European intervention in Bosnia, Herzegovina and Bulgaria between 1876 and 1878 was triggered by the harsh treatment meted out to Christians in Ottoman-ruled Turkey. The 31 March 1877 London Protocol stipulated that Turkey should adopt all necessary administrative measures to protect Christians (Nikolaos 1996). But the failure by Turkey to behave accordingly resulted in the declaration of war by the Western allies. Theoretically, it is plausible to argue that

these interventions were informed by Grotius' natural law principle of 'moral responsibility and the conscience of human society' to protect foreign nationals.

This, however, has ignited tension between the political principle of sovereignty and the humanitarian desire to protect foreign nationals, as will be demonstrated in later discussions. Despite the humanitarian complexion attached to these actions, a Christian agenda was the driving as well as unifying force in these interventions. Thus, arguably, religion has been central to these interventions. It can also be argued that humanitarian justifications were advanced in order to camouflage religious and political agendas. This has challenged scholars to decide whether these cases should be regarded as HI or as religious wars.

Having considered interventions which were Christian-oriented, it is also pertinent to discuss those that were provoked by 'purely' humanistic considerations for the plight of individuals. As noted by Sarkin (2009: 5), during the 19th Century "the international community regarded piracy, [the] slave trade and certain instances of minority group rights violations as open to international scrutiny, notwithstanding sovereignty". The British anti-slave patrols on the high seas were some of the earliest attempts at HI. The campaign to abrogate slavery by the Anti-Slavery Society in Britain was a result of this humanitarian impulse and was a significant milestone in the development of the humanitarian intervention norm.

As early as 1772, British judge Lord Mansfield, in the Somerset's Case, declared that slavery was illegal and inhuman. Concurrent to this, humanitarians like William Wilberforce spearheaded the anti-slavery campaign in a bid to try and conscientise people about the horrors of slavery. This culminated in the promulgation of the Slave Trade Act in 1807. As a result, anti-slavery campaigns gathered momentum throughout Europe. In the United States, the American Civil War (1861) led to the end of slavery, and in 1863 Abraham Lincoln issued the Emancipation Proclamation which liberated slaves in the Confederacy states. To a certain extent, all of these actions derived their motivation from humanity's reaction to large-scale savagery or inhuman acts, directed by authorities at vulnerable sectors of society.

The discussion on the evolution and development of HI cannot be complete without mention of the contribution of the 1864 Geneva Convention. This Convention marked a watershed in the development of modern-day international humanitarian law or the 'Law of Armed Conflicts'. The driving force and brain behind the 'Law of Armed Conflict' was Henry Dunant --- especially his famous work, *A Memory of Solferino* (1862). In the book, Dunant chronicled the horrors of war and stressed the need to protect the wounded, prisoners, refugees, civilians, relief personnel (such as nurses and doctors), and other non-combatants (ICRC 2002). These ideas were adopted and codified in 1864 in what is now known as the 'Geneva Convention'. This also culminated in the creation of the International Committee for Relief to the Wounded, which later became the International Committee of the Red Cross (ICRC). With its 10 articles, the 1864 Geneva Convention became the first treaty of international humanitarian law (ICRC 2002: 7).

2.3 HUMANITARIAN INTERVENTION IN THE EARLY 20TH CENTURY AND THE INTER-WAR PERIOD

Fundamental to the evolution of the humanitarian intervention norm is its development side by side with the discipline of international relations. Before the 20th Century Wight (1960) points out, IR was comprehended and contained within the body of theory that comprised IL. It was only after WWI that IR became academically institutionalised with the establishment of a Department of International Politics at Aberystwyth, Wales, in 1919. Before this development, international politics was examined within academic disciplines such as history, law, philosophy, and economics (Burchill *et al.* 2001). The new and separate academic discipline evolved because of an appreciation of humanity's rapidly developing ability to engage in cataclysmic conflict. The debate surrounding the causes of WWI created an intellectual crisis that resulted, *inter alia*, in the emergence of IR as a separate discipline. US President Woodrow Wilson, in the first of his famous 'Fourteen Points' of 8 January 1918, insisted on the conduct of "open covenants of peace" --- that is, the introduction of transparency in international negotiations (Burchill *et.al* 2001: 4).

From the foregoing, it can be argued that the evolution of the discipline of IR cannot be separated from the intellectual reaction to the harrows of WWI. During the first half of the 20th Century, the discipline of IR was dominated by the intellectual paradigms of 'realism' and 'idealism'. The latter would prove to be the breeding ground for HI, because it emphasises the potential of international

institutions to realise global peace, welfare and justice in order to lessen "the harshest features of international relations" (Holsti 1995: 43). Elaborating on the explanatory value of theories, Smith (1997: 172) argues that they do not only explain and predict, but also "tell us what possibilities exist for human action and intervention; they define not merely our explanatory possibilities, but also our ethical and practical horizons".

The liberal school of thought had a huge influence on the 20th Century development of HI. As previously alluded to, liberal thinkers like Woodrow Wilson were convinced that war could be avoided if 'secret diplomacy' could be replaced by collective security and democratic rule (Burchill *et.al* 2001). The League of Nations as an institution, therefore, developed as a framework for a new, peaceful, and just world order (Burchill *et.al* 2001). The idea, as previously indicated, was to prevent the humanitarian or human cost of war. Worth noting is the fact that the normative character of the discipline of IR was founded in a climate of reaction against the barbarity of WWI. The conviction was that war must 'never happen again', with the League of Nations founded as an organisation 'to end all wars'. In addition, the rationalisation of humanitarian intervention was amplified by the sheer magnitude of this conflict, the extent of civilian suffering, the physical destruction, and the short-term and long-term consequences after the ending of hostilities. And the imperative of alleviating human suffering created new challenges and opportunities for international co-operation.

2.4 THE AFTERMATH OF WWII AND THE DEVELOPMENT OF A HUMANITARIAN INTERVENTION REGIME

The post-WWII era contributed immensely to the development of the humanitarian intervention doctrine by imposing limitations on the use of force internationally. The promulgation of the doctrine of non-intervention and its universal application to all states under Article 2 (4) of the UN Charter, outlawed the use of force among member states in their conduct of international relations. The adoption of the UN Charter in 1945 confirmed the principle of non-intervention as part of customary IL, thus recognising equality in the status of all nation-states (Parekh 1997). This also reinforced the Westphalian provisions on sovereign rights. However, the Charter attempted to qualify the use of force; as detailed in Chapter VII, force may only be used in situations of self-

33

defence or in the event of a threat to international peace and security, in which case states should collectively respond to such a threat (Parekh 1998). Article 28 of the UN Charter emphasises the right to social and international order in which human rights are fully realised. Thus, intervention is permissible and legitimate if there are gross human rights violations, and if such action is sanctioned by an international and legally constituted body, more specifically the UN Security Council. The same would apply in response to threats to international peace and security as provided for under Chapter VII of the Charter.

It is significant that at the end of WWII, the founding of the UN was part of major efforts to prevent war and conflict-related humanitarian crises. The allied discovery of the horrors of the Holocaust and the subsequent Nuremberg trials forced international behavioural change towards humanitarian crises and galvanised the theory and practice of humanitarian intervention. Sir Hartley Shawcross (the British prosecutor at the trials) asserted that the "right of humanitarian intervention in the name of the rights of man, trampled upon by the state in a manner offensive to the feeling of humanity, has been recognised long ago as an integral part of the Law of Nations" (Abiew 1999: 23).

International human rights consciousness was triggered and amplified by the Holocaust and this gave birth to an international human rights regime. Articles 1 and 55 of the UN Charter explicitly proclaim the promotion of human rights and human freedoms as fundamental to the establishment of the world body. This was further codified by the Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 December 1948. According to Weiss (2004: 130), defenders of human rights anchored their actions in the premise that, in the name of a moral imperative, "we should not let people die".

As mentioned earlier, the 1864 Geneva Convention established basic written rules for the protection of civilians during war-time under the auspices of the ICRC. This gave the ICRC a mandate to protect the victims of inter-state (international) and intra-state (domestic) armed conflicts. Such victims include the wounded, prisoners, refugees, civilians, and other non-combatants (ICRC 2002). The 1949 Geneva Convention and the two additional protocols of 1977 and 2005, supplement the original convention as they also point to the need to limit the use of force

and strengthen the laws governing the conduct of war (ARC 2011; ICRC 2002). Such developments not only added value to the HI regime, but also assisted in breathing new life into the human rights agenda --- respect for human dignity. Now, the Geneva Conventions and supplementary protocols are at the core of international humanitarian law, the body of IL that regulates the conduct of armed conflict and seeks to limit its effects.

The end of WWII also ushered in an unstoppable wave of decolonisation and the proliferation of new states (the so-called developing world) in the international system. Wildenthal (2002: 15) brings an ethical perspective to the decolonisation process by asserting that ethical considerations for human equality and the rule of law have played a fundamental role in "gradually undermining the legitimacy of existing colonial practices". Premised upon liberal philosophies, decolonisation was pursued with the hope of freeing all peoples from abuse and inhuman practices. This process fed into the growing global recognition of human rights and related humanitarian intervention norms.

Whereas in the traditional rationalist paradigm of IR theorising on HI has been inhibited, the revisionist approaches contained in post-positivist and critical theory have been too meta-theoretical in focus to address the compelling practical implications of HI. Spies and Dzimiri (2011: 36) argue that the space between rationalist and critical IR theorists "… has been filled by social constructivists, who do not reject empirical analysis as the critical theorists do, nor take as a given the identities and interests that rationalists see as a static part of the world". Of importance to the HI debate is that constructivists, by building on the work of the 'English School' and its intellectual commitment to international society and the rule of law in international relations, have elevated normative theorising to centre stage of IR (Spies and Dzimiri 2011). This is also augmented by Barnett (2007), who notes that institutionalised norms can (and should) mould the identities and interests, and ultimately the actions, of political actors.

In the aftermath of WWII, a renewed focus on institutionalism and global order gave impetus to the developments in theory on 'international society' (later known as the 'English School') within the discourse on IR (Jackson and Sorensen 2003: 159). According to Booth and Smith (1997: 115), "… exclusive to the idea of international society is the characteristic that sovereign states are the

© University of Pretoria

key members or players, and citizens of states are only members through their respective national governments". This school identifies three key responsibilities bestowed on members (states only) of the international society, and these include national responsibility, external obligations or international responsibility, and humanitarian responsibility (Jackson and Sorensen 2003).

At the national level, according to Booth and Smith (1997: 117), the theory holds that "statesmen in their conduct of domestic politics must prioritise national self-interest and, [more] specifically, national security". They go on to cite the Machiavellian principle that, "… [the state] always put [the] nation and its citizens first and avoid taking unnecessary risks with their welfare …". In its explanation on external obligations and humanitarian responsibilities, the theory adopts a cosmopolitan perspective. The central thesis of this view is that "states have foreign obligations deriving from their membership of international society, which involves rights and duties as defined by international law" (Booth and Smith 1997: 117). In addition, such obligations envisage rights and duties as defined by customary IL and, in the modern sense, the UN Charter and other conventions to which states are signatories. This is derived from the Grotian philosophy that "... [to] be a good citizen of … international society, act in good faith, observe IL, punish aggressors, observe the laws of war ..." (Booth and Smith 1997: 117). Fundamental to the political theory of international society is its discussion of humanitarian responsibility, namely protect and defend human rights around the world. Again Booth and Smith (1997: 117) claim that this mind-set builds on Kantian precepts, namely "… remember that people in other countries are human beings just like yourself, observe common morality, respect human rights and assist those who are in need of material aid ...". An integral part of this idea is that states are the only organised institutions to deal with whatever happens in international society, whether good or bad.

2.5 HUMANITARIAN INTERVENTION DURING THE COLD WAR ERA

Cold war tension between the United States (US) and the former Union of Soviet Socialist Republics (USSR), together with their respective allies, stifled the spirit of humanitarianism. The ideological contest between the two superpowers trumped all other concerns moved humanitarian catastrophes to the margin. Also, the incompatible relationship between the two permanent members of the Security Council impeded the UN from living up to its expectations of maintaining

global peace and stability. In the words of Wheeler (2002: 39), "interests and not humanitarian concerns" emerged as the driving force for humanitarian intervention in the cold war period. Unilateral interventions, for example, India's intervention in East Pakistan (now Bangladesh) in 1971 and Tanzania's intervention in Uganda in 1978, serve as examples. In these situations, the UN was incapacitated from acting or restraining member states from using force, or violating the right of other states to sovereignty in the classical sense. Clearly, in real terms the development of the humanitarian intervention doctrine in the cold war period was suffocated by the then prevailing international political order.

The cold war represented what Wheeler (2002: 39) calls the "freezing" of intervention and a widespread 'war by proxy' under the auspices of the two superpowers and, as a result, the pact represented by the UN Charter remained dormant. Cold war rivalry overshadowed human rights issues due to the ideological confrontation between the two blocs, East and West. According to Kardas (2001), the two superpowers were more concerned about preventing regimes, whether repressive or not, from joining either side of the two antagonistic blocs.

Despite the intervention apathy that characterised the cold war period, there are some exceptions where collective action by UN members facilitated the development and practice of HI. Human rights violations in Southern Rhodesia (now Zimbabwe) attracted the attention of the UN Security Council. In 1965, the white minority government of Ian Smith declared independence (from Britain), snubbing the majority black population, in what was termed the Unilateral Declaration of Independence (UDI). In its Resolution 217 on 20 November 1965, the UN Security Council labelled UDI "a threat to international peace and security" (Finnemore 1996: 149). By adopting Resolution 221 on 9 April 1966, the Security Council imposed economic sanctions and embargoes against the Smith regime. A similar case is that of the 1977 UN Resolution against the apartheid government in South Africa. After repeated condemnation of the regime's racial policies, the Security Council adopted Resolution 418 on 4 November 1977, imposing an arms embargo on the South African regime.

Having discussed the cold war praxis of HI, the next section examines the trends and developments in the conduct of HI in the aftermath of an end to East-West tension. The focus is also on how the emergence of the human security paradigm impacted on HI.

2.6 THE POST-COLD WAR ERA AND THE NEW HUMAN SECURITY PARADIGM

Humanitarian intervention in the post-cold war international order underwent a practical and conceptual metamorphosis. The end of cold war rivalry between the two superpowers, the US and the USSR and their respective allies, heralded a new era and helped to give a new lease of life to the theory and practice of HI.

HI as a concept was jointly reinvigorated in the 1990s by Marrio Bettati, Professor of International Public Law at the University of Paris, and Bernard Kouchner, a French politician. These two authors envisioned a New World Order (NWO) based on "democracy, human rights and [the] rule of law" and the notion that "human beings matter more than sovereignty, radiated brightly across the international system …" (Weiss 2004: 136). In principle, there was a change in attitude towards the plight of strangers in foreign countries. The post-cold war political system heralded the imperative obligation to protect humanity at risk, and this meant "overrid[ing] the traditional inviolability of state sovereignty …" (Weiss 2004: 138). In the context of Africa, the demand for humanitarian intervention intensified as a result of the diverse and complex nature of conflict on the continent. Most of the post-cold war conflicts in Africa assumed an intra-state complexion, thereby causing war-related deaths, human displacements, and an unprecedented refugee crisis (Aboagye 2009).

Normatively, scholars in the HI field revisited the concept of security by broadening its interpretation to embrace 'human security' (HS). HS as a concept first appeared in a 1994 UNDP Report by the Global Commission. This report defined HS as "the vital core of all human lives in ways that enhance human freedoms and human fulfilment" (Robinson 2008: 97). This is the antithesis to the realist conception of security in which the state is the primary reference point (Buzan 1991). For realists, the security of the state, with regard to both internal and external threats, is all that constitutes the definition of security. Contrary to this contention, the critical human

security paradigm promotes a more people-oriented approach to security, as espoused by the cosmopolitan approach to global politics (Buzan 1991; Cilliers 2008; Matlary 2006).

In the quest to revisit the concept of security in the post-cold war political environment, new forms of non-military threats to human security were recognised. Ethnic wars (Rwanda 1994, for example), forced displacements of people, extreme poverty, environmental degradation, and HIV/AIDS, among other non-violent threats to security, demanded a new security focus. These are what scholars refer to as 'soft' threats to security, as opposed to the notion of 'hard' threats or threats which are military in nature, including the threat of international terrorism (Matlary 2006; Thakur 2007). Furthermore, Thakur (2007: 8) reasons that the intensification of conflict and human vulnerability "eroded the line between domestic and international spheres" of human activity as propounded by the Westphalian conception of security. This was galvanised by the transnational nature and spill-over effects of these threats. The reconceptualisation of security was also prompted by the behaviour of governments and states themselves. It is alleged that states became "perpetrators of insecurity, and not only by their unwillingness or unpreparedness, but by violating" the fundamental laws of human existence (Tadjbakhsh 2005: 8). Implicitly, this demanded a bottom-up approach to security, where the security of the individual should be the starting point. Further justification for this departure from the Westphalian notion of 'state security' was the need to deconstruct the contractual and conditional relationship between sovereign states and their citizens.

 Tadjbakhsh (2005: 8) explains that at the national level, "people would cede or surrender their rights to the state in exchange for protection against war", because the traditional assumption was that once the state is secure, a trickle-down effect would reinstate the rights of citizens. But, prioritising state security meant that the individual's well-being was at risk. Also, this kind of security mechanism was inadequate in the sense that it did not account for situations of non-military threats to security, or circumstances where the state itself failed to deliver on its duty to secure its people. It also failed to account for situations where the real threat was that of gross violation of human rights by the state itself.

An insightful observation made by Tadjbakhsh (2005) is that the study-field of human security is rife with divergent opinions: whether it should be treated as a concept, a theory, a world-view, a political agenda, or merely as a policy framework. Despite ambiguity in the conceptualisation of human security, scholars such as Cilliers (2008), Collins (2006), Buzan (1991), Booth (2007), and others, agree on the need to deconstruct the traditional notion of security. By advocating a more people-oriented, and not state-centric, approach to security, they concur that security means the absence of insecurity or threats to an individual's well-being. This new conception of security builds on the definition of the UNDP Report (1994: 2) that security "means to be free from both fear of physical, sexual or psychological abuse, violence, persecution or death, and from want of gainful unemployment, food and health". The report also discusses the different dimensions of security, including economic, food, health, environment, personal, community, and political security.

Another characteristic of the practice of humanitarian intervention during the early phases of the post-cold war era is its multilateral nature, with multilateralism thus becoming a new indicator for legitimate intervention. UN Security Council Resolution 688 of 5 April 1991 on Northern Iraq marked the collective and multilateral response to a major humanitarian crisis. Suppression of the human rights of Kurds in Northern Iraq attracted condemnation from the international community (Finnemore 1996). The resolution demanded an end to the repression of the Iraqi Kurdish population, and the mandate was to ensure that the human and political rights of all Iraqi citizens are respected.

Worth noting is that not all interventions in the post-cold war era have been of a multilateral nature or sanctioned by the UN. NATO military operations in Kosovo in March 1999 were not authorised by the UN Security Council, but were based on 'the right to humanitarian intervention', and NATO's perception of the crisis as a threat to international peace and security (Kardas 2001). According to Holzgrefe and Keohane (2003: 18), this prompted former UN Secretary-General Kofi Annan to lament the fact that, although the intervention apathy in the case of Rwanda "demonstrated the horrors of inaction, the Kosovo case demonstrates equally important questions about the consequences of acting without international consensus". With regard to the Kosovo case it can be argued that the new approach to HI, heralded by post-cold war developments,

40

threatened the authority of IL in governing state conduct. Newman (2001) contends that IL has been challenged on its commitment to both state sovereignty and individual rights. This raises the question whether (with the end of the cold war), Article 2 (4) of the UN Charter and its non-intervention principle, together with the Westphalian notion of sovereignty, has been rendered conditional.

Also in the context of the post-cold war era, in July 2002 the AU's Mechanism for Conflict Prevention, Management and Resolution (MCPMR) was established at the Lusaka Summit (Albert 2007). This was in conformity with the decision taken by the Assembly of Heads of State and Government in Cairo, Egypt in June 1993. Unlike its predecessor (the OAU), which suffered from reluctance and lack of commitment to resolve humanitarian catastrophes facing the continent, the AU resolved to preside over continental peace and security. Aboagye (2009) notes that the spill-over effects of post-cold war conflicts also compelled regional organisations, such as the Southern African Development Community (SADC) and the Economic Community of West African States (ECOWAS), to bear responsibility for political stability on the continent. In support of the view, Karbo (2006: 8) stresses that "bold actions by regional security arrangements in Africa, such as the SADC and ECOWAS, demonstrated how Africans can provide [the] necessary intervention tools". ECOWAS, for example, played a significant role in managing and resolving conflicts in West Africa. This is evidenced by the interventions in Sierra Leone, Liberia, and Guinea-Bissau. One of the key features of the post-cold war approach to humanitarian crises in Africa is the use of military force. Schweizer (2004) observes that the violent nature of conflict in Africa made it imperative to appeal to the logic of force, despite the UN prohibition on the use of force. Echoing the same sentiments, Aboagye (2009: 1) asserts that the use of force was informed by the mind-set that "it is the security deficit, in the first place, that precipitates humanitarian emergencies".

On a more critical note, there seems to be little logical or ethical coherence to the practice of HI in the post-cold war era. Wheeler (2001) notes that in crises situations, media and domestic public opinion is a strong factor in the operationalisation of HI. Thus, Rwanda suffered from a lack of media attention and the coverage that was afforded was not persuasive enough to attract an international response (Wheeler 2002). In the case of Northern Iraq, media awareness of the refugee crisis caused by Saddam Hussein's oppression of the Kurds attracted condemnation by the

41

UN Security Council. This prompted the US to form a coalition with British, French and Dutch forces to intervene. Lack of clear criteria for intervention has caused controversy internationally as to why certain crises are given preferential treatment over others; and this prompted Ngoma (2005: 1) to ask the question: "… are we all human, or are some more human than others?".

Humanitarian crises in the Asian region also warrant attention. The breakdown of democratic rule in 1997 in both Cambodia and Myanmar prompted the development of regional strategies for addressing humanitarian crises. In both situations, 'constructive intervention' was proposed by the then Deputy Prime Minister of Malaysia, Anwar Ibrahim. Subsequently in 1998, 'flexible engagement' was propounded as a solution by the former Foreign Minister of Thailand, Surin Pitswan, as part of response mechanisms for resolving these crises. Indeed, these two HI strategies marked the first "serious attempt" in the region to go beyond the traditional notion of sovereignty and non-interference. However, multilateral efforts to stop the human suffering were hindered by lack of political will and resources and, of course, by adherence to the "outmoded regional doctrine of non-interference" by some regional member states (Acharya 2002: 378).

2.7 HUMANITARIAN INTERVENTION AND THE PERENNIAL ISSUE OF LEGITIMACY

Having discussed the general progression of the humanitarian intervention doctrine, it is clear that the issue of legitimacy has always been a core element of the debate. Time and again, commentators have questioned the timing of intervention and have debated what determines and constitutes legitimacy. Questions of legitimacy and 'the right authority' have been central, if not an inhibitive factor, in the practice of humanitarian intervention. Looking at past trends, what counts for legitimate international order emanated from the victor's conception of justice (Matlary 2006). This is true for Westphalia in 1648, Utrecht in 1713, the Congress of Vienna in 1815, Versailles in 1918, and the foundation of the UN system in 1945. For example, victorious powers of WWI and WWII ordered and shaped the kind of international system they desired without factoring in the views and perceptions of the vanquished (Matlary 2006). The UN is a prime example, the five permanent members of the Security Council being the victors at the end of WWII.

With regard to the right to get engaged in HI, Sarkin (2009) identifies 'treaty law' (including the Genocide Convention and Geneva Conventions), customary international law, and the UN Charter as reference points for legitimacy. Other provisions are found in instruments like the AU's Constitutive Act, Article 4 (h) and, in the context of Africa, much value is placed in it as the supreme law of the continent. On the global scene, the UN Charter is treated as the most important source of legitimacy. As provided for under Article 25 of the Charter, if any resolution to intervene is passed by the UN Security Council it becomes binding upon all member states and questions about legitimacy become redundant. The Security Council is charged with the responsibility of maintaining international peace and security, and the Charter authorises the UN Security Council to determine the existence of a threat to peace or a breach of peace and decide on appropriate measures for restoring international peace and security. As implicitly outlined under Article 42 of the Charter, military force should be adhered to as a last resort and only when non-military measures, like economic sanctions, have failed to produce the desired results.

Apart from the UN Security Council's mandate, Article 53 of the UN Charter provides for regional organisations to take measures in response to situations that threaten international peace and security. Sarkin (2009: 7) notes that regional organisations are usually in proximity to conflicts, whereas the Security Council is usually far from scenes of conflict, thus "relieving the UN from [the task of] being the primary caretaker of international peace and security". ECOWAS's intervention in Liberia is a case in point. Despite the fact that the intervention was not sanctioned by the UN, in Security Council Resolution 788 of 19 November 1992 gave credit to ECOWAS after the event. Post-cold war developments in the domain of humanitarian intervention illustrate that greater legitimacy and acceptance is accorded to interventions that are collectively or multilaterally undertaken than to those conducted in a unilateral manner. The general understanding is that the more the number of countries that are involved, the lesser the ulterior motives that may be pursued or suspected.

Having dealt with the 'what' aspect of HI, it is also crucial to address the 'when' aspect. The question when it is appropriate to intervene is a contentious one, given the fact that some situations receive more attention than others. Critics argue that there are situations that clearly demand HI -

-- for example, the 1994 Rwandan genocide. However, the magnitude of a given humanitarian crisis has not been a consistent indicator of attention from the international community. This also demonstrates the absence of impartial mechanisms for deciding when HI is permissible.

However, despite these controversies, Kaldor (2007) notes that the conventional approach to HI is to look at the gravity of the situation, which would determine the timing of intervention and the methodology to be employed. The 'just war' paradigm and its ecclesiastical notions have also been a guiding framework for the moral use of force. The Universal Declaration of Human Rights and the Genocide Convention after WWII also provided threshold criteria for the violation of human rights that should warrant invoking HI principles. According to a 1999 Report by the Danish Institute of International Affairs, such violations include "cruelties against and persecution of nationals thereby denying their fundamental human rights, widespread loss of human life, [the] crime of genocide and massive violation of human rights, among other intolerable ills". Reinforcing the aforementioned criteria is the 1998 Rome Statute of the International Criminal Court (ICC) which emphasises that the crime of genocide and crimes against humanity are of prime concern to the international community. It refers to "murder, rape, extermination, enslavement, imprisonment, disappearances, torture, [and the] persecution … [of] any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are impermissible under IL …" (Evans 2008: 116) as constituting crimes against humanity. According to the 1999 Report of the Pugwash Group on Intervention, Sovereignty and International Security, the criteria for intervention have been broadened to include "suppression of the will of the majority, failed states where [the] civilian population is at the mercy of militias, warlords and criminal gangs, and [the] inhuman use of power".

The post-9/11 international system has yielded a conceptual change with regard to the practice of HI by the US, in particular based on the assumption that "only democracies count as legitimate states …" (Matlary 2006: 3). The recent invasions of Iraq and Libya also support this claim, given the fact that the interventions were aimed at regime change. The 'undemocratic' nature of the two governments was arguably deemed a threat to international peace and security by the US and its allies. Structural power is thus a major deciding factor in the practice of humanitarian intervention. This is in line with the realist contention that power is the currency for the conduct of IR. The

unilateral nature of the 2003 intervention in Iraq clearly demonstrates that the will of the mighty prevails despite widespread condemnation from the international community. Such controversial interventions have weakened the position and role of the UN and have damaged the arguments for HI. According to Baylis and Smith (2008: 530), the 9/11 attacks on the US have since "injected self-interest" into the conduct of HI and this encourages powerful nations to hide behind HI imperatives.

Of interest in the debate on HI doctrine is its relationship with the concept of sovereignty. From its inception, state sovereignty co-existed with the HI doctrine. History has also demonstrated that there is friction between the two concepts. Adversely affecting the relationship is the fact that since the Treaty of Westphalia (1648) emphasis has been on sovereign equality. The legal foundation of the concept of sovereignty has an internal and external dimension. On the one hand, the internal dimension denotes the supreme authority of states within their areas of jurisdiction or territorial boundaries. On the other hand, the external dimension points to the equality of states in the community of nations, their "territoriality and the exclusion of external actors from domestic authority structures" (Abiew 1999: 26). The fact that states should be recognised as 'sovereign' implies that they have absolute authority and that there is no government authority above the state. Abiew (1999) adds that this conception of the state as the ultimate power-holder has one major shortcoming, that of treating human rights as a domestic issue and not of international concern. Naturally, this has complicated and constrained the practice of HI. Any attempt to raise concern over the humanitarian or human-rights situation in a particular state is regarded as a violation of the principle of sovereignty. This has also become a constitutive feature of the modern-day state system and the unchanging conceptual nature of the term 'sovereignty' reflects the remarkable endurance of the Westphalian order.

In post-independence Africa, sovereignty has often been misconstrued to imply the right of leaders to repress their citizens. This has led Matlary (2006: 4) to argue that in the post-cold war era "sovereignty is no longer sacrosanct", and that the "traditional notion of insider and outsider, where sovereignty implies non-intervention", is no longer relevant. The contention here is that human rights conditions in a particular state are now the concern of the entire international community. Abiew (1999: 48), citing Arntz, says:

> … when the government, even acting within the limits of its sovereignty, violates the rights of humanity, either by measures contrary to the interests of other states, or by executive injustice or brutality with serious injury to our moral minds and civilisation, the right to intervention is legitimate.

With the global diffusion of human rights principles, sovereignty as a concept is losing currency. Having realised the incompatible relationship between sovereignty and any form of intervention for human protection purposes, former UN Secretary-General Kofi Annan challenged the international community in 2000 to come up with a "new consensus" on the competing visions of national sovereignty and popular sovereignty, and the resultant "challenge [to the concept] of HI" (Thakur 2007: 245). This challenge was made in the context of lessons learnt from the 1994 Rwanda genocide, where an estimated 800 000 people, a tenth of the entire population, perished within a period of 100 days in indescribably brutal killings (Ngoma 2005). What happened in Rwanda, according to Dallaire (2003:5), demonstrates "betrayal, failure, naïveté and indifference". Contrary to this, the 1998 Kosovo crisis received an overwhelming response from NATO members. In the Rwandan case the international community failed to act, while in the Kosovo crisis NATO's actions caused an international uproar.

2.8 CONCLUSION

This chapter examined the evolution and conceptualisation of the HI doctrine and argued that the philosophy informing the praxis of HI is to save human lives at risk. It has been demonstrated that HI manifests itself in two forms. First, a situation where concerned parties intervene with the consent of the incumbent government, for the purposes of relief and the rendering of aid; this is usually the preserve of international inter-governmental organisations (IGOs) and international non-governmental organisations (NGOs). The second form takes a narrower approach, where military intervention is conducted without the approval of the concerned government. Although in certain scenarios HI is interest-driven, this study has presented the view that serious and wide-scale violation of fundamental human rights, inside individual states, has attracted global attention in order to redress the problem.

This chapter also discussed how HI was moulded along religious lines during the Middle Ages and during subsequent eras. It was found that some interventions --- for example, the 1827-1830 intervention by France, Britain and Russia to rescue Greeks from Ottoman repression --- were informed by religious solidarity. And, in addition to religiously informed interventions, it emerged that some were conducted on the basis of purely humanistic considerations.

The chapter also touched on how critical developments, such as the abolition of slavery during the 19th Century and the Geneva Convention of 1864 (which culminated in the creation of the IRC), were key to the development and practice of HI. In addition, the linkage between the development of IR as a discipline and the practice of HI was discussed. It emerged that intellectual reaction to the horrors of WWI, through the liberal principles of IR, helped in establishing international institutions for the purposes of maintaining international peace and security. This contributed to the founding of the League of Nations, premised on the idea of a peaceful and just world order.

This chapter underlined the fact that the post-WWII era and, more specifically, the founding of the UN in 1945, contributed immensely to the development of HI. This was discussed in the context of the codification of the UN Charter, more specifically, Article 28 which outlined the promotion of international order, and the Universal Declaration of Human Rights in 1948 which bolstered the ideal of human rights as the guiding principle of HI.

The chapter also reflected on how the ideological tussle between the then contending global superpowers undermined intervention to save humanity at risk. It was found that the division of the world into two hostile camps (Capitalism versus Communism) stifled the development of international harmony on humanitarian issues. The end of the cold war ushered in a change in the conception of and attitude towards HI. The NWO, as envisioned by Marrio Bettati and Bernard Kouchner, demanded that human rights and the rule of law should define what constitutes the international order. This also triggered the reconceptualisation of security from that of the state to a more people-oriented approach --- becoming known as 'human security', which demands that human beings matter most.

It emerged that the change in attitude towards HI was informed by a new wave of ethnic, intra- and interstate conflict in post-cold war Africa, specifically the 1994 Rwandan genocide. It was, however, underlined that the persistent notions of respect for state sovereignty and non-intervention led to inaction in several crises. It was argued that, despite misgivings in the praxis of HI in the post-cold war era, multilateralism is now a deciding factor as demonstrated by the 1991 UN Security Council Resolution 688 on Iraq. With respect to Africa, the spill-over effect of conflicts compelled regional bodies like the SADC and ECOWAS to take responsibility for political stability on the continent. The same is also true for Asian countries, where 'constructive intervention' and 'flexible engagement' in Cambodia and Myanmar signalled the region's commitment to go beyond the conventional notions of sovereignty and non-intervention.

Finally, it was argued that a lack of commitment, political will, and legitimacy impinges on the doctrine of HI. It is in the light of this dilemma that the former UN Secretary-General Kofi Annan challenged the international community to search for a universally agreed humanitarian intervention framework and to reflect on the conception of state sovereignty as being sacrosanct. In a challenging speech, Annan (2000: 48) asked the searching question: "... If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violations of human rights that offend every precept of our common humanity?" As a result, the Canadian government took it the cudgels in 1999 to establish the International Commission on Intervention and State Sovereignty (ICISS). And in 2001, the Commission came up with the concept of what is termed, the 'Responsibility to Protect' (RtoP).

It is against this background that the primary focus of the next chapter will be to examine the commission's report, as well as the essential attributes of the RtoP norm.

CHAPTER THREE

THE 'RESPONSIBILITY TO PROTECT': A NORMATIVE CONTINUUM

3.1 INTRODUCTION

The previous chapter demonstrated the humanitarian intervention (HI) dilemma confronting the international community when it comes to matters of intervention for protecting human lives risk. It has been illustrated that, in the case of pre-'Responsibility to Protect' (RtoP) interventions, the lack of coherent principles with which to justify humanitarian intervention created not only inaction in the face of crisis, but rendered any debate about it extremely contentious. The chapter ended with a lament by the former UN Secretary-General Kofi Annan about the failure of the international community to address global humanitarian crises, especially those of a political making.

Using Annan's statement as a point of departure, this chapter will locate the conceptual roots of RtoP in the contested norms that govern global humanitarian intervention. As a new norm guiding the protection of people at risk, RtoP is envisioned as being complementary to the human security (HS) paradigm, and intended to bridge the conceptual and policy contest over HI (Thakur 2011). In light of the fact that this thesis will examine two *African* case studies, it is important to note that the philosophical roots of RtoP are embedded in the African continent, hence its codification in the supreme law of the continent, the AU Constitutive Act. This conceptual genesis of RtoP will be investigated in this chapter, so as to set the normative and political context for the case studies that will be discussed in subsequent chapters.

The establishment of the Canadian-sponsored 'Independent Commission on Intervention and State Sovereignty' (ICISS) was a unique response to the morally-infused question posed by former UN Secretary-General Annan, and the Commission's 2001 Report will be used as a key reference

source for this chapter. Arguably, the most daunting obstacle faced by the Commission was the prevailing international political environment, in which state sovereignty and humanitarian intervention are considered to be incompatible. Thus, the comprehensive and novel conceptual methodology used by the ICISS to deal with this challenge will be explained by way of a narrative overview. This will lead the discussion to the continuum of opportunities that are available for implementation of the R2P norm, which have been encapsulated into a range of 'tools' by Gareth Evans (2008). Finally, the R2P 'Toolbox' will be discussed in terms of the three main responsibilities that are embraced by the RtoP: the imperative for the international community to prevent, to react to, and to rebuild situations of humanitarian crises.

A landmark event in the discourse on RtoP has been the adoption and endorsement of the concept by world leaders at the 2005 World Summit. However, and despite this purported consensus, it will be argued that the main challenge to the discourse remains the operationalisation of RtoP; hence, the call by the current UN Secretary-General Ban Ki-moon in 2009 for further research on how to transform the theory on RtoP into practice.

3.2 Conceptual Roots of the RtoP Discourse: An African Genesis

As explained earlier, history is replete with examples of states that brutalised their own citizens. Continued failure by the UN Security Council to hold such errant governments accountable, increased the demand for international legal instruments to ensure that states honour their sovereign obligations. Traumatic events in Cambodia, Rwanda, Bosnia, East Timor, and Darfur, among others, gave impetus to the need to come up with a global framework for protecting human lives at risk in crises of a humanitarian nature, especially those of a political making (ICRtoP 2013; Bellamy 2012: 2011). It is Africa, in particular, that witnessed the genesis of the RtoP discourse. Sarkin (2009) makes the claim that the RtoP norm has its roots in Africa, both conceptually and in terms of implementation and, at least in part, because of the fact that peace and security has evaded the continent for so long. This is argued in respect of the 1994 Rwandan genocide specifically, which triggered the urgent need to formulate a norm for human protection purposes when an estimated 800 000 people, or 10 per cent of the entire population, perished in what amounted to mass murder. This catastrophe inspired UN Secretary-General Kofi Annan to implore the

international community in 1999 to find a working solution to the challenge of reconciling humanitarian intervention and the principles of state sovereignty and non-interference.

Melber (2009: 8) observes that, during the July 2009 UN General Assembly debates on Secretary-General Ban Ki-moon's report, "… the pioneering role of African states in the norm-setting process was acknowledged". This raises the first point to be considered in this regard namely, Africa's contribution to the genesis of the concept.

Before extrapolating the conceptual and operational utility of the RtoP, it is worth discussing the etymology of the idea of 'sovereignty as responsibility'. Although the RtoP idea gained currency and international recognition through the 2001 ICISS Report, what inspired the commission to further develop the RtoP idea was the writings of the Sudanese diplomat and scholar Francis Deng, who pioneered the linkage between 'sovereignty and responsibility' in a 1995 article, *Frontiers of Sovereignty.* The subject of sovereignty is also discussed extensively in the book, *Sovereignty as Responsibility: Conflict Management in Africa* published in 1996 (Thakur 2011; Bellamy 2012; Orford 2012; Spies and Dzimiri 2011; Evans 2008). Here Deng and Cohen argue that for states to be accorded international recognition they have to meet certain standards, of which restraining the use of power and protecting the lives of their people should be priority (Deng and Cohen 1996; Orford 2012; Evans 2008). It is further argued that states should exercise "positive responsibilities" for the welfare of their own citizens and assist each other where it matters (Cohen and Deng 1996: 80). Deng's work complemented the human security paradigm in that the conception of security should not only focus on external threats to 'castles of sovereignty', but should also be people-oriented (Matlary 2006). Martins (2008: 5) argue that Deng and Cohen propounded the "normative benchmark" through which governments and the international community can exercise their responsibilities.

It is through such internationally credible contributions to the RtoP discourse that in May 2007 Deng was selected as the UN Secretary-General's Special Adviser on the Prevention of Genocide -- a position that is, since 11 September 2013, occupied by Jennifer Welsh.

Although the now-defunct Organisation of Africa Unity (OAU) was infamously ineffectual in resolving crises on the continent, it should be recalled that several of its statesmen were setting the

51

pace of the normative debate on intervention for human protection purposes (Spies and Dzimiri 2011). As far back as 1998, OAU Secretary-General Salim Ahmed Salim declared that "…we should talk about the need for accountability of governments and of their national and international responsibilities. In the process, we shall be redefining sovereignty (Sarkin 2009: 9). The late South African President Nelson Mandela, during the 1998 OAU Summit in Ouagadougou, Burkina Faso, stated that (CCR 2007: 14):

> Africa has a right and a duty to intervene to root out tyranny ....We must all accept that we cannot abuse the concept of national sovereignty to deny the rest of the continent the right and duty to intervene, when behind those sovereign boundaries people are being slaughtered to protect tyranny.

His words may as well have been the precursor to the ICISS 2001 Report.

Another interesting consideration is the priority status of the debate on the UN agenda. Boutros Boutros-Ghali and Kofi Annan were the first Secretaries-General of the UN to address, at their personal executive level, the evolving notions of sovereignty and humanitarian intervention. They also happen to have been the first two (and, thus far, only) *African* Secretaries-General of the world organisation. Kofi Annan's relentless efforts in this regard were acknowledged when he, jointly with the UN, was awarded the 2001 Nobel Peace Prize (Spies and Dzimiri 2011: 38). As the selection committee stated, he was chosen because "… [in] an organisation that can hardly become more than its members permit, he has made clear that sovereignty cannot be a shield behind which member states conceal [human rights] violations" (NNC 2001).

Furthermore, the establishment of the International Criminal Court (ICC) has special significance for Africa: African states, with South Africa taking a leading role, were active in the multilateral diplomatic process that resulted in the establishment and institutionalisation of the Court (Spies and Dzimiri 2011). In fact, an African state (Senegal) was the first to ratify the Rome Statute (ICC 2010). By mid-2009, 30 African states had already ratified the treaty, more than any other region in the world (this number rose to 34 as of 1 September 2014). Deriving from the nexus between the RtoP and the objectives of the ICC, these statistics would imply that African countries accept certain obligations under international treaty law. The current Prosecutor of the ICC, Fatou Bensouda (as of 15 June 2012), a lawyer and former Minister of Justice of The Gambia, has

expressed her dismay at allegations that the ICC is deliberately targeting Africa, noting that it is African initiatives that have brought cases against African perpetrators of crimes against humanity before the Court. Important for the continent is also that South African Judge Navi Pillay was elected to the first panel of judges of the ICC, from where she was recruited to serve as the UN High Commissioner for Human Rights (HCHR) until 1 September 2014.

Also significant for Africa's stake in the RtoP is the nature of the transition from the Organisation of African Unity (OAU) to the African Union (AU). The latter heralded a "normative shift" with regard to mechanisms for responding to human rights violations on the continent (Sarkin 2009: 16). The AU has distinguished itself as the first inter-governmental organisation (IGO) to condone humanitarian intervention in its Charter --- a major departure from its predecessor's strict non-intervention posture. Article 4 (h) of the AU Constitutive Act (2000), which is the supreme law of the continent, bestows on the organisation the right to intervene in humanitarian crises that are triggered by war crimes, genocide, and crimes against humanity --- the very crimes specified by the Rome Statute. It actually transcends the scope of the RtoP by allowing for intervention also in cases where there exists "a serious threat to legitimate order" (Kioko 2003: 3).

Thus, the Constitutive Act gives the AU the responsibility to override the non-interference principle in "grave circumstances" (Kioko 2003: 3). What is of particular significance is that the AU asserted this right a year before the ICISS Report on the RtoP was issued and five years before the endorsement of the RtoP by the World Summit. Mwanasali (2008: 9) calls this "a movement from non-interference to non-indifference", and "the dawn of an interventionist phase in the continental management of peace and security". During May 2004 the AU's Peace and Security Council (PSC) was established to prevent, manage, and resolve conflict on the continent. This move has been described by Akokpari, Ndinga-Muvumba and Murithi (2008: 42) as "a bold institutional commitment" to the new continental norm, and "a source of authority for intervention on the basis of civilian protection".

Another incisive consideration draws on the observation by Mwanasali (2008: 52) that the AU, by virtue of its integration imperative, "should have more powers and a greater moral authority that would justify intervention, however courteous, in its members' domestic affairs". Africa's

yearning for unity has been a *leitmotiv* in the continent's politics, and this should make the AU all the more determined to defend (on a collective basis) the human rights of its people, not regardless but because of their geopolitical divisions (Spies and Dzimiri 2011: 40). Indeed, Africa's inclusive socio-political norms, notably the tradition of *ubuntu*, make the continent a natural geo-philosophical home to a concept such as the RtoP (Spies and Dzimiri 2011).

In a bid to popularise the RtoP idea, it is worth noting that the ICISS was co-chaired by an African veteran, Algerian diplomat and long-time UN Adviser on Africa, Mohamed Sahnoun. He was one of the 12-member commission's two African members, the other one being Cyril Ramaphosa, an astute South African politician and renowned mediator on the African continent. The Commission was, therefore, sufficiently representative to reflect, *inter alia*, an African perspective (Spies and Dzimiri 2011).

The conceptual development of the RtoP is being facilitated by a host of African intellectuals, who support the indivisibility of human security and the notion of 'people's sovereignty' and they are building on and refining the work of the ICISS 2001 Report. The growing number of African civil-society voices is encouraging: until recently the articulation of African political norms was mostly executive-driven, rather than the product of a "grass-roots" consensus, finding its expression at the inevitable political summit (Spies and Dzimiri 2011: 39).

There is a view that the African continent is "a uniquely placed stakeholder in [the] RtoP, both on account of its disproportionate share of humanitarian crises, and because Africans have played a key role in conceptualising the norm" (Spies and Dzimiri 2011: 40). Africa, rather than any other region of the world, would most benefit from the application of the RtoP norm, but the political manoeuvring around the Darfur and Zimbabwe crises (to draw on the case studies of this thesis, but there are many more) has shown that this has not happened. African opponents of the RtoP norm assert that the new concept is a foreign imposition and yet another excuse for self-interest-driven intervention in African affairs. Olivier and Chusi (2009) have raised the concern that these negative developments undermine Africa's fundamental and unique contribution to the development of the concept.

3.3 Conceptualisation of the RtoP by the ICISS

Realising the systematic failure by the UN to avert humanitarian crises (as evidenced by in-action in Rwanda and controversy in Kosovo), former UN Secretary-General Kofi Annan challenged the international community to find common ground for responding to crises of a humanitarian nature (ICRtoP 2013; Bellamy 2012; Orford 2012; Evans 2008; Thakur 2011; 2007; ICISS 2001). More importantly, Annan realised the need for a convergence of issues of human rights and that of sovereignty.

It is against this background that the Canadian government commissioned its Foreign Minister, Lloyd Axworthy, to constitute the ICISS in 2000. The Commission, according to Evans (2008: 31), was "to wrestle with the whole range of questions pertaining to [the] legal, moral, operational and political, and to consult with the entire world on how to find a common approach to HI". Significant to the conceptual development of the RtoP norm is the composition and profile of the ICISS, reflecting an element of global representation, demonstrated by the fact that commissioners were drawn from both the developed and developing world, from diverse professional backgrounds and expertise (Evans 2008; Thakur 2007). It is further argued that the commission's report on the RtoP idea reinforces these responsibilities, as it contributes "meaningfully to providing a path through which the international community can respond to situations of breaches of the individual state's responsibilities to its population" (Martins 2008: 5). Logically, it follows that the commission aimed to arrive at a multilateral and politically achievable international consensus on HI.

Former Australian Foreign Minister, Gareth Evans (who later served on the UN Secretary-General's High Level Panel on Threats, Challenges and Change, and the UN Advisory Committee on the Prevention of Genocide and Mass Atrocities), and Algerian diplomat and veteran UN Africa Advisor, Mohamed Sahnoun, co-chaired the Commission (ICISS 2001). Other representatives from the global South were Cyril Ramaphosa of South Africa, Guatemalan Foreign Minister Eduardo Stain, renowned Indian scholar Ramesh Thakur, and former Philippines President Fidel Ramose (ICISS 2001). The global North was represented by former US Congressman Lee Hamilton, German NATO General Klaus Naumann, Russian diplomat and parliamentarian

55

Vladimir Lukin, and Canadian human rights and conflict specialists Michael Ignatief and Gisèle Côté-Harper. For expert knowledge on humanitarian issues, the Commission benefitted from the expertise of long-serving President of the International Committee of the Red Cross (ICRC), Cornilio Sommaruja (ICISS 2001). In addition to being representative of a wide spectrum of global expertise, the Commission went to great lengths to workshop its findings, by holding a series of workshops and worldwide roundtable debates from September 2000 to December 2001, when the ICISS Report and a complementary volume of 'Research, Essays, Bibliography, and Background Material' were published (ICISS 2001).

Significant to the commission's report is that it tones down the language of humanitarian intervention from 'right to intervention' to 'responsibility' (ICISS 2001: 13). By emphasising responsibility, the ICISS aimed to clarify the "functions of state authorities" which is primarily to ensure the safety and protection of its people. The ICISS further stipulated that in the event of state failure or lack of capacity to deliver on its protection duties, a "residual or fall-back" on the international community's protection mandate should take precedence (Orford 2012: 15). Weiss and Campbell (1991: 452) support the move to change the phrase 'right to intervene' to 'duty to intervene', arguing that the right to intervene "claims the rights and prerogatives" of the intervening state(s) over the "urgent needs of the potential beneficiaries of the action". As noted in the report, the phrase 'right to intervene' was seen to be inadequate as a principle for guiding the praxis of humanitarian intervention, since it failed to capture the broader tasks of prevention and follow-up peace-building activities that must accompany intervention (ICISS 2001). The Commission explicitly states that its constitutive mission was "to build a broader understanding of the problem of reconciling intervention for human protection purposes and sovereignty" (ICISS 2001: 16). According to Thakur (2007: 250), the ICISS' role was specifically to try to develop a "global political consensus on how to move from polemics --- and often paralysis --- towards action within the international system, particularly through the United Nations". In a bid to reconcile the principles of 'state sovereignty' and 'non-intervention', the Commission's report made it clear that the RtoP principle is not meant to deconstruct the settled norm of state sovereignty, but to reaffirm that "state sovereignty implies responsibility, and this responsibility entails protecting its own people" (Thakur 2007: 255). It entails the quest for accountability in state conduct and being "a responsible member" of the UN, enshrined in the notion of RtoP,

according to Thakur (2007: 256). This also means that sovereign entitlements can no longer be used to shield crimes against humanity and other human rights violations (Matlary 2006; Puley 2005).

Worth mentioning is that most of the Commission's recommendations are fully in conformity with the provisions of the UN Charter. From a critical point of view, the Commission attempted to give a deeper meaning to the UN mandate. As noted by key scholars on the subject, such as Bellamy (2009), Sarkin (2009), Evans (2008), Thakur (2007), Weiss (2004), among others, the foundation of the international responsibility to protect (RtoP) lies in the concept of sovereignty and the responsibility of the UN Security Council as enshrined in Article 24 (that is, the maintenance of international peace and security). Articles 39, 40 and 41 of the UN Charter lay down the foundation for exercising the 'responsibility to prevent', as implied by the phrases "prevention of the aggravation of a situation" and the application of "partial economic and diplomatic" restraints in a bid to force the behavioural change of the target state. The idea of the 'responsibility to react' is captured in Article 42, which makes reference to the use of blockades and sanctions in the event that preventative measures fail); and in Article 44, which encapsulates the option of using force in the event that other options prove to be a total failure). It is also plausible to link Article 75 with the 'responsibility to rebuild', as it talks to placing newly established states under the 'International Trusteeship System'. The 2001 ICISS Report makes reference to the same idea by suggesting that states emerging from crises should be put under 'trusteeship' as part of rebuilding processes.

Noted legal foundations of the RtoP include international human rights instruments, such as human rights conventions, the African Charter on Human and People's Rights, conventions on civil, political, economic and cultural rights, international humanitarian law, and provisions of international law in general (ICRtoP 2013). The 1948 'Genocide Convention' and the 'Martens Clause' contained in The Hague Conventions of 1899 provide additional legal provisions for the protection of individuals and groups (Sarkin 2009). Fundamental to the 1948 Genocide Convention is that it is acknowledged as the pillar of international human rights law and charges the state with the duty to protect. As indicated in the ICISS Report, RtoP proponents place the sovereign state at the forefront of delivering on the duty to protect. It is acknowledged that the state is the most efficient mechanism and institution for securing human rights, and the best positioned entity to

57

deal with conflicts before they degenerate into violence. The international community only comes into play when the state proves incapable or unwilling to protect its people. On the one hand, Cohen and Deng (1996: 80), in their pioneering work on 'Sovereignty as Responsibility', put forward the argument that if the state behaves "irresponsibly" it risks relinquishing its claim to exercise its right to sovereignty. On the other hand, Noam Chomsky (2009), in his presentation on 23 July 2009 during the informal 'Thematic Dialogue on RtoP', regarded the concept as an extension of St. Augustine's medieval 'just war' doctrine intended to suppress idolatry, atheism, and sexual immorality. Indeed, Chomsky labels it 'a cousin of the classical humanitarian intervention' practice. The RtoP, however, cannot simply be reduced to that --- even though there seems to exist a moral imperative and an element of the probable use of force in both cases in order to preserve a particular, desired moral and societal fabric, and which is, in Plato's words, for the 'common good' of society. This is by no means a denial of the apparent link between the RtoP norm and the traditional 'just war theory'. But, as Evans (2004) recognises, the "RtoP principles owe [just as] much of their force to their intuitive acceptability than they do to any religious doctrine", including the just war doctrine.

In a way, the RtoP concept is different from these doctrines and theories in that it seeks to clarify that state sovereignty does not only entail territorial integrity and jurisdiction, but also encapsulates sovereignty as a responsibility. The RtoP implicitly disqualifies the idea of humanitarian intervention as a mere exercise of power, and assert that it is a responsibility placed upon the international community not only to react, but to prevent and rebuild. Basically, the RtoP simply tries to answer Kofi Annan's 1998 call to ensure that "state sovereignty should no longer be seen as a watertight protection for war criminals and mass murderers", but rather as an obligation placed upon states for the protection of its citizens.

As discussed in Chapter Two, the RtoP concept is situated within the broader framework of the critical human security (HS) paradigm of IR theory. The interpretation of security proffered by the ICISS complements that of the 1994 UNDP definition of security as "the securing of people, their physical safety, their economic and personal well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms" (ICISS 2001: 15). Fundamental to the ICISS's approach is that it gives primacy to the protection of citizens at

risk of atrocities arising from the failure of the state to act, or perpetrated by the state itself. Tadjbakhsh (2005) broadens the HS debate by suggesting the need to identify threats, avoid them where possible, and mitigate their effects when they occur. Re-enforcing this mind-set is the 2003 Japanese-sponsored Commission on Human Security, which emphasised that the creation of strong political, social, environmental, economic, military, and cultural systems will enhance human security.

Human security proponents raise a moral argument that "governments and the international community should establish viable response mechanisms to deal with threats to humanity" (Tadjbakhsh 2005: 4). Again, this is the vacuum that the RtoP endeavours to fill. Thus, the 2001 ICISS Report on the RtoP stipulates who should provide human security as a public good. As pointed out by Tadjbakhsh (2005: 6), "a truly effective state is one that can provide human security and deal with [the] social breakdowns of its people". Building on the human security framework, it is plausible to assert that when states fail to live up to the principle of 'sovereignty as responsibility', then other actors (such as international organisations) not only have the moral responsibility, but the obligation to act.

Thakur (2007) notes that the debate on HI has been waged at a normative level and that this calls for situating the RtoP concept within the parameters of the normative theories of IR. This connects the RtoP norm to the re-emergence of ethical considerations in the practice of humanitarian intervention in the post-cold war political system. The RtoP emerges as some sort of normative displacement from the settled norm of non-intervention as enshrined in the UN Charter. Again, the RtoP provides "a fresh conceptual template" (Thakur 2007: 245) for reconciling state sovereignty and intervention for human security purposes. Thakur and Weiss (2009: 23) define a norm as "the pattern of behaviour that should be followed in accordance with a given value system or moral code of society --- a generally accepted standard of proper behaviour". In this case, the RtoP proffers a normative explanation on 'why', 'when', 'how', and 'who' should respond to an emerging threat to human security.

Chandler (2004) expands on the theoretical development of the RtoP norm by locating it within the confines of the liberal peace theory. This theory advocates the development of international

norms for the safeguarding of human rights, and challenges the realist theory's contention of the inevitability of war by arguing that international peace and security can be attained through "cosmopolitan frameworks" (Chandler 2004: 60) like the promotion of democratic states. Chandler further interprets the RtoP in the context of a 'new HS architecture', arguing that peaceful and democratic states should take a leading responsibility for the attainment of universal peace. In light of this view, it is plausible to argue that the Commission's initiative to reform the international order by propounding the RtoP concept enhances the human security and human rights discourse. Elaborating on the same position of the liberal-peace conception, proponents claim that the RtoP (unlike conventional HI) heralds a recent international policy framework for responding to conflict-related emergencies which is "ethically based and not interest-based" (Chandler 2004: 62). Kaldor (2007: 97) explains this transformation in the praxis of HI through the lens of the cosmopolitan model of the post-liberal policy framework. While acknowledging the role of the state in its domestic jurisdiction, it is argued that the interconnectedness of the modern world also means the internationalisation of risks; hence, the need for a "multilateral set of rules and procedures", as well as "cosmopolitan" solutions.

Chandler (2004: 84) is not, however, in agreement with Kaldor's theoretical approach to the evolution and development of the RtoP norm. The theory is criticised for being reductionist, especially for 'implicating globalisation' for all these norm-changes and transformations. Chandler believes that the post-liberal approach fails to acknowledge that values and interests are interconnected and that the role of power structures in norm-crafting and propagation should be accounted for. The contention is that the multilateral approach touted here only functions well when there is a dominant force capable of transplanting norms and values to the peripheral zones. However, despite the controversies and divergences in the theoretical conception of the RtoP, all these theories do concur that the RtoP signals a landmark evolution in the normative debate on intervention for human protection purposes and that it enhances the workings of the broader framework of the human security paradigm.

In essence, the RtoP represents a significant theoretical contribution to the debate on humanitarian intervention in the discipline of IR, a contribution that has been acknowledged, *inter alia*, by its institutionalisation in the Charter of the AU. The philosophical viewpoint of, and thinking in, the

commission, as noted by Thakur (2007), was that focusing exclusively on the merits, legitimacy and political wisdom of the RtoP concept would be looking backward, subjective and, at the same time, limiting the possibilities of mapping out a clear way forward for the RtoP. The logic behind the change in vocabulary from that of 'right' to 'responsibility' emanated from an acknowledgement of past mistakes. The 1998 intervention in Kosovo, for example, was dubbed 'humanitarian', yet it was accompanied by bombings, euphemistically called "humanitarian bombings", according to Weiss (2004). Thakur (2007: 251) adds that the paradigm shift from 'HI' to 'RtoP' was also amplified by a continued fear of domination based on "the international power hierarchy", whereas the RtoP embodies the element of international solidarity. Central and unique to the RtoP idea is its bottom-up approach in response to crises of a humanitarian nature. The ICISS 2001 Report aptly points out that intervention for human-protection purposes should be guided by the needs of the people. Those seeking help or those deeply immersed in a humanitarian catastrophe should say what type of assistance they require and how this should be rendered. Their views should be treated as the gateway to invoking the RtoP, rather than the views of those prepared to intervene (ICISS 2001). Arguably, the commission's report provided a conceptual template on which to answer questions regarding the right to HI, such as when and whether it should be initiated, questions of its authorisation, and its relationship with the concept of state sovereignty.

Unique to the 2001 ICISS Report is the fact that it takes a comprehensive approach to HI, "framing intervention as a continuum from diplomatic and economic sanctions through [to] military [action] as a last resort" (Bellamy 2009**:** 290)**.** As indicated earlier, the report outlines that RtoP entails three key responsibilities bestowed on the society of states, namely the 'responsibility to prevent', the 'responsibility to react', and the 'responsibility to rebuild' (ICISS 2001).

According to the report, the 'responsibility to prevent' envisages a soft approach where the root causes of conflict are addressed before they turn violent. Complementing the ICISS 2001 Report, Evans (2008) developed an intervention 'Toolbox', while the ICRtoP (2013) also produced its own 'Toolkit'. According to the 'Toolbox', preventive diplomacy in the form of direct and structural measures should be invoked before a situation degenerates into a serious humanitarian crisis. In this respect, preventive measures envisage the promotion of good governance, 'naming and

61

shaming', diplomatic isolation, establishment of early-warning mechanisms, the promotion of human rights, arms embargos and the threat of sanctions, economic incentives, and direct security-sector measures. Primacy is given to prevention not because it is effective, but because it is "less costly in blood" (Evans 2008: 79). Early warning, according to the report, should involve intelligence-gathering on trouble-spot zones and fact-finding missions in crisis situations.

In 2013, the ICRtoP (which is an amalgam of regional and international non-governmental organisations from all over the world, geared towards strengthening and creating global awareness and understanding of the RtoP norm) published an expanded definition of RtoP. It states that, in addition to protection its people from genocide, war crimes, ethnic cleansing, and crimes against humanity, the state should prevent the commission of, and incitement to, such violations). More importantly, the role of the international community in capacitating the state to deliver on its RtoP obligations is emphasised; also, that appropriate diplomatic, humanitarian, and other peaceful means and measures of protecting humanity at risk must be invoked. Just like the ICISS 2001 Report, the adoption of coercive means in the course of RtoP is deemed as a measure of last resort (ICRtoP 2013).

In its RtoP 'Toolkit', the ICRtoP (2013) introduced the notion of upstream and downstream preventive measures, as opposed to what Evans (2008) regards as direct and structural measures. The ICRtoP defines upstream preventive measures as those institutions or prevention modalities that a country or government can internally develop at national level to mitigate the risk of mass atrocities. In essence, up-streaming prevention is synonymous to the early-warning capacity of a country in order to reduce the possible occurrence of mass atrocities. The ICRtoP posits, quite emphatically, that reducing deprivation and poverty, mitigating inequalities through horizontal growth, improving trade terms, and supporting community development through local ownership constitute some of the more important upstream economic preventative measures. The 'Toolkit' emphasises the importance of democratisation in preventing crimes against humanity, as well as other crimes targeted by the RtoP concept. Democratic measures discussed by the 'Toolkit' are supporting the diffusion of power, ensuring proper service delivery to society, strengthening local capacity in conflict resolution, facilitating the work of the ICC, and other upstream prevention modalities (ICRtoP 2013). This makes the promotion of democracy and the safeguarding of human

rights integral components of prevention. The emphasis on supporting global justice through the ICC makes a lot of sense, especially in light of the continuing deterioration of relations between Africa and the ICC. Many African countries vowed not to co-operate with the ICC in the aftermath of the issuing of a warrant of arrest for Sudanese President Omar al-Bashir in 2009 --- and, in subsequent years, the ICRtoP might have triggered calls for co-operation with the ICC (Murithi 2013). But, more importantly, the pioneering works on the RtoP concept had not prioritised the protection of minority rights, and the rights of women and children, while the ICRtoP made a significant contribution in this regard. Other proposed upstream preventive measures in the ICRtoP's 'Toolkit' include the role of ecumenical diplomacy, encouraging inter-faith dialogue. Preventing and punishing the incitement to hate speech is regarded integral to preventing ethnic cleansing and other politically motivated human rights violations (ICRtoP 2013).

On the other hand, downstream preventive measures involve "responses to imminent threats of mass atrocities", manifesting themselves in various forms (such as economic, political, humanitarian, or military) and undertaken by actors in the international community, including civil society, individual governments, regional and sub-regional organisations, and UN bodies (ICRtoP 2013: 21). Downstream preventive diplomatic measures, encouraged under the 'Toolkit', include use of the 'good offices' of the UN Secretary-General, support for indigenous conflict resolution processes, submission to arbitration, and establishing "groups of friends" (supporter groups) at the regional and UN levels (ICRtoP 2013: 22). Continued intervention apathy in compelling situations like in Syria, and the limited nature of action taken by the NATO-led coalition in Libya, might have inspired the need for intervention supporter groups. Also of importance to the downstream preventive notion of the ICRtoP is the proposal to establish early-warning assessment capacity at both the regional and UN levels. In this case, conflict and threat-forecasting is deemed the primary pillar insofar as prevention is concerned. Realising the increasing role of the ICC, the ICRtoP encourages pursuing justice through the Court in a bid to complement other legal measures.

The ICISS acknowledges the contribution of human-rights focus groups, such as 'Crisis International', the ICRC, as well as media reports and academic writings on relevant crises of a humanitarian nature. The idea of prevention is not a recent invention, since Boutros-Boutros Ghali in his 1992 *Agenda for Peace* recommended that disputes should be settled diplomatically before

they escalate into violent conflicts. The 2005 World Summit Outcome Document (WSOD) also recognised the need to prevent conflicts while they are at their embryonic stage. This is explicitly stated in Paragraph 138, which points out that "each individual state has the responsibility to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity" (WSOD 2005). Again, this is in line with the UN Charter which emphasises negotiation, mediation, arbitration, enquiry, and judicial settlement in peaceful dispute resolution (see Figure 1 on page 65, graphically displaying the 'RtoP Prevention Toolbox', incorporating some elements of Gareth Evans's 'Toolkit").

The 'responsibility to react', according to the ICISS 2001 Report, implies the need to respond to situations of compelling need, employing appropriate measures, which may include coercive measures like sanctions, international prosecution (through the ICC), and even military action in extreme situations. Unlike the conventional approaches to HI, the commission's report implicitly states that intervention should be victim-driven, meaning that those experiencing humanitarian risk should define the terms of intervention --- that it should not be determined through a top-down process. This is in line with the bottom-up approach, informed by the concept of human security. Hamilton (2006: 292) contends that the 'responsibility to react' stems from the philosophical viewpoint that "doing nothing is not an option". The report recommends that a military response should be adopted as a 'last resort', and only in 'extreme cases' after preventive measures have been fully exhausted --- and, again, when the state in question is unable or unwilling to address the crisis situation at hand (ICISS 2001: 2). Realising the controversy surrounding what constitutes 'extreme cases', the Commission was quick to stipulate six criteria for intervening militarily for human protection purposes: a threat of imminent, serious harm; right (morally justified) authority; a just cause; right (morally good) intentions; a last resort; the proportionality of means; and a reasonable prospect of success.

Figure 1: The RtoP Prevention Toolbox

Structural
- Establishing regional and UN early warning and assessment capacity
- Fact finding
- Exercising the good office of the UNS-G or head of regional organisation
- Pursuing abitration
- Promote good governance
- Promote membership in international organizations
- Supporting diffusion of power
- Building institutional capacity and ensuring social services delivery
- Strengthen local conflict resolution

Direct
- Preventive diplomacy
- Threat of political sanctions

Structural
- Support economic development
- Support education for tolerance community peace building
- Reducing deprivation and poverty
- Reducing inequalities(horizontal)
- Improving trade terms(openness)
- Strengthening civil society role
- Preventing and punishing incitement of hate speech

Direct
- Aid conditionality
- Threat of economic sanctions
- Travelling bans
- Economic incentives

Political/ Diplomatic Measures

Economic /Social Measures

The Prevention Toolbox

Constitutional/Legal Measures

Security Sector Measures

Structural
- Promote fair constitutional structures
- Promote human rights
- Promote rule of law
- Fight corruption
- Building national capacity with specific protection of minority, women and children's rights

Direct
- Legal dispute resolution
- Threat of international criminal prosecution through the ICC
- Ending impunity
- Pursuing justice through the ICJ or other local mechanisms

Structural
- Security sector reform
- Military to civilian governance
- Confidence building measures
- Small arms and light weapons control

Direct
- Preventive deployment
- Nonterritorial show of force
- Threat of arms embargo or end of military cooperation programs

Sources: ICRtoP (2013) and Gareth Evans (2008)

Having gained insights from the 'just war' paradigm, the Commission recommended that there should be a just cause for military intervention for human protection purposes. It is argued that there must be "serious and irreparable harm occurring to human beings, or imminently likely to occur" (ICISS 2001: 32). This, according to the report, implies the actual or fearfully anticipated, large-scale loss of life with genocidal intent (not coupled with deliberate state neglect or inability, or a failed-state situation), or fearfully anticipated large-scale 'ethnic cleansing', whether carried out through forced killings, expulsions, acts of terror, or rape (ICISS 2001: 32). Implicitly, this communicates the threshold criteria under which a military response may be undertaken. Thakur

65

(2007) also notes that since humanitarian situations are not necessarily of a similar nature, the decision to intervene should be conducted on a case-by-case basis.

With respect to 'right [morally good] intention', the report further argues that "halting or averting human suffering" (ICISS 2001: 33) should be the primary focus of military action. Worth noting is the fact that the report does not recommend the overthrow of repressive governments (regime change as happened in Iraq 2001 when the US and its allies ousted Saddam Hussein's government, as well as the NATO-led overthrow of the Libyan leader, Muammar Gaddafi, in 2011) but justifies destroying their capacity to threaten human security. This is believed to be achievable through a multilateral or collective approach (Breakey 2012; Collins 2011); and this automatically rules out any form of unilateral intervention, especially by those driven by self-interest or any altruistic motives. The multilateral approach championed by the commission's report, tries to make "humanitarian intervention not only legitimate, but also more efficient" (Acharya 2002: 377).

Past experience demonstrates that the question of authorisation or 'right [morally justified] authority' has been the major bone of contention in the conduct of humanitarian intervention (ICRtoP 2013). As illustrated by the Rwandan and Kosovo test cases, for example, controversy surrounding matters of authority led to either unilateral intervention or inaction in compelling crises of a humanitarian nature. But the ICISS 2001 Report was rather cautious in addressing this issue. It emphatically stated that the UN Security Council is (and remains) the proper body to confer legal authority on a coercive military intervention. According to Evans (2008: 139) the idea behind entrusting the UN Security Council with matters of coercive military intervention is not only for reasons of "morality or principle", but also for ensuring that interventions are "not just legal, but legitimate". However, the commission's report is not rigid in its approach to the question of legitimacy and authorisation as it opens up room for other avenues to be explored in cases where the UN Security Council fails to act or agree. There is provision for intervention under the auspices of the 'Uniting for Peace' procedures, which should be initiated in terms of the UN General Assembly's call for an 'emergency special session' on a procedural vote in the UN Security Council. It is argued that under the 'Uniting for Peace' mechanism, a decision adopted by the majority cannot be blocked (vetoed) by the permanent members of the UN Security Council within twenty-four hours of such a decision being taken.

The report also makes reference to the role of regional and sub-regional mechanisms in intervening in compelling situations. This is in conformity with the provisions of Chapter VIII of the UN Charter, which acknowledges the role of regional and sub-regional organisations in maintaining international peace and security. Moreover, this is premised on the fact that regional bodies have a better understanding of the situation at hand; also, that they have a greater stake in what happens in their immediate neighbourhood. This is illustrative of the fact that in geo-strategic terms, geographical proximity qualifies regional actors to be the first line-of-defence in RtoP situations. However, as will be demonstrated in Chapters Four and Five in the discussion on Darfur and Zimbabwe, regional responses may have the right intention, but these are limited due to resource constraints.

Realising the increasing role of *ad hoc* coalitions ('coalitions of the willing') in humanitarian intervention situations, the commission's report provides that such arrangements, if multilaterally conducted, provide a "credible and efficient" military force when robust action is needed or warranted (ICISS 2001: 52). However, the decisive role of the UN Security Council is not ruled out in the process; indeed, Security Council approval should be pivotal to any kind of intervention. On a more critical note, the commission's recommendation regarded the actions of the US-led 'coalition of the willing' in Iraq as unjustified, since the UN Security Council did not legitimise the intervention. This created further controversy on the grounds of IL, as the intervention was deemed to be interest-driven and not humanitarian-oriented.

The other key principle in terms of military response for human protection purposes is the principle of 'proportional means'. This, according to the commission's report, entails that the "scale, duration and intensity" (ICISS 2001: 57) of military intervention should be limited, but enough to actualise its humanitarian goals. Fundamentally, this tallies with the 'limited war' concept of the cold war era, where war was to be waged for the attainment of only clearly specified objectives. On a more critical note, a military response should not paralyse the political, economic and social fabric of the targeted country. Also, integral to military intervention is the principle of 'reasonable prospects' for success, which entails that any intervention should be informed by rational decisions. The report explicitly states that military interventions can only be justified if there is a

reasonable chance of success. It further argues against intervention if "[a]ctual protection cannot be achieved, or if the consequences of embarking upon the intervention are more likely to be worse than if there is no action at all" (ICISS 2001: 37).

The explanatory value of this principle is making a military intervention a solution and not part of the problem. Current events in Iraq illustrate the dangers of intervening prematurely, before calculating the opportunities of and challenges posed by the process. The US and its allies failed to forecast the outcome of their actions and this has simply worsened the crisis situation. Suicide attacks by resistance fighters and the prolonged engagement in Iraq has shamed the 'coalition of the willing' in the eyes of the international community. Critics argue that Iraq was more stable before the invasion than it is now (Ferris 2008). Renowned German military and political philosopher Carl von Clausewitz, in his seminal work *Von Krieg* (On War) cited in Pitt (2008), refers to this as "friction". Although Von Clausewitz describes the aspect of friction in the context of the actual conduct of war, the same can be applied to intervention for human protection purposes. Exactly the same hurdles, like enemy resistance, lack of supplies, and lack of local support, among other challenges, may well impinge on the responsibility to react through military means (see Figure 2 on page 69 showing bthe prevention toolbox).

The last key responsibility is that of 'rebuilding', where post-intervention (particularly military) assistance should be rendered. This should form the greater part of post-conflict or crisis-reconstruction initiatives. Indeed, the logic behind rebuilding underscores the fact that reaction is not an end in itself. Reconciliation, rehabilitation and reintegration should be pursued as part of rebuilding initiatives. Rebuilding, according to the 2001 Commission Report, may also imply addressing the harm the intervention was meant to address. Examples of rebuilding initiatives include focusing on governance structures, such as the creation of functional executive, legislative and judicial systems in order to enhance long-term, sustainable peace and development. In situations of failed or failing states, the ICISS recommends the creation of some kind of UN 'trusteeship' framework as part of post-conflict rebuilding mechanisms.

Figure 2: The RtoP Reaction Toolbox

Political/Diplomatic Measures
- Diplomatic peacemaking
- Political sanctions and incentives

Economic/Social Measures
- Applications of economic sanctions
- Economic incentives

The Reaction Toolbox

Constitutional/Legal Measures
- Criminal prosecution

Security Sector Measures
- Peacekeeping for civilisation protection
- Safe havens and no fly zones
- Arms embargoes
- Jamming of radio frequencies
- Threat or use of military force

Source: Evans (2008)

Instead of imposing rebuilding decisions on the society in question, the report argues for local ownership of initiatives, such as the *Gachacha* post-conflict courts in Rwanda where traditional leadership spearheaded reconciliation and rehabilitation. This approach is also supported by Rose (2005: 8), who notes that "interventions which are exclusively externally driven are usually unsustainable". Fundamental to the post-conflict rebuilding programme is security-sector reform, especially bringing the army and police under civilian control. It is believed that this would enable the honouring of truces (like the Global Political Agreement (GPA) in Zimbabwe, which resulted in the Government of National Unity (GNU) between the opposition MDC and the governing ZANU-PF), the conduct of peaceful elections, and promotion of the rule of law (see Figure 3 on page 71).

The abovementioned three components of the RtoP are essential for a holistic, legitimate, and accountable approach to human security. According to Chandler (2004: 60), the development of a

69

continuum of intervention (responsibility to prevent, react, and rebuild) "was tactically meant to win greater international support for military intervention in extreme cases of humanitarian catastrophe". Thus, the ICISS report created a framework for intervention measures, and for this purpose defined criteria of legitimacy to be applied by the international community in its approach to intervention for human protection purposes. These criteria include the following:

- right [morally justified] authority (the entity mandated to authorise military intervention);
- just cause (the seriousness of the harm threatened);
- right [morally good] intention (the motivation for and primary purpose of military intervention);
- last resort (the reasonable availability of peaceful alternatives);
- proportional means (the proportionality of the response must be the minimum that is required); and
- reasonable prospects to remedy the crisis (weighed against the balance of consequences).

Figure 3: The RtoP Rebuilding Toolbox

Concerning the 'right authority', the commission pointedly expressed its determination not to undermine the authority of the UN Security Council, which it regards as the most appropriate and legitimate body to sanction coercive international measures, but rather to assist the Security Council in improving its responses to crisis situations. In respect of 'just cause', the report maintains that for any military intervention there must be evidence of serious and irreparable harm to humanity, or that such harm must be imminent and likely to occur -- for example, the large-scale threatened loss of life through genocidal intent (ethnic cleansing), or state neglect and an inability to act.

In addition to these so-called "threshold" criteria, the report also articulates a number of precautionary criteria. Concerning the 'right intention', the report contends that the primary motive

71

for any intervention must be to halt or avert human suffering, and that such proposed intervention should take place on a collective or multilateral rather than a single-country (unilateral) basis with the consent of the victims involved. Regarding military intervention, the report places a strong emphasis on exhausting all peaceful options, and asserts that resorting to military means should be the 'last resort'. The RtoP concept does not, therefore, necessarily dictate military intervention. It notes a range of non-military measures (including targeted sanctions, and the enforced sheltering of people who are at grave risk) that could be implemented at the discretion of the international community. However, where intervention is of a military nature as a last resort, the report advocates the use of 'proportional means'. It is argued that the scale, duration and intensity of any planned military intervention should be the minimum necessary to secure the defined human protection objectives. Of importance is also the emphasis on 'reasonable prospects' or chances of success in halting or averting the suffering which had justified intervention. In brief, any form of military intervention must have a realistic chance of success and not worsen the situation (ICISS 2001: xii).

Weiss (2004), however, goes deeper into interrogating the ICISS's conception of crimes against humanity, alleging that the ICISS Report omits important categories, such as slavery, murder, and imprisonment, as listed in the 1998 Rome Statute of the ICC. Consequently, such a diminished interpretation 'misleads' the international community with regard to the kinds of situation or crimes targeted by the RtoP. Adding to the inconsistencies within the 2001 ICISS Report, Acharya (2002: 377) notes that, statistically, the report is vague in terms of what is meant by 'large-scale loss of life'. This is complicated by the lack of a benchmarking standard that is applicable to all crisis situations.

3.4 Global Endorsement of the RtoP by the 2005 World Summit

Despite its presumed utility as a new norm for intervention for human protection purposes, the RtoP only attracted attention as an idea --- more specifically, from academics and a range of researchers. Evans, Bellamy, Thakur and De Waal, among other commentators, share the view that the RtoP idea was overshadowed by the 9/11 attacks in 2001 on the US World Trade Centre (WTC) and the Pentagon. Initially, it appeared that the aspirations and stipulations of the ICISS

2001 Report would pale into insignificance. Exploring ways of responding to the threat of international terrorism became the major focus of the UN and other major players in global governance. The RtoP only earned recognition as a potential international public-policy option in 2004 when a panel of experts commissioned by the UN Secretary-General to explore ways in which global human security threats could be combatted, cited the RtoP as a potential framework to address such threats (Loiselle 2013). This prompted the Secretary-General in his response to the Report of the 'High-Level Panel on Threats, Challenges and Change' to urge member states to embrace the RtoP in matters threatening international peace and security (Annan 2004). The panel recommended the adoption of the RtoP, especially on the question of the role of force in matters of intervention for human protection purposes. The basic criteria --- that is, the "seriousness of a threat, proper purpose, last resort, proportional means, and reasonable chance of success" --- were all adopted as they originally appeared in the ICISS 2001 Report (Wheeler 2005: 5). Building on the ICISS Report, the panel further emphasised the UN Security Council's role as the ultimate source of "authority" on RtoP matters.

Prior to the WSOD, Swedish Prime Minister Goran Persson took advantage of the September 2004 UN General Assembly session and lobbied for the incorporation of the RtoP in the foreign and domestic policies of all countries (Amneus 2006: 311). The idea was that if the RtoP is domesticated in every country, it will also enable states to accept accountability and responsibility in their overall conduct. Significantly, in 2004 the UN High-Level Panel on Threats, Challenges and Change did acknowledge the RtoP as an emerging norm for collective international responsibility to protect (Amneus 2006). This was demonstrated by the creation of the office of the Special Advisor on the Prevention of Genocide in April 2004 as part of the overall strategy to combat threats to international security.

However, the 2005 World Summit marked a turning point in the global embracing of the RtoP concept. The RtoP assumed official international relevance when the UN Secretary-General presented a report to the World Summit entitled, *In Larger Freedom: Towards Development, Security and Human Rights for All*. In the report, Kofi Annan recommended that states should "embrace [the emerging norm of the RtoP] and, when necessary, act on it" (Annan 2005: 33). The Secretary-General's recommendations culminated in the historic endorsement of the RtoP norm

73

by more than 150 heads of state and government. Since this global consensus was reached, the RtoP has become the guiding framework for all matters that warrant intervention to protect humanity at risk (Loisselle 2013, 2009).

Reiterating the UN High-Level Panel's recommendations, the Summit (in Paragraphs 138 and 139 of the Outcome Document) explicitly states that every state, individually, has the responsibility to protect its population from genocide, war crimes, ethnic cleansing, as well as the incitement thereto (ICRtoP 2013; Evans 2008; WSOD 2005). It is further emphasised that the endorsement of the RtoP by the World Summit is significant in that it demonstrated the collective acceptance of the norm by the international community (Wheeler 2009; Evans 2008). More importantly, the ICRtoP assumed an element of preparedness by the international community in responding collectively, timeously and decisively to all compelling situations threatening human security (ICRtoP 2013). The key underlying tone of all these reports, declarations and documents is the need to redefine state sovereignty, shifting it from merely sovereignty as power to 'sovereignty as a responsibility' (Deng 1995). The final Summit Resolution also maintained the ICISS's stance on the conception of sovereignty as relational and dependent upon a state's ability to provide its citizens with the basic needs to survive.

According to Bellamy (2009), the 2005 World Summit marked a watershed in the history of humanitarian intervention and adoption of the RtoP norm as it communicated the realisation that state sovereignty should not trump human rights. More importantly, he lauds the Summit for transforming the RtoP from "[a] 'concept' --- an idea --- [in]to a 'principle'" (Bellamy 2009: 6). This view is amplified by Evans (2008: 44), who adds that fundamental to the Summit is that it signalled "a big step forward in terms of formal acceptance of the RtoP". Following the adoption of the RtoP by the Summit, the UN Security Council reinforced the international legitimacy of the RtoP by formally endorsing the abovementioned paragraphs of the WSOD (UN Security Council 2006).

Furthermore, the WSOD (2005) insists on the central role of the UN in authorising intervention for human protection purposes by making reference to interventions in line with Chapter VII of the UN Charter. This is also consistent with the original recommendations in the ICISS 2001

74

Report. Again, this demonstrates the "vitality and utility" of the RtoP in enhancing the international community's capacity to protect people at risk (Evans 2008: 55). In essence, the adoption of the RtoP signifies some kind of international breakthrough and represents the most recent codification of humanitarian intervention at a global level. Initially, the RtoP has been popularised as a principle or norm in several policy and academic writings, and the emphasis on duties and obligations qualified it as part of an international regime. Regimes, as explained by Krasner (1982), are sets of principles, norms, rules and decision-making procedures around which international actors converge on a particular issue-area. Through the UN General Assembly, RtoP proponents had hoped that it would assume regime status as evidenced by the outcome of the 2005 World Summit which, in this case, makes reference to the globally agreed upon roles and responsibilities for preventing and responding to mass-atrocity crimes and genocide (WSOD 2005). This is also attested to in Paragraph 138 of the WSOD (2005), where member states collectively agreed to the international obligation to act in the event of state failure to stop crimes against humanity, war crimes, ethnic cleansing, and the crime of genocide.

However, a critical reflection on the 2005 WSOD shows some divergence from the original principles outlined in the 2001 ICISS Report. Indeed, the period between 2001 and 2005 was what Bellamy (2012: 9) calls a "process of norm-contestation and norm-diffusion". Not everything proposed by the ICISS was adopted in the 2005 WSOD. Notably, the ICISS initially proposed some "limits to the use of the veto" by the UN Security Council, as well as the criteria on the use of force, but these were scrapped (Bellamy 2012: 9). It is further noted that the suggestion that, in the absence of consensus by the P5 (the permanent members of the UN Security Council, namely the US, the UK, France, Russia, and China), the UN General Assembly or regional organisations may authorise the use of force was not entertained by the World Summit (Bellamy 2012; Bellamy 2006). There is concern that such a deliberate omission seriously undermined and reduced the RtoP to a "simple preparedness" rather than an "obligation" (Bellamy 2006: 167). In his criticism, Bellamy (2006) further observes that in light of the controversial US invasion of Iraq, experts on the RtoP had to water down the concept in order to market the idea.

The 2005 WSOD also makes no mention of the precautionary principles guiding military intervention. The ICISS 2001 Report had proposed the following preconditions for intervention:

right intention, last resort, proportional means, and reasonable prospects for success. But the US was singled out as the chief opponent to these provisions, since it feared that this would put restraints on its use of military force (Bellamy 2006). The WSOD (2005) and the ICISS (2001) reports also differ in their positions on alternative measures in situations of inaction by the UN Security Council. The ICISS recommends that the UN General Assembly would act under the auspices of the 'Uniting for Peace Declaration' or, alternatively, through regional collective action (Brown 2008). The 2005 WSOD, however, insisted that the UN Security Council be the sole legitimate authority, and only made cosmetic provision for "co-operation with regional organisations, as appropriate" --- not necessarily as a real initiative or pro-active alternative authority (Brown 2008: 61). It may be argued that the objection by the P5 to cede or restrict their veto right may have been influenced by the quest for not altering the traditional structure of the UN Security Council. This makes sense when weighed against the view that the RtoP was put forward amidst a worldwide push to reform the structure and functions of the Security Council.

Other divergences between the 2001 ICISS Report and the 2005 WSOD have regard to their explanation for the stage at which the RtoP shift from the national to the international sphere. The 2001 ICISS's position is that international involvement is only factored in when the state is 'unable or unwilling' to discharge its duties as a responsible, sovereign entity. The WSOD, however, adjusted the phraseology of the ICISS and incorporated the phrase "manifest failure" as the defining principle which should trigger international responsibility (Brown 2008: 61). What militates against the choice of the phrase "manifest failure" is the omission by the Summit to define and qualify the meaning of this phrase. However, the Summit Report should be credited for furthering the debate on the threshold for a 'just cause' by including crimes against humanity, genocide, war crimes, and ethnic cleansing. The ICISS Report had loosely defined the foregoing by making reference to "actual or imminent, large-scale loss of life, ethnic cleansing, including but not limited to genocide" (ICISS 2001: 32). Despite pioneering the utilisation of the RtoP in humanitarian-related matters, in this regard the ICISS position is criticised for being unclear, thereby complicating the humanitarian intervention conundrum. Nevertheless, Bellamy (2006: 93) categorised the deliberations at the Summit as a "shaky consensus", given the omissions and watering down of the original ICISS language.

76

The WSOD concentrated on three crimes and human violations: genocide, crimes against humanity, and ethnic cleansing (ICRtoP 2013). As will be demonstrated in Chapters Four and Five, this explains why other threats like HIV/AIDS, environmental catastrophes, and state-induced crises like famine or starvation were not included under the rubric of the RtoP. UN Secretary-General Ban Ki-moon, in his 2009 Report entitled *Implementing the Responsibility to Protect*, justifies this deliberate omission, arguing that inclusion of such issues would undermine and dilute the original value of the RtoP (Ban 2009). Another important omission by the WSOD concerns the responsibility to rebuild.

Following up on the deliberate omission of the last pillar of the ICISS --- that is, the responsibility to rebuild --- it would seem that the establishment in 2011 of the Office of the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-Recurrence can be interpreted as one way of strengthening the realisation of the RtoP. In March 2012, Pablo de Greiff was appointed by the UN Human Rights Council (UNHRC) to lead in matters of post-conflict rebuilding (UNHRC 2012). Nevertheless, despite the controversies surrounding the Outcome Document with regards to the conceptual scope of the RtoP idea, the 2005 World Summit represented a significant symbolic victory for the normative imperative to protect populations at risk.

As discussed in the previous chapter, the RtoP concept is situated within the broader framework of the critical human security paradigm of IR theory. The interpretation of security proffered by the ICISS complements that of the 1994 UNDP definition of security as "the securing of people, their physical safety, their economic and personal well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms" (ICISS 2001: 15). Fundamental to the ICISS's approach is that it gives primacy to the protection of citizens at risk of atrocities arising from failure to act against it by the state, or perpetrated by the state. Tadjbakhsh (2005) broadens the HS debate by suggesting the need to identify threats, avoid them where possible, and mitigate their effects when they do occur. Re-enforcing this mind-set is the 2003 Japanese-sponsored 'Commission on Human Security' which recommends the creation of strong political, social, environmental, economic, military, and cultural systems in order to enhance human survival.

Human security proponents raise a moral argument that "governments and the international community should establish viable response mechanisms to deal with threats to humanity" (Tadjbakhsh 2005: 4). Again, this is the vacuum that the RtoP endeavours to fill. Thus, the 2001 ICISS Report on the RtoP stipulates who should provide human security as a public good. As noted by Tadjbakhsh (2005: 6), "a truly effective state is one that can provide human security and deal with social breakdowns … [among] its people". Building on the human security framework, it is plausible to assert that when states fail to live up to the principle of 'sovereignty as responsibility', then other actors, such as international organisations, not only have the moral responsibility but the obligation to act.

Thakur (2007) argues that the debate on HI has been waged at a normative level, and this calls for situating the RtoP within the parameters of the normative theories of IR. This connects the RtoP norm to the re-emergence of ethical considerations in the practice of humanitarian intervention in the post-cold war political system. The RtoP emerges as some form of normative displacement from the settled norm of non-intervention as enshrined in the UN Charter. Again, the RtoP provides "a fresh conceptual template" (Thakur 2007: 245) for reconciling state sovereignty and intervention for human security purposes. Thakur and Weiss (2009: 23) define a norm as "the pattern of behaviour that should be followed in accordance with a given value system or moral code of society --- a generally accepted standard of proper behaviour". In this case, the RtoP proffers a normative explanation about 'why', 'when', 'how' and 'who' should respond to an emerging threat to human security.

Chandler (2004) expands on the theoretical development of the RtoP norm by locating it within the confines of liberal peace theory. This theory advocates the development of international norms for the safeguarding of human rights and challenges the realist theory's contention of the inevitability of war by arguing that international peace and security can be attained through "cosmopolitan frameworks" (Chandler 2004:60) like the propagation and promotion of democratic states. Chandler further interprets the RtoP in the context of a 'new HS architecture', arguing that peaceful and democratic states should play a leading role in and take responsibility for the attainment of universal peace. In light of this view, it is plausible to argue that the commission's

78

initiative to reform the international order by propounding the RtoP concept enhances the human security and human rights discourse. Elaborating on the same position as espoused by the liberal peace theory, RtoP proponents claim that the concept, unlike conventional HI, heralds a recent international policy framework for responding to conflict-related emergencies which is "ethically based and not interest-based" (Chandler 2004: 62). Kaldor (2007) explains this transformation in the praxis of HI through the lens of the cosmopolitan model of the post-liberal policy framework. While acknowledging the role of the state in its domestic jurisdiction, it is argued that the interconnectedness of the world also means the internationalisation of risk; hence, the need for a "multilateral set of rules and procedures", as well as "cosmopolitan" solutions (Kaldor 2007: 97).

But Chandler (2004: 84) is not in agreement with Kaldor's (2007) theoretical approach to the evolution and development of the RtoP norm. The theory is castigated for being reductionist, especially for 'implicating globalisation' for all these norm-changes and transformations. Chandler believes that the post-liberal approach fails to acknowledge that values and interests are interconnected, and that the role of power structures in norm-crafting and propagation should be accounted for. The contention here is that the multilateral approach that is touted only functions when there is a dominant force capable of transposing these norms and values to the peripheral zones. However, despite the controversies and divergences in the theoretical conception of the RtoP, all these theories do concur that the RtoP represents a landmark evolution in the normative debate on intervention for human protection purposes, and that it enriches the aims and objectives of the broader framework of the human security paradigm.

3.5 The Conceptual Development of the RtoP since the World Summit

A decade after the World Summit unanimously endorsed the RtoP as a new international code of conduct pertaining to interventions for human protection purposes, it is appropriate to examine its progress. There are various scholarly contestations dealing with its practical relevance and progress on the ground. Quite optimistically, the RtoP has been widely celebrated by many humanitarian advocates as a progressive norm. Weiss (2009: 576) notes that with the "possible exception of the prevention of genocide after WWII", no idea has moved faster or further in the

international normative arena than the RtoP. And, most importantly, since the publication of the ICISS 2001 Report, the principle has permeated every debate about humanitarian crises**.**

Since the global endorsement of the RtoP by the 2005 World Summit, different actors in the international system put forward initiatives for strengthening the development of the RtoP norm. In his 2009 Report to the UN, Ban Ki-moon distilled the RtoP concept into three separate 'pillars' that allow for a logical and concentric approach to protection. The first is the primary responsibility of the state to protect its own citizens; the second is the international community's responsibility to enhance the primary responsibility of states in this regard by providing assistance and capacity-building; and the third is the responsibility of the international community to respond timeously and decisively when a crisis do emerge (Ban 2009). Significant to his revised model of the RtoP is that it emphasises a flexible response to crises rather than a one-size-fits-all approach. Ban (2009) also proposed the creation of the Office of the Special Adviser on RtoP in a bid to bolster the global operationalisation of the norm. It is argued that the office is meant to be a "watchdog" for alerting the world community to situations threatening human security (ICRtoP 2013: 17).

There is also a 2010 report by the UN General Assembly on 'Early-Warning Assessment and the Responsibility to Protect' meant to bolster the UN's early-warning capacity on RtoP matters (UN General Assembly 2010). Moreover, in line with Paragraph 139 of the WSOD, the UN General Assembly published a report in 2011 emphasising the need to strengthen the regional and sub-regional implementation of the RtoP norm (UN General Assembly 2011). This supports the WSOD contention that regional and sub-regional organisations can be helpful in responding timeously and decisively to situations of genocide, war crimes, ethnic cleansing, and crimes against humanity.

An important development in the history of the RtoP is the February 2008 establishment of the Global Centre for the Responsibility to Protect (ICRtoP). The centre draws together expertise from the International Crisis Group (ICG), Human Rights Watch (HRW), Oxfam International, Refugees International, the Asia-Pacific Centre for the Responsibility to Protect, and the Institute of Global Policy and is intended to reinforce the utility and vitality of the RtoP through research and outreach programmes (Sarkin 2009). In Canada, the Montreal Institute for Human Rights and

Genocide Studies (MIGS) initiated the 'Will to Intervene (W2I) Project' in 2009, meant to assist governments and civil society organisations in protecting humanity at risk (MIGS 2009).

For all practical purposes, the RtoP was invoked during the 2008 UN mediation in Kenya following post-election ethnic violence in which an estimated 1 000 people were killed and 300 000 displaced (ICG 2010: 1). Sarkin (2009) notes that UN Secretary-General's Special Advisor on the Prevention of Genocide Francis Deng, in co-operation with former UN Secretary-General Kofi Annan, successfully mediated a political settlement and persuaded the Kenyan leadership to heed the RtoP warning that they could be held accountable for mass violations of human rights. Likewise, global civil society invoked the RtoP norm in the Kenyan case. The move was in line with the pronouncement made by South African Archbishop Emeritus Desmond Tutu: "What we are seeing in Kenya is action on a fundamental principle, the Responsibility to Protect" (Tutu 2008: 2). Such positive support from global leaders helped to raise global awareness (early warning) and, hence, a swift response to the crisis in Kenya.

In addition to positive developments on the RtoP (as in the case of Kenya), the norm has also been endorsed by religious leadership at the global level. For example, the Roman Catholic Church's Pope Benedict XVI (2008), in an address to the UN General Assembly, encouraged the international community to uphold the values of the RtoP principle, arguing that:

> … recognition of the utility of the human family and attention to the innate dignity of every man and woman, today find renewed emphasis in the RtoP .... the principle has to invoke the idea of the person as an image of the creator.

In the same context, UN Secretary-General Ban Ki-moon, in his 2008 address to the AU Summit in Addis Ababa, again pledged his support for the RtoP norm, stating: "I'm fully committed to keeping the momentum [going] that you world leaders have … [created] at the 2005 World Summit, and will spare no effort to operationalise the RtoP" (Ban 2008).

A number of initiatives towards the globalisation of the RtoP norm have been proposed by UN Secretary-General Ban Ki-moon. An example is his 2009 report on implementing the RtoP that

culminated in the adoption of UN General Assembly Resolution A/Res/63/308 in October 2009. The resolution affirms that:

> … recalling the 2005 World Summit Outcome Document, especially Paragraphs 138 and 139 thereof, takes note of the report of the Secretary-General and of the timely and productive debate organized by the President of the General Assembly on the responsibility to protect, held on 21, 23, 24 and 28 July 2009, with full participation by member states ..." (UN General Assembly 2009).

Demonstrating the wide acceptance of the RtoP as a global manual for protecting humanity at risk is the fact that, since the 2005 adoption of the norm by the WSOD up to the present (2015), the UN Security Council has referenced the RtoP in more than 27 cases. On 27 January 2007, the Security Council reminded the DRC and Burundian governments of their primary responsibility to protect their people (UNSC/Res1653: 2006). On the situation in Darfur, the Security Council adopted a number of Resolutions, namely 1547 (11 June 2004), 1556 (30 July 2004) and 1564 (18 September 2004). In all these resolutions, the Security Council referred to Paragraphs 138 and 139 of the WSOD in relation to the protection of populations at risk. The RtoP was also invoked in Resolutions 1970 and 1973 that authorised the intervention in Libya in 2011. Following the crisis in Côte d'Ivoire, Resolution 1975 of March 2011 again made reference to Paragraphs 138 and 139 of the WSOD. Other notable resolutions adopted in line with the RtoP include Resolutions 1996 (8 July 2011), 2109 (11 July 2013), 2155 (27 May 2014) and 2206 (3 March 2015) on the situation in South Sudan. In the case of Yemen, Resolutions 2014 (21 October 2011) and 2014 (21 October 2014) made reference to the RtoP. The situation in Mali also saw Security Council Resolutions making reference to the RtoP: for example, Resolution 2012 (19 December 2012) and Resolution 2100 (25 April 2013). These, among many others, indicate that the RtoP is gaining credence as a manual for responding to global humanitarian crises (ICRtoP 2015).

A notable policy development at state level is the creation of the Atrocity Prevention Board (APB) under the Obama Administration in 2012. Under the APB, the US commits itself to saving humanity at risk through the development of national intelligence reports for early-warning and estimates on the global risk of mass atrocities and genocide. It also include new targeted sanctions, the creation of a 'New Executive Order' authorising the imposition of sanctions and visa bans

against those responsible for crimes against humanity, and military planning for mass-atrocity response operations (Jentleson 2012; The White House 2012). This has shown that the US is willing to institutionalise its rhetoric on the RtoP (Jentleson 2012; Norris and Malknecht 2013).

At the AU level, despite embracing the RtoP in its Constitutive Act, political developments during 2012 in Mali (where the head of state was ousted in a military coup) prompted the AU leadership to establish the African Capacity for Immediate Response to Crisis (ACIRC) at the 21st Ordinary Session of the AU Assembly of Heads-of-State-and-Government in Addis Ababa in May 2013. It is fair to say that by establishing the ACIRC, the AU leadership has tried to galvanise the development and operationalisation of the RtoP on the continent (Theroux-Beroni 2013). Arguably, this is also in response to criticism that the AU defaulted on its RtoP obligations during the crises in Libya and Cote d'Ivoire.

Having looked at progress made and support for the RtoP, it is also appropriate to examine the pessimism surrounding its actual application. In this context, it should be kept in mind that acknowledging and endorsing the utility of the RtoP, on the one hand, and operationalising its principles on the other, is two completely different issues. A survey of views from Asia, Africa, Latin America, and the Arab world illustrates that leaders from these areas have been sceptical about the notion of the RtoP, ever since it conceptualisation by the ICISS. During the 2001 ICISS Round Table Consultation in Beijing, Chinese officials raised concerns about the RtoP concept, stating that "humanitarianism is good, but humanitarian intervention is tantamount to marrying [the] evil and [the] good" (ICISS-RTCB 2001). Thakur (2007: 264) notes that despite generally harbouring a poor human rights record, developing countries "sing their own tune", and this leads to a normative contestation between the global South and the global North. The more serious accusation is that the North are monopolising power privileges and there is need for "sharing the management of [the] international order" (Weiss and Hubet 2001: 349). Ayoob (2004) intimates that Third World historical memories, especially about colonialism, leave them with no option but to cling to the principle of sovereignty as a shield against any perceived policy of domination. Such a view implies that the RtoP, by trying to deconstruct the settled norm of sovereignty and non-intervention, masks neo-colonialist tendencies. Echoing the same sentiments, Acharya (2002: 377) argues that the RtoP, just like the conventional practice of humanitarian intervention, is likely

83

to remain a "prerogative of the powerful states". This is raised against the background of global political-power structures, where the North will remain "norm-setters and the South remain norm-violators" and, again, will remain the "subjects and not objects" of intervention (Acharya 2002: 376).

In his address to the 60th Ordinary Session of the UN General Assembly in September 2005, Venezuelan President Hugo Chavez intimated that the RtoP seeks to grant powerful states a licence to interfere in the internal affairs of weaker states rather than fostering global co-operation on humanitarian issues (Bellamy 2011b; Chavez 2005). In his view, what happened in Iraq was a dangerous precedent for moral arguments that are advanced in order to mask imperialist ambitions. Today, Iraq is more unstable and in turmoil than it was under Saddam Hussein's regime. As stated by Weiss (2004: 135), the RtoP can be used as a "Trojan Horse" by great powers to intervene arbitrarily. During the 2009 UN General Assembly debate on the RtoP, Sudanese delegate Amanuel Yoanes Ajawin lamented that giving the UN Security Council the responsibility to conduct RtoP actions is like "giving the wolf the responsibility to adopt a lamb" (UN General Assembly 2009). Members of the Non-Aligned Movement (NAM), such as India and Malaysia, objected to the RtoP concept on the grounds that there were enough institutional structures to deal with complex humanitarian emergencies. What lacked was the political will to deal with such crises (Bellamy 2011b).

Chandler (2008) contends that the RtoP suffers from a clear demarcation line between 'appearance and reality' and that, paradoxically, the universal adoption by the 2005 World Summit does not automatically translate into practice. As intimated by Hamilton (2006), a mere change in conceptual language from HI to RtoP does not communicate global action and consensus. In actual fact, the RtoP is still faced with the very same challenges that bedevilled the traditional conduct of humanitarian intervention, especially the question of authority, capacity, and political will. Ayoob (2004) argues that RtoP principles have no impact on *realpolitik*. Global politics will always be at the heart of every concrete decision taken by the international community.

Another area of concern relates to the practical application of the RtoP norm. As noted by Murithi (2007: 18), "… having a principle enshrined in the [AU] Constitutive Act and making sure that

countries live up to it are [two] completely different things". There is too much scepticism stemming from historical experiences and matters of global power politics that inhibits African states from being receptive of the RtoP norm (Spies and Dzimiri 2011). Murithi (2007) argues for a more constructive and feasible hybrid partnership between the UN, regional and sub-regional organisations in implementing RtoP principles. In the same vein, Ajayi (2008: 2) asserts that global-regional partnerships, if structured more carefully, could "maximise comparative advantages and ensure a positive complementary role".

Axworthy and Rock (2009), from a gendered perspective, criticises the RtoP for not taking into account the experiences of women and children in humanitarian crises. They argue that the word 'gender' does not feature in the ICISS Report, yet women and children are the most vulnerable in those crisis situations which the RtoP endeavour to address. Similar sentiments are shared by Bond and Sherret (2006), who argue that the unique experiences of women in war and conflict situations deserve not only special, but separate treatment. Gender voices should also guide the response mechanisms. This is completely absent in the ICISS Report. Arguably, the report did set the pace on how to analyse and respond to humanitarian situations, and the foregoing observation should be treated as some kind of further enhancement and not as a criticism of the RtoP.

Fundamental to the contempt for the RtoP norm is its alleged erosion of Westphalian absolutist sovereignty, which assured states of their exclusive autonomy and self-determinism in matters of domestic jurisdiction. Critics of the RtoP concept religiously oppose the assertion that sovereignty is divisible. In this regard, the conception of sovereignty as relational and conditional rather than insular and indivisible, as advanced by Slaughter (2004), is fiercely being contested. The same applies to the argument by Weiss (2004) that state sovereignty in the post-RtoP era is still intact, except that the RtoP has reaffirmed existing elements, characteristic of a legitimate sovereign state, which is a respect for human rights and an ability to be responsible for the peace and security of its citizenry.

As stated above, despite the unanimous endorsement and adoption of the RtoP norm by member states of the UN in 2005, its operationalisation and implementation has not been achieved. In the light of this and other developments, the operational principles of, and mechanisms for, this

85

nascent doctrine have been widely questioned and criticised, including the extent to which parties to this norm (nation-states, sub-regions, and regions) have committed themselves to its realisation.

The conviction of RtoP proponents and the wider international community is that, by changing its vocabulary from 'right' to 'responsibility', the ICISS Report goes a long way in shaping HI as an acceptable norm and practice in international society. In respect of what is happening in Zimbabwe and Darfur, this thesis will argue that the RtoP discourse has made a timely contribution towards intervention for human protection purposes.

3.6 Conclusion

This chapter demonstrated the pre-ICISS emergence of the RtoP idea through the pioneering work of Francis Deng and Roberta Cohen in their book, *Sovereignty as Responsibility: Conflict Management in Africa* (1996). In fact, this volume provided a conceptual template for the RtoP idea. The discussion also revealed the critical role of the then UN Secretary-General Kofi Annan, challenging the international community to find solutions to worsening humanitarian conditions, as evidenced by the inaction on Rwanda in 1994, as well as the controversial intervention in Kosovo. It emerged that the Canadian-sponsored ICISS took up the challenge and brought more conceptual clarity on responsible sovereignty through their 2001 Report on the RtoP.

The chapter further illustrated how drawing experts for the Commission from both the developing and developed world helped to address the issue of representativeness when it comes to normative deliberations within the international system. Also, it was demonstrated that the emergence of the RtoP norm was a process (and remains a process) rather than being a mere event. The landmark report of the ICISS emanated from a wide consultation process amongst academia, civil society organisations, and officials. The purpose of the Commission was to communicate a message of responsible sovereignty (Evans 2008; Thakur 2007). Over time there was a change in conceptual language from 'right to intervention' to 'responsibility to protect', which assisted in reminding sovereign states of their obligation to take care of the security of their own citizenry.

The chapter also illustrated how the notion of the RtoP is linked to human rights conventions and instruments, such as the 1948 UN Convention on Human Rights (UNCHR), as provided for in Articles 39, 40, 41 and 44 of the UN Charter, respectively. The foundation for the RtoP is also linked to the 1948 Genocide Convention, the African Charter on Human and People's Rights (ACHPR), and the original purpose of the UN Charter, namely the maintenance of international peace and security. It has emerged from the discussion that key to the RtoP concept are three key responsibilities bestowed on the international community, namely the responsibility to prevent, the responsibility to react, and the responsibility to rebuild. As recommended by the ICISS, the RtoP entails the fundamental obligation to address the root causes of conflicts before they become violent. This takes into consideration the role of preventive diplomacy. Furthermore, it emerged from the discussion that in situations where prevention fails, reaction should follow, but it has to be sanctioned by a responsible authority such as the UN Security Council, or through sub-regional organisations (like the SADC or ECOWAS) under the auspices of the UN's principle of 'Uniting for Peace'. Peculiar to the RtoP concept is that for any intervention to be credible, it must assume a multilateral character. This represents a strong paradigm shift from HI to RtoP, whereby the responsibility to react is derived from 'just war' philosophy, meaning the use of force should be justified in order to achieve the common good.

As argued in this chapter, the responsibility to rebuild envisages all the post-conflict/crisis-reconstruction initiatives, communicating the message that reaction is not an end in itself. It also showed Africa's commitment to the RtoP norm as evidenced by the AU Constitutive Act. The adoption of the RtoP by the AU demonstrated a ground-breaking departure from 'non-interference to non-indifference', as pointed out by Mwanasali (2009).

Having defined HS as the protection of humanity from both violent and non-violent threats, it has been argued that the RtoP enhances the attainment of human security by detailing the multilateral rules and procedures for protecting humanity at risk. This is authenticated by the provision that "if the state fails to exercise the duties of a responsible sovereignty, it becomes imperative for the international community to act" (ICISS 2001). The normative value of the RtoP is to forge a consensual path for the conduct of HI, especially the aspects of 'when', 'where, 'how' and 'why'.

With regard to the genesis of the RtoP norm, it has been shown that Africa can take a substantial share of credit, evidenced by the pioneering work of Francis Deng. Acknowledging Africa's stake in the development of the RtoP, the AU became the first inter-governmental organisation to embrace the fundamental values of the RtoP in its Charter --- the AU's Constitutive Act codifying a shift from the traditional principle of non-interference to the new principle of non-indifference.

As an assessment of the progress made to date, it has been argued that globally the RtoP norm is gaining more and more acceptance, though with some reservations. An important development in the life of the RtoP, which informs the framework of analysis for this study, is the RtoP 'Toolbox', developed by Gareth Evans in 2008. With the Toolbox, Evans (2008) augments the ICISS position that the RtoP involves a continuum of measures ranging from prevention and reaction to rebuilding. Significant to the Toolbox is the reference to direct and structural prevention measures, which can manifest as political-diplomatic, socio-economic, constitutional, and security-sector initiatives. The ICRtoP, in its 2013 Report, reinforced Evans's notion of direct and structural prevention measures by stressing the importance of developing up-stream and down-stream institutional mechanisms for early-warning capabilities in order to mitigate threatening situations that might lead to humanitarian crises. Evans's Toolbox stipulates that direct reaction measures, with military intervention as a last resort, should be factored into a situation where a state's inability or unwillingness to resolve a humanitarian crisis becomes apparent. Both the 'Toolbox' and the 'Toolkit' made it quite clear that reaction only comes into play as a last resort. Pertinent to Evans's Toolbox framework is the revival of the ICISS's notion of rebuilding which was not entertained by the WSOD. The discussion on the Toolbox revealed the importance of adopting structural measures in protecting civilian populations through rebuilding initiatives.

The chapter also examined the feasibility of operationalising the RtoP, and argued that scepticism and normative contestation between the global South and the global North seems to be a serious impediment. Clearly, embracing and implementing the RtoP experienced its own practical and operational setbacks. As noted by Acharya (2002), the RtoP (just like conventional HI) will remain a prerogative of the powerful. Thus, the 2011 NATO-led intervention in Libya resulted in serious tensions within the RtoP discourse. What could have been a new dawn or new era in terms of norm-operationalisation ended up widening the gulf between the proponents and opponents of the

RtoP. In what Chimni (2013: 1) described as "imperialism with a human face", the operationalisation of the RtoP resulted in regime change as opposed to its intended objective of saving civilian lives at risk and this, arguably, rendered the norm a weapon of the mighty against the weak (Chimni 2013; Breakey 2012; Sarkin 2012). As noted by Evans (2008), the main drawback of the RtoP is its controversial political nature, and unless the norm becomes evident in customary international law, questions about the legality of interventions will continue to emerge.

In the next two chapters, the RtoP norm will be applied contextually in order to examine the extent to which the international community utilised the available tools for norm-implementation in responding to the crises in Zimbabwe and Darfur.

CHAPTER FOUR
APPLICATION OF THE 'RESPONSIBILITY TO PROTECT': THE CASE OF ZIMBABWE

4.1 Introduction

This chapter examines the reaction of the international community to the humanitarian crisis that erupted in Zimbabwe in 2000 and considers the extent to which its responses have been guided (implicitly or explicitly) by RtoP principles. The evolution and consolidation of the humanitarian crisis will be considered, with specific focus on the human security impact of government policies, in particular Operation *Murambatsvina* (the destruction of what were deemed illegal housing structures in major cities in Zimbabwe in May 2005). The increased militarisation of governance structures in the country, and its instrumental role in the crisis, will also be considered. Thereafter, the international response to the crisis will be analysed, especially the responses of IGOs and state actors at the bilateral, regional (African), and multilateral levels (international). In terms of NGO responses, special attention will be paid to international civil society groups with a presence *in loco.* In regard to bilateral responses, the prime focus will be on South Africa, Botswana, Zambia, the US, the UK, and China. The reasons for the selection of these specific states will become clear in the course of the discussion. SADC and AU responses are germane on account of Zimbabwe's membership of these key multilateral bodies. Attention will also be given to the reactions of NAM, the Commonwealth, and the UN in view of their historical and political significance to Zimbabwe, as well as their large global membership.

The responses of the various international actors were significantly influenced by diverse, often mutually exclusive, interpretations of the main causes of the crisis. While some argue that the Zimbabwean crisis did not amount to crimes against humanity and, therefore, at no stage called for the RtoP norm to be invoked, others contend that the crisis did indeed warrant intervention of such a nature. Thus, implicit in the discussion of the unfolding humanitarian crisis in Zimbabwe is the question of whether or not the regime's actions (or lack thereof) amounted to a systematic abuse of the civilian population, as discussed in Chapters Two and Three above.

90

This examination will be based on two of the three main components of the RtoP norm: prevention, and reaction. The third component, namely the 'responsibility to rebuild', will not be part of the conceptual framework of this chapter, since no actual humanitarian intervention occurred in the case of Zimbabwe. In discussing the international response, it will be necessary to revisit the RtoP 'Tool Box' propounded by Gareth Evans (see Figure 1 on page 65, Figure 2 on page 69, and Figure 3 on page 71 in Chapter Three above, showing the Prevention and Reaction Toolbox). This will assist in compiling an inventory of how the RtoP principles were applied, or not applied, in the Zimbabwean crisis situation.

4.2 Evolution of the Humanitarian Crisis in Zimbabwe

4.2.1 The Genesis of the Crisis: Pre-2000

To trace the evolution of the humanitarian crisis in Zimbabwe, the country's post-colonial political landscape must be sketched. Zimbabwe is a landlocked Southern African country and shares borders with Mozambique in the East, Zambia in the North, Botswana in the West, and South Africa in the South (see the map of Zimbabwe in Appendix 1). It was a British colony from 1890 to 1980 when independence was attained after a long and protracted war of liberation. What was attained, more precisely, was majority rule --- the white minority regime of Ian Smith had initially claimed independence from British colonial rule with a Unilateral Declaration of Independence (UDI) in 1965. However, the 1979 Lancaster House Agreement paved the way for the white minority regime to cede power to the black majority. The peace treaty that ended Zimbabwe's war of liberation was signed between the British government and the (then) two main political parties in Zimbabwe, the Zimbabwe African National Union (ZANU) and the Zimbabwe African People's Union (ZAPU). Upon the election of Robert Mugabe as Zimbabwe's first black Prime Minister, the country joined a number of regional and other multilateral organisations --- the OAU (now the AU); the Southern African Development Co-ordination Conference, the SADCC (now the SADC); NAM; the Common Market for Eastern and Southern Africa (COMESA); the Group of 77 (the G-77); and the Commonwealth --- and formally entered the international community on

25 August 1980 when it formally became a member of the UN. It proceeded immediately to ratify major international human rights conventions and protocols, and only two years later, in 1982, the OAU nominated Zimbabwe for a two-year term as a non-permanent member of the UN Security Council. Zimbabwe's stint on the Security Council added to the country's international prestige and visibility, and confirmed its status as a responsible and respectable new member of the international community.

The most striking feature of the early phases of the post-independence era in Zimbabwe was the government's ability to develop a vibrant 'forward-looking policy', and the promotion of peaceful race relations that enhanced growth and development in sectors like education, health, agriculture, and social development (Heine 2009: 147). The propitious nature of the post-independence transition also helped Mugabe to wield much power and influence as an iconic African statesman. A focused political and economic policy earned Zimbabwe the title of the "bread basket of Southern Africa" (Sachikonye 2005a: 35), to such an extent that former Tanzanian President Julius Nyerere once even hailed Zimbabwe as the "jewel of Africa" (Heine 2009: 147).

It was not until 2000 that the country was plunged into a serious socio-economic and political crisis. The systemic nature of the crisis was felt in every sector of human endeavour and, in due course, its intractable nature prompted certain critics to label Zimbabwe a 'failed state' (Brett 2010; Coltart 2007). Mlambo and Raftopoulos (2010: 1) argue that Zimbabwe was reduced to both a "pariah state" and a "proverbial basket case". There are, however, divergences in scholarly opinion on the genesis of Zimbabwe's descent into crisis and turmoil. Some scholars, including Mlambo and Raftopoulos, adopt a broader historical approach and trace the crisis back to the early phases of the post-independence era, citing portents such as the *Gukurahundi*, a brutal ethnic war waged by the government in Harare against the Ndebele-speaking people of Matabeleland and the Midlands provinces for allegedly supporting dissident activities in the country. Other scholars view the crisis as a 21st Century problem by attributing it to the Zimbabwe African National Union-Patriotic Front (ZANU-PF) led 'Fast Track Land Reform Programme, FTLRP (Bratton and Masunungure 2011; Brett 2010; Machakanja 2010; Reeler 2009).

Thus, divergences in explaining the Zimbabwean crisis have divided scholars into two distinct camps. Mlambo and Raftopoulos (2010) argue that 'apologetic' scholarship merely sees the crisis as a product of external forces trying to unseat Mugabe and the ruling ZANU-PF. In contrast, the 'progressive' perspective views the humanitarian disaster in Zimbabwe as being rooted in ZANU-PF's political failures (Coltart 2007; Parsons 2007; Mlambo 2006; Ndlovu-Gathsnei 2005). In order to proceed further, it is prudent to interrogate the interpretation of the Zimbabwean crisis from these two opposing perspectives.

Apologetic analyses treat the year 2000 and the FTLRP as marking the genesis of the Zimbabwean crisis, but blame historical, external intervention for the economic and political catastrophe (Mlambo 2006; Raftopolous and Phimister 2004; Moyo 2001; Stiff 2000). Analysts who are of this opinion, blame the British government for its failure to deliver on its promises in terms of the 1979 Lancaster House Agreement, notably the 'willing buyer, willing seller' principle (Moyo 2001: 2).

The land question has been the driving force in Zimbabwe's protracted war of liberation, and colonial legislation (especially the 1931 Land Apportionment Act) is blamed for creating a wide gulf in terms of white and black land-ownership. This is based on the view that land policies benefitted the white minority, while the black majority was pushed to the periphery on to communal tribal areas with erratic rainfall. However, the justification for subsequent 'land grabs' --- the violent nature of these land redistributions has been dubbed *Jambanja (*chaos), in the local parlance) is that Britain reneged on its post-independence undertaking that it would assist in meeting the costs of purchasing land for resettlement, forcing the Zimbabwean government to pay all costs instead of the agreed 50 per cent (Mlambo 2006). In terms of the Lancaster House Agreement, the Zimbabwean government could not seize white-owned land for the first decade of independence, and would desist from instituting land reform for a full 10 years. The latter would be done only by acquiring land from white farmers through 'willing-seller, willing-buyer' transactions and at the full market price. The Zimbabwean government perceived this strategy as being aimed at prolonging white monopoly on land-ownership and to frustrate the process of land redistribution. Moreover, in November 1997, the British Labour Party government of Tony Blair denied any obligation in financing the FTLRP and reiterated its fear that Mugabe's methods of

land reform would destabilise the economy and food production in Zimbabwe. Tension between the two governments was reportedly aggravated by the Blair Administration's allegation that Mugabe was settling his cronies on prime farm land, instead of instituting land reform to first benefit the poor and needy (Mlambo 2006; Raftopoulos and Phimister 2004; Moyo 2002; Stiff 2000).

In support of this view is the portrayal of Mugabe as a victim of neo-colonialism, namely as a leader who is punished for his defiance of the forces of Western imperialism (Raftopoulos and Phimister 2004; Machakanja 2010). A more nuanced view blames external forces for aggravating the crisis. For example, Tafataona Mahoso, a Zimbabwean media analyst, blames sanctions for causing the crisis, arguing that a sanctioned economy produces "a sanctioned nothing". He goes on to argue that "the economy is like a river, and whoever decides to impose sanctions on a country is like putting poison in that river, and anyone who depends on that river is affected". As a consequence, he alleges, Western-imposed sanctions has incapacitated the Zimbabwean government from delivering on its RtoP obligations. A major shortcoming of this perspective is the fact that sanctions against the Mugabe regime was only instituted in 2002. And this was not the first time the country experienced sanctions. In 1966, following UDI, the UN imposed economic sanctions on the Smith regime. Despite these sanctions, the economy of the country remained intact and the Zimbabwe dollar rivalled the US dollar in strength. Moreover, so-called 'smart sanctions' (targeted and restricted to save the civilian population from undue hardship) were only instituted by some Western countries, implying that the bulk of the international community continued to conduct business with Zimbabwe. Furthermore, this perspective is silent on the instrumental role played by the Mugabe regime's policies and the intrusion of the military in running the economy. Elaborating on the land question, a study by Ndlovu-Gatsheni (2005) attributes the causes of the crisis to ZANU-PF's failure to complete the decolonisation process through land redistribution after the 1980s. Seen from this angle, it is plausible to assert that ZANU-PF induced disaster by its *ad hoc* approach to the FTLRP.

A study of 'progressive' scholarship on the genesis of the crisis in Zimbabwe demonstrates a fusion of both long-term and short-term socio-economic and political causes. The *Gukurahundi* killings by the ZANU military wing, the Fifth Brigade, in Matabeleland in the 1980s; the introduction of

94

an economic structural adjustment programme (ESAP); the decision to intervene militarily in the DRC in 1998; the unbudgeted, hefty pay-outs to liberation war veterans in 1997; the ill-timed FTLRP, officially launched in 2000; pillage, corruption, mismanagement, and flawed domestic policies; and the criminalisation of opposition political parties, leading to human rights abuses, are all cited as major causes of the crisis (Mlambo and Raftopoulos 2010; Coltart 2007; Mlambo 2006; Mlambo 2003).

As mentioned above, an analysis of the historical causes of the crisis suggests that Operation *Gukurahundi* in the 1980s was the first pointer to the real nature and character of the post-independence government in Zimbabwe. A 1999 report, entitled 'Breaking the Silence', reveals that the North Korean-trained Fifth Brigade and elements of the state security agency conducted a reign of terror, code-named Operation *Gukurahundi*, in Matabeleland and the Midlands provinces. This report was jointly compiled by the Catholic Commission for Justice and Peace (CCJP) drawing on the testimonies of survivors, and claimed that in the period 1981 to 1988 these forces were responsible for the torture, abduction, disappearance, and murder of at least 20 000 to 30 000 people from the Midlands provinces and Matabeleland. These Matabeleland massacres exposed ZANU's intolerance of opposition political parties, especially ZAPU, which was accused of dissident activities. The *Gukurahundi* violence came to an end when Mugabe's ZANU and Joshua Nkomo's ZAPU signed the Unity Accord on 22 December 1987 and merged their respective parties to form ZANU-PF, with Mugabe as President and Nkomo as Deputy President. However, there were mixed feelings about the merger, with some analysts alleging that the formation of ZANU-PF signalled the swallowing of ZAPU by ZANU (Brett 2010; Genocide Watch 2010; Todd 2007). A period of relative stability prevailed after a general amnesty was granted to the so-called 'dissidents', while the armed forces accused of atrocities were indemnified.

The 'honeymoon' period ushered in by the 1987 Unity Accord did not last as the government of Zimbabwe found itself in another serious economic crisis, heralded by the introduction of an ESAP in 1992. Literature on the post-colonial era in Zimbabwe recounts how the state-building process was fraught with challenges (Saunders 1996). Zimbabwe like most other developing countries was politically impacted by the end of the cold war and the demise of the Soviet Empire. Its government, previously guided by Marxist ideology, was exposed to widespread economic and political

95

liberalisation (Saunders 1996). The new international economic order advocated by the world's biggest financial institutions, specifically the International Monetary Fund (IMF) and the World Bank (WB), forced developing countries (such as Zimbabwe) to adopt policies to roll back the state, privatise many state-owned enterprises, and place caps on public wage bills (Parsons 2007; Saunders 1996). It is further argued that anti-inflationary economic policies (such as an ESAP) led to massive redundancies and a decline in the income of workers, worsened by the rising cost of living. The sudden shrinkage in public service jobs dramatically affected thousands of school-leavers and graduates from colleges and universities. Universities and other educational institutions, as well as the health sector, introduced user fees which were beyond the reach of most urban working-class families, let alone the peasantry. In Zimbabwe, this began to reverse the gains that had been made within the social sectors during the initial years of independence. As a result, from around 1996 to 1999 nationwide discontent resulted in food riots, looting and the destruction of shops (Onslow 2011; Parsons 2007). The government in Harare responded to nationwide strikes with brutal force, characterised by beatings, torture and arrests, sowing the seeds for the political mobilisation of the opposition and the fatal eroding of ZANU-PF's dominance in the 2000 elections (Reeler 2009, ZHR-NGO Forum 1998).

It is alleged that ZANU-PF created a self-perpetuating, bureaucratic bourgeoisie class in which access to senior positions and means of production is attained by way of political patronage. Sachikonye (2009) argues that Mugabe's leadership style, in particular, suppressed the growth and development of democracy by trampling on the rule of law, and enabling a political culture of patronage that thwarted all the progressive mechanisms for checks and balances on state institutions and the protection of civil liberties (Matombo and Sachikonye 2010; Mamdani 2008). Slim (2010: 58), in accounting for the crisis in Zimbabwe, observes that the state had become an "irresponsible sovereignty" and a perpetrator of violence. He substantiates his claim by arguing that "good people make good states and bad people make bad states", and that "bad states tend to make brutal wars" (Slim 2010: 158). Expanding on the same notion of a crisis in leadership, Makumbe (2003) attributes the problem to 'liberation war rhetoric' in situations where the government's power base is threatened. The leadership and governance crisis in Zimbabwe is thus portrayed as part of a wider phenomenon of liberation movements that fail to transform into genuine political parties and to operate as democratic entities in a post-independence era. Augmenting this position is Moeletsi Mbeki's

diagnosis that the major "ulcer" in Zimbabwe's politics is the absence of the "Mandela way" of smooth leadership transition, the overstay in power, and the abuse of power by political incumbents. This has been evident in the Mugabe government's adherence to war tactics and the intensive militarisation of the state (Bratton and Masunungure 2008; Makumbe 2003).

Zimbabwe's post-independence political and economic journey witnessed the movement from one crisis to the other, something Brett (2010: 1) describes as an "unmanageable vicious cycle". Having been confronted with the challenge of a series of trade union strikes, the Mugabe regime had to wrestle with demands from the War Veterans' Association, who felt marginalised and demanded a fair share of the 'national cake'. In 1997, the regime conceded to their demands and adopted a populist response whereby large and unbudgeted for pay-outs of Z$50 000 and a monthly pension of Z$2 000 were awarded to each of the estimated 70 000 former liberation fighters (Mlambo and Raftopoulos 2010).

In another policy blunder, during 1998 the Zimbabwean government engaged itself in the protracted conflict in the DRC. The military expenditure in DRC had serious budgetary and fiscal policy consequences for Zimbabwe. Former Zimbabwe Finance Minister, Simba Makoni (who parted ways with the government due to political interference in his role as finance minister) announced that Zimbabwe had spent the equivalent of US$200 million on the DRC intervention (News24 Archives 2000). As a result of taking such poor economic and political options, the Mugabe regime's legitimacy was slowly but surely eroded.

A study of political developments in the post-2000 era suggests the spill-over effect of several unresolved social, economic and political issues. Worsening standards of living and growing dissatisfaction with the government, cemented a civil society coalition to challenge Mugabe's legitimacy as leader of the country (Gevisser 2009). The need for collective action among civic groups, such as the Zimbabwe Congress of Trade Unions (ZCTU), the National Constitutional Assembly (NCA), student union groups, and the business community, culminated in the formation of the Movement for Democratic Change (MDC) in September 1999 (Reeler 2009; Bratton and Masunungure 2011).

4.2.2 The Crisis Decade

The constitutional referendum of February 2000 was the main trigger for a new and serious crisis. The proposed new constitution was intended to empower the state to acquire land without compensation, to permit Mugabe to seek two additional terms in office, and to grant government officials immunity from prosecution (Ploch 2010; Campbell 2003; Raftopoulos and Jansen 2003). The newly formed MDC mobilised against the proposed constitutional changes, resulting in a ZANU-PF defeat in the referendum as 55 per cent of voters rejected these changes. This was the first post-independence electoral defeat for ZANU-PF, tarnishing the myth of its invincibility. The rejection of the draft constitution was shrugged off by ZANU-PF as an imperialist manoeuvre to defeat land reform and reverse the gains of the liberation struggle. But the referendum defeat created huge panic in government circles and the regime, instead of going back to the drawing board, reacted by unleashing a purge of the judiciary, land invasions, and mobilisation of ZANU-PF militias (Bratton and Masunungure 2011; Machakanja 2010; Mlambo and Raftopoulos 2010). The most catastrophic outcome of the defeat was the invasion of farms through an operation code-named the *Third Chimurenga*, or *Jambanja*.

The violent seizure of farms was spearheaded by war veterans, implicitly supported by the government which made little effort to prevent or punish acts of violence and intimidation (Stiff 2000). Human rights violations caused by land invasions spilled over into 2001 as the country prepared for the 2002 presidential elections. While it is true that the land question had always been a central and controversial issue since the 1979 Lancaster House Agreement that brought independence to Zimbabwe, the implementation of the FTLRP immediately after the referendum defeat raised suspicion among analysts that it was a political manoeuvre to obscure the waning popularity of ZANU-PF (Coltart 2007; Mlambo 2006; Brett 2006).

Having embarked on violent land invasions, the government started promulgating repressive legislation, the most important of which were the Public Order and Security Act (POSA) and the Access to Information and the Protection of Privacy Act (AIPPA). POSA was a mirror-image of the Law and Order Maintenance Act (LOMA) of the colonial minority regime that gave the police and security agencies the right to use all necessary force to suppress the opposition (Coltart 2007).

98

The promulgation of POSA prior to the March 2002 presidential elections facilitated the harassment, intimidation, and torture of MDC supporters (AI 2002; IJR 2006). AIPPA was used to prevent journalists from reporting on forced evictions, arbitrary arrests, beatings, torture, and politically inspired killings.

In 2002, the High Court issued an order for the state not to interfere with trade union meetings, but this was contemptuously ignored (Ploch 2010). From then on, the democratic media space was constrained, if not entirely closed. Nevertheless, more and more human rights violations were recorded. Promulgation of repressive legislation culminated in the detention and arbitrary arrest of opposition party supporters, mainly from the MDC. In fact, MDC president Morgan Tsvangirai was detained on treason charges a week before the 2002 presidential elections. The use of these laws was even more extensive in the 2005 parliamentary elections, where it was reported that more than 600 MDC supporters were killed and many were detained without trial (Ploch 2010).

The humanitarian crisis in Zimbabwe escalated during 2005 in the wake of Operation *Murambatsvina* (which translates to 'Restore Order' or 'Clean Filth'). This operation constituted one of the most publicised, post-independence humanitarian rights violations by the government of Zimbabwe when it demolished what is alleged were 'illegal' urban settlements (Dzimiri and Runhare 2012; Tibaijuka 2005). The government's justification for launching Operation *Murambatsvina* was to get rid of 'economic sabotage' in the informal sector, such as money laundering, the black market, and illegally erected home industries (Bracking 2005). This attempt at justification is, however, refuted by Moeletsi Mbeki (2010) who points out that the government's post-colonial economic policies perpetuated exclusion, since only those with skills found accommodation in the formal employment sector. Furthermore, the slow growth in the economy meant that even those with skills could not be fully absorbed in the formal sector. Statistically, it is estimated that during 1986 and 1987 the formal sector employed only 20 per cent of the urban labour force, 27 per cent in 1991, and 40 per cent in 2004 (Vambe 2008; Coltart 2007). This implies that in 2004, around 60 per cent of the urban population without formal skills had either to work as casual labourers, or had to enter the informal sector in order to survive. This, therefore, did not only promote socio-economic exclusion, but also promoted a culture of informal, survival economics. Paradoxically, the government's economic aid initiatives between 1980 and 1988 accommodated a significant portion of returning

99

skilled Zimbabweans within the informal sector which, to a larger extent, converted the informal sector into formal employment (Mlambo 2008; Vambe 2008). From 2000 onwards, however, as a result of a major economic meltdown emanating from bad governance and political conduct, the government started to blame and target the informal sector through Operation *Murambatsvina* (Fontein 2009; Bratton and Masunungure 2007).

The July 2005 report produced by the UN Special Envoy on Human Settlements Issues in Zimbabwe, Anna Kajumulo Tibaijuka, and other related impact assessments, reveal that over 700 000 people were made homeless by the 'clean-up' operation. An in-depth study on the impact of Operation *Murambatsvina* conducted in 2005 by Action Aid International (2005), in collaboration with the Counselling Services Unit (CSU), the Combined Harare Residents' Association (CHRA), and the Zimbabwe Peace Project (ZPP), concluded that 20 per cent of the urban population were affected, either in terms of loss of shelter or sources of income, or both, especially in the informal sector. Official 2005 UN estimates reveal that 700 000 people (nearly 6 per cent of the total population) lost their homes, livelihood, or both, as a result of evictions, while 2.4 million people were either directly or indirectly affected. HRW (2005) concluded that Operation *Murambatsvina* was a man-made, humanitarian catastrophe equivalent to a brutal peace-time attack on the people by their own government.

The official July 2005 report by UN Special Envoy to Zimbabwe reveals the humanitarian ramifications of the 'clean-up' exercise. The operation took a particularly heavy toll on vulnerable groups, such as widows, orphans, female and child-headed households, the elderly, and people living with HIV/AIDS (Tibaijuka 2005). One of the key aspects of human security threatened by the operation involved access to employment and income-generation activities, especially by those in the unemployed, urban sector (Dzimiri and Runhare 2012).

What makes Operation *Murambatsvina* quite poignant from an RtoP perspective is the involvement of the military and other security forces in the destruction of houses and cottage industries. This prompted the UN to investigate the aims and objectives of the operation. Furthermore, Operation *Murambatsvina* was launched during May, at the peak of the winter season in Zimbabwe, thereby leaving uprooted victims without any shelter. Moreover, this took place

100

when Zimbabweans were still reeling from the government-induced violence surrounding the 2005 parliamentary elections in which ZANU-PF, nevertheless, lost to the MDC in most urban centres. Although ZANU-PF received an overall majority of votes countrywide, it lost significantly in most urban centres. The coincidence that the ruling party lost the 2005 elections in the cities and that Operation *Murambatsvina* was confined only to urban centres, resulted in the allegation that the operation was a scorched-earth policy to punish urban-dwellers for abandoning ZANU-PF, as well as aimed at "preventing mass protests over the growing economic crisis" (Ploch 2010: 23).

From a humanitarian point of view, indiscriminate destruction of housing had a catastrophic impact, especially on the poor. Most of the uprooted victims were taken, against their will, to camps run by the police, where conditions were dire, lacking water, shelter, and basic sanitary facilities (Amnesty International 2007). In the case of victims from Harare, the camps were at Caledonia Farm and Hopley Farm.

Realising the international anger over what it called the "unintended consequences of Operation *Murambatsvina*", the government hastily launched a reconstruction initiative called Operation *Garikai/Hlalani Kuhle* (which means 'live well') in June 2005, in anticipation of the final report of the UN Special Envoy to Zimbabwe, Anna Kajumulo Tibaijuka. The intention of this initiative was to construct new dwellings as compensation for the victims of Operation *Murambatsvina* (Dzimiri and Runhare 2012). While the objective was to rebuild and address the harm caused by the demolition of homes and shelters, the proposal was essentially unrealistic, given the fact that the country by then was already in a serious economic meltdown, which led to a further loss of popularity for the ruling party (Fontein 2009; Kamete 2006). The 2006 report by Solidarity Peace Trust, entitled *Melt Down: Murambatsvina One Year On*, alleged that the few houses that were constructed as part of Operation *Garikai/Hlalani Kuhle* were mostly seized by the police, soldiers, and other members of the ruling party (SPT 2006). It was further alleged that in some cases people were made to produce ZANU-PF party cards, which became a method of eliminating opposition party supporters. In its 2010 report, Amnesty International, five years after Operation *Murambatsvina*, indicated that many uprooted victims continued to live in plastic shacks and no-one, except for a few humanitarian organisations, cared about their plight.

In terms of the Rome Statute of the ICC there is growing evidence to support the argument that Operation *Murambatsvina* constituted a crime against humanity. The internal displacement of over 700 000 people fits the ICC's definition of a forced displacement. Indeed, the government of Zimbabwe violated several international human rights conventions, including the 'International Bill of Human Rights' and the 'African Charter on Human and People's Rights'. Moreover, by demolishing homes and shelters, the government acted contrary to Zimbabwe's own constitutional provision for the rights of citizens to personal liberty and protection from inhumane treatment (see the Constitution of Zimbabwe; and Section 5 of Act 30 of 1990, Amendment no 11, as well as Section 6 of Act 14 of 1996, Amendment no 14).

Arguably, the Zimbabwean government wilfully caused and, subsequently, failed to meaningfully address the humanitarian ramifications of Operation *Murambatsvina*. Available evidence from human rights reports, independent media reports, and scholarly writings on political violence in Zimbabwe attributed the intensification of violence to the involvement of state security forces in domestic politics. Rupiya (2005: 117-118) describes this as a style and practice of "governance through [the] military". At the centre of the militarisation of governance structures in Zimbabwe was the re-emergence of the Joint Operations Command (JOC) in 2000. JOC had continued to exist since independence, but after the *Gukurahundi* killings in the 1980s it played a less active role in domestic Zimbabwean politics. It was only after the 2000 constitutional referendum and the 2002 presidential elections that it resurfaced as a critical actor in the Zimbabwean political space (Chitiyo 2009). It is a non-statutory body that, according to Bratton and Masunungure (2008), symbolised the revival of the colonial system used to thwart any internal uprising, and served a body blow to national efforts to democratise the political system in Zimbabwe. Its composition is significant: JOC is comprised of the heads of state security structures (that is, the army, the police, the air force, intelligence, and prison services) and these service chiefs are all war veterans (Chitiyo 2009). Various analysts allege that JOC, acting as ZANU-PF's shadow politburo, has always been at the centre of the formulation and implementation of government policies. These include controversial policies like the violent farm invasions, the decision to intervene in the 1998 DRC conflict, and the running of elections in 2000, 2002 and 2005, up until the heavily militarised 2008 elections (Bratton and Masunungure 2008; Alexander and Tendi 2008).

It is further alleged that the "delimitation of [constituencies], voter registration, voter education, campaigning, manning command centres, and results announcements" have become the preserve of the military and security structures (The Zimbabwean 2011: 4). There are serious concerns that the state security apparatus have presided over vote-rigging and voter intimidation, causing both physical violence and psychological harm (The Zimbabwean 2011: 4; Bratton and Masunungure 2008). Also, the military and security complex have been quite conspicuous in conducting a number of punitive and inhumane operations, including Operation *Murambatsvina* ('clean-up') in May 2005, Operation *Taguta* ('eat well') in November 2005 (when army personnel were deployed to monitor all agricultural and food production activities in newly settled farms), and Operation *Makavhoterapapi* (translated as 'whom did you vote for') which was launched in April prior to, and effected after, the June 2008 run-off elections (Chitiyo 2009; Zimbabwe Institute 2008). Thus, the security forces served party-political ends, despite the Zimbabwe Defence Forces Act and the Constitution of Zimbabwe explicitly prohibiting the military and security forces from participating in political activities (Hendricks and Hutton 2009).

But, contrary to this requirement, the military and security chiefs have been openly partisan, vowing that they would not tolerate any leader who had no liberation struggle background. For example, on 9 January 2002, all security chiefs collectively issued a decree that they would not salute a President "lacking liberation war credentials" (The Zimbabwean 2011: 20). And, in May 2008, Army Chief of Staff Major-General Martin Chedondo stated that "… soldiers are not apolitical … only mercenaries are apolitical…" (The Zimbabwean 2011: 20). Brigadier-General Douglass Nyikayaramba also publicly declared that he was a ZANU-PF political affiliate and that he would not allow Morgan Tsvangirai, the MDC president, to rule Zimbabwe because he did not fight in the liberation struggle (The Zimbabwean 2011: 20). Bratton and Masunungure (2008: 44) stress that the securitisation of the state "resembles a party state duality, in which the security and military servicemen serve the party and not the state", and that the security forces are, essentially, "politicians in uniform" (Masunungure 2008: 85).

The militarisation of politics and the politicisation of the military in Zimbabwe have led to the vilification of opposition politicians as 'sell-outs' and have impinged on the main task of the

103

security forces, namely to respond to human security needs. The depiction as 'sell-outs' stems from the pre-independence liberation war discourse, whereby fellow black Zimbabweans who deserted the aims of the war of liberation in favour of supporting the Rhodesian minority regime, were labelled as 'sell-outs', translated as *Vatengesi* in the Shona language (Manungo 1991). This is also alluded to by Marowa (2009), who posits that the label of 'sell-outs' during the liberation struggle applied to those individuals, groups or families believed to be traitors. Such individuals and their family members were often subjected to torture and even killed. The same depiction of 'sell-outs' was revived during the pre-run-off and post-run-off electoral periods, when both the MDC leadership and their supporters were labelled as such. This approach hinges heavily on the philosophy of the "one-party model", which inculcated a sense of political intolerance and entitlement within ZANU-PF political circles (Onslow 2011: 4). The ruling party criminalised critics of the regime through use of the state-controlled media (Smiles 2006), also projecting the view to the rest of Africa that MDC supporters are Western puppets undermining the gains of the liberation struggle. This resulted in a breakdown in civil-military relations and a rapid decline in 'public trust' in Zimbabwe (Hendricks and Hutton 2009: 4).

One of the most worrying features of the militarisation of governance structures in Zimbabwe is the emergence of youth militia. Following ZANU-PF's constitutional referendum defeat in 2000 and the subsequent electoral gains of the MDC in parliamentary elections, a new Ministry of Youth Development and Employment Creation was established, together with a National Youth Service, NYS (Runhare and Hwami 2009; Mada 2007; Nyakudya 2007; Solidarity Peace Trust 2003). The chief objective, according to the architects of the NYS, was "… [to shape] youths in a truly Zimbabwean manner", and was meant to instil a sense of patriotism and responsible leadership, to prepare the youth 'for the world', and to "work for their country" (Solidarity Peace Trust 2003: 4). At face value, the idea of an NYS sounded pragmatic, especially the quest to develop vocational skills, create employment opportunities, and integrate youth concerns into national policies. However, the media, NGOs, and several research reports indicate that the NYS merely became a means of gaining employment in government establishments, as well as in paramilitary units of the state security forces.

The so-called 'harmonised' elections of 29 March 2008 was conducted in a relatively peaceful atmosphere, mainly due to an SADC mediation initiative, brokered by South African President Thabo Mbeki who managed to bring both the MDC and ZANU-PF to the negotiating table. The idea was to create conditions conducive to attaining a violence-free election. As a result, the MDC (to a lesser degree than the ruling party) 'enjoyed' political space and managed to penetrate deep into the rural areas, claiming victory in former ZANU-PF strongholds. The outcome of the election put ZANU-PF in a very precarious position as the MDC polled 47.9 per cent of total valid votes cast, thus defeating Mugabe who polled only 43.3 per cent (Masunungure 2008; Badza 2008). But the MDC's failure to claim an outright majority victory resulted in a run-off election on 27 June 2008, an election that was marred by state-orchestrated violence, particularly targeting opposition party members.

There is an argument that human rights violations since 2000 were aggravated by the fact that the perpetrators enjoyed impunity. Moreover, the ZANU-PF leadership has on several occasions effectively declared war on civilians who supported the opposition MDC. Prior to the run-off elections in June 2008, President Mugabe urged the people to establish "an almost military/war like leadership which will deliver ..." (*The Zimbabwe Independent* 2008: 1). He infamously remarked: "We fought for this country and a lot of blood was shed. We are not going to give up our country because of a mere X [a cross on a ballot paper]. How can a ballpoint fight with a gun?" (*The Zimbabwe Independent* 2008: 1). Prior to the run-off election, the ZANU-PF leadership also ominously declared that if it lost, the army would take over (Masunungure 2008). These pronouncements, coupled with the spread of violence throughout the country, forced the MDC leader to pull out of the race, arguing that it was illogical and irresponsible to sacrifice the innocent people of Zimbabwe just for the sake of power. Tsvangirai was quoted as saying: "We have resolved that we will no longer participate in this violent, illegitimate sham of an election process" (BBC News 2008: 1).

One of the most widely reported atrocities of the post-run-off period was an operation code-named *Makavhoterapapi* ('whom did you vote for?'). It is alleged that the operation was premised on a witch-hunt, whereby ZANU-PF wanted to punish Zimbabweans who either voted for the MDC or who did not participate in the run-off election (Chitiyo 2009). In like manner, available evidence

105

shows that both prior to and after the 2008 run-off elections, there was a correlation between the intensity of violence and actual voting patterns (Bratton and Masunungure 2008). The March 2008 election marked the first time that the ruling ZANU-PF lost both the presidential and parliamentary contests, even in their traditional strongholds like President Mugabe's home constituency, Zvimba (ZESN 2008). This resulted in the intensive perpetration of revenge violence. So, the pre- and post-run-off period resembled a war-like situation, characterised by a heightened role for the JOC and other sub-structures in the military and security sector in perpetrating violence against opposition supporters. In its 2008 report, the Zimbabwe Association of Doctors for Human Rights (ZADHR) alleged military and security sector involvement in human rights abuses in hospitals and clinics and claimed, *inter alia*, that security forces prevented ambulances carrying opposition victims from accessing medical facilities. Naturally, state-orchestrated violence also prompted retaliatory attacks in areas controlled by the MDC.

The systematic nature of the violence resulted in the displacement of people, destruction of property of suspected MDC supporters, torture, arson, murder, rape, intimidation, abductions, and disappearances (Ploch 2010; Masunungure 2008). There were also several reports of the summary execution of polling agents in a campaign that brings to mind Smith's (2000: 22) description of a strategy to "kill one and frighten a thousand". Impunity and selective or partial application of the rule of law meant that women were exposed to sexual harassment, indiscriminate torture, and beatings by war veterans and the youth militia. Since 2000, written material and video documentaries from Solidarity Peace Trust and other human rights focus groups reveal many cases where women were raped by veterans or militia, often in full view of their husbands and children (Masunungure 2008).

4.2.3 An Holistic Human Security Perspective on the Crisis

Existing studies on the humanitarian crisis in Zimbabwe reveal that every facet of human security was affected by the country's political conflict and subsequent economic melt-down. Between 2000 and 2008, the crisis led to a massive breakdown of social services, food shortages, increased corruption, political violence, and a collapse of the formal economy (Raftopoulos 2006). In particular, the ill-timed FTLRP caused the agricultural base of the economy to implode. It is

106

reported that between 2000 and 2006, agricultural output declined by 33 per cent and manufacturing output by 41 per cent (Parsons 2007). Furthermore, 'land grabbing' is said to have grossly affected the commercial agricultural sector, which constituted 20 per cent of the country's gross domestic product (GDP) and 40 per cent of its export earnings (Mlambo and Raftopoulos 2010; Besada and Moyo 2008). A study by Coltart (2007: 6) shows that by 2007 "over 80 per cent of the population was unemployed and living below the poverty line". Parsons (2007) attributes the economic decline, inter alia, to the contemptuous treatment of property rights, which discouraged investor confidence and foreign direct investment (FDI). This caused desperately needed foreign currency to be withheld, plunging the country into economic turmoil. By 2004, the country's inflation rate was a staggering 622.8 per cent (Mlambo 2006) and Zimbabweans witnessed a dramatic fall in the value of the Zimbabwe dollar when it declined by 99 per cent, plunging to the equivalent of one US cent. The currency continued to devalue, trading at 6 million Zimbabwe dollars to the US dollar by September 2007. By 2008, Zimbabwe experienced the worst inflation rate since independence, and in May of that year the official annual inflation rate was estimated at 1 million per cent, the highest inflation rate ever recorded anywhere in the world (Nako 2011; Robertson Economic Information Services 2008).

Also in 2007, in order to contain this runaway inflation, the government deployed the youth militia and *state security agencies in what was called Operation Dzisa Mitengo or 'Reduce Price'* (Chitiyo 2009; Ankomah 2007). Because of price controls and other stringent measures, many shops and industries were forced to close, resulting in severe shortages in basic commodities. As a result, an informal, parallel market took advantage of the situation by selling basic commodities at highly inflated prices, and low-income people found themselves increasingly at the receiving end of speculative prices. By 2009, according to Ploch (2010), Zimbabwe's GDP had declined by 50 per cent since 1998, and this was amplified by the halting of IMF and WB aid during 1999 and its final suspension in 2003. It is in the context of this economic meltdown that the decline in the country's social services, particularly in health, food production, and education, need to be viewed.

Firstly, the healthcare system experienced a complete collapse. The disintegration of the system, according to the Physicians for Human Rights (2009), exacted a particularly high toll, especially with the outbreak of a cholera epidemic between August 2008 and June 2009. The World Health

107

Organisation (WHO) in its March 2009 report reveals that over 98 500 cases of cholera and 4 300 cholera-related deaths were recorded during that period. The health crisis was further aggravated by what locals cynically referred to as the 'politics of the last supper', as state security forces and the ZANU-PF leadership, having been stunned by the MDC victory in the March 2008 'harmonised' elections, scrambled for scant resources. There are allegations that, in its struggle for political survival, the Mugabe regime channelled scarce resources to military and political projects, instead of investing it in badly needed healthcare (Coltart 2007). An example was an incident in 2008, when ZANU-PF opted to import military equipment from China (Du Plessis 2008).

The deepening political and economic crisis also adversely impacted the already severe prevalence of HIV/AIDS in Zimbabwe. Within a few years of the onset of the crisis, Zimbabwe recorded the highest percentage of HIV/AIDS orphans globally (UNICEF 2006). Despite a purported change in sexual behaviour, especially high condom usage, a great increase in mortality rate has been linked to HIV/AIDS sufferers in Zimbabwe (UNAIDS 2007). It is further noted that despite a successful, high uptake of anti-retroviral therapy (ART), poor diet and food insecurity disrupted the effectiveness of medication. Although the Zimbabwean government introduced a so-called 'AIDS levy', according to Physicians for Human Rights (2009) the funds were channelled towards satisfying political needs. The decline in the health sector resulted in increased child mortality rates from 76 to 132 deaths per 1 000 live births between 1990 and 2005, and a decline in life expectancy from 63 years in 1990 to 40.9 years in 2005 (Mlambo and Raftopoulos 2010). Shortage of healthcare facilities for water treatment and a massive exodus of skilled health personnel, due to economic and political stress, contributed to the implosion of the country's healthcare system (Physicians for Human Rights 2009). Notably, a morally charged question about the decline of Zimbabwe's health sector and the responsibility so clearly shirked by the Mugabe regime is posed by Physicians for Human Rights (2009: iii):

> "What happens when a government presides over the dramatic reversal of its population's access to food, clean water, basic sanitation, and health care? When government policies lead directly to the shutting of hospitals and clinics, the closing of medical schools, and the beating of health workers ...".

Secondly, Zimbabwe, which had been previously described as the 'bread basket of Southern Africa', now faced acute food shortages. These were compounded by successive droughts, caused either by flash flooding or erratic rainfall (Sachikonye 2005a), and alleged acts of sabotage by white commercial farmers, including growing cash-crops only, burning crops, or holding on to their produce (Ploch 2010; Sachikonye 2005a). While the role of these factors is noted, the literature on Zimbabwe's food security overwhelmingly points to the instrumental role of the FTLRP in the destabilisation of the agricultural sector. Indeed, the "radical transfer of land" was characterised by violence and lawlessness, and this greatly disrupted production and undermined food security (Sachikonye 2005a: 35). It was observed that maize production declined from 1.7 million tonnes to between 0.9 and 1 million tonnes in the period 2000 to 2004 (Sachikonye 2005a). Richardson (2004) blames the Zimbabwean government for entrusting inexperienced and militant farmers, who had little knowledge of modern farming techniques, with the responsibility to provide sufficient food for the country.

In 2007, the Early-Warning System Network of the World Food Programme (WFP) warned that over 4 million Zimbabweans were facing severe food shortages. This situation was exacerbated by heightened political violence prior to and after the 2008 run-off election period, which disrupted farming activities throughout the country, both in rural areas and in the new resettlement areas (Ploch 2010). Human Rights Watch (2009) also reported that ZANU-PF youth militias, the Grain Marketing Board, and war veterans employed 'scorched earth tactics' by denying food aid, maize seed, fertilizers and farming implements for planting and harvesting to suspected MDC supporters. By 2009, it was estimated that over 7 million Zimbabweans, almost a quarter of the country's population, were in dire need of food aid (Ploch 2010).

Hyperinflation that weakened the capacity of families to afford black-market food prices intensified food shortages countrywide (Human Rights Watch 2009). The situation was worsened by the regime's insinuations that aid agencies were abusing their humanitarian mandate to interfere in Zimbabwe's domestic politics. This dated back to the 2004 government restriction on the operations of humanitarian agencies, when Parliament adopted the 'Non-Governmental Organisation (NGO) Bill' of which Clause 9 prohibits local NGOs from registering if their vision and mission included governance matters like "the promotion and protection of human rights and

political governance issues" (NGO Bill, Clause 9 2004). Furthermore, Clause 17 of the Bill restricted NGOs from receiving donor funding if their work was specifically focused on "issues of governance" (NGO Bill, Clause 17). The Bill however, despite being enacted by Parliament, failed to get Presidential approval. This followed a barrage of local and international criticism that the Bill (in the words of Human Rights Watch) was "unreasonable for suspending the right to freedom of expression and association" on the frivolous contention that some NGOs were receiving foreign funding to support opposition politics in Zimbabwe (Human Rights Watch 2004; Tsunga and Mugabe 2004).

Despite the Bill's defeat, tensions around aid agencies were ratcheted up by political rhetoric. On several political rallies President Mugabe, was quoted accusing humanitarian agencies and other NGOs of using food aid to overthrow the government (IRIN News 2009; The Guardian 2008). Arguably, this accusation gave license to the youth militia and war veterans to seize control of aid distribution, and to commit numerous human rights abuses with impunity. Indeed, a Human Rights Watch (2009) report observed that local chiefs, war veterans, and youth militia, operating under instruction from the state, interfered in food-aid distribution, accusing NGOs and other aid agencies of supporting the MDC.

Thirdly, another human security issue was the impact of the political and economic crisis on the country's educational system. The most striking feature of the damage done by government's policies was the de-professionalisation of the system. On the one hand, the economic meltdown cost teachers their livelihood --- even those who retained their jobs were impoverished by hyperinflation. But this already dire situation was compounded by a political vendetta being conducted against educators who were deemed critical of the regime and/or supportive of the more liberal political agenda of the MDC. Political violence culminated in the closure of many schools throughout the country, with some educators fleeing to South Africa and Botswana for safety (Solidarity Peace Trust 2010; Zimbabwe Electoral Support Network 2008). There were also widespread reports of the harassment and forced relocation of teachers in ZANU-PF-dominated rural areas and newly created resettlements as they had to flee from persecution (Solidarity Peace Trust 2010).

Regarding the substance of education, a major change was the introduction into school curricula of what Runhare and Hwami (2009: 102) describe as a "nationalist", "patriotic" and "socio-political dose" of education, meant to infuse the social sciences and humanities (including history, social studies, theatre arts, and even theology). The effect was especially profound at primary and secondary school levels where the government has firm control over curriculum planning and implementation. Furthermore, in order to extend the government's control of private learning institutions (which had been liberalised during the ESAP era) and to legalise this measure, the Education Act of 1996 was controversially amended and became law in 2006 (Government of Zimbabwe Education Amendment Act 2006). In terms of the new amendment, all schools in Zimbabwe were to follow a government-centralised school curriculum and be examined by the government-controlled Zimbabwe School Examinations Council, ZIMSEC (Runhare and Hwami 2009). The history of the liberation struggle (which is, in effect, ZANU-PF history) became a compulsory subject, thus heralding the politicisation of the school curriculum. According to Mavhunga (2006: 448), even History teachers needed to be 'Africanised', because "the teachers of the new History are, themselves, products of the old History that portrayed the European as the hero and the African as the villain". Added to that, all schools were to offer civic education at the Zimbabwe Junior Certificate (ZJC) level, phased out in 2001, and at the Ordinary Level (O Level), with the objective of instilling 'patriotism' among the youth and preventing them from 'contamination' by Western ideas (Runhare and Hwami 2009; Mavhunga 2006). (O Level is a four-year certificate that one has to accomplish in order to qualify for the Advanced Level (A Level), which is a certificate that allows for university entry.)

The 2005 government-induced *Murambatsvina*, which caused immense suffering in the urban areas, did not bypass the education sector. Displacements (school transfers and relocations) caused by this operation led to children losing learning time or dropping out of school altogether. This meant that Zimbabwe (Dzimiri and Runhare 2012: 198),

> … which once had one of the best education systems in Africa in terms of access and other variables, has lost its track towards the Education for All (EFA) and Millennium Development Goals (MDG) targets of providing universal basic education by 2015.

Indeed, a 2010 UNESCO report (cited in the SAVE the Children 2010) on the state of education in countries suffering from political conflict cites Zimbabwe as a case study where there is clear political interference in educational matters (Save the Children UK 2010). The report details the militarisation of educational institutions by ZANU-PF through the youth national service scheme, popularly known as *Border Gezi* (named after the late Zimbabwean Minister of Youth).

Thus, state-orchestrated systemic violence and gross human rights abuses perpetrated against sections of the Zimbabwean civilian population had a seriously adverse, cumulative impact on the country's healthcare facilities, food security, and educational system. These clearly observable facts point to a failure by the Zimbabwean state to fulfil its RtoP obligations. The next part of the chapter will consider the reactions by the international community in the context of the Zimbabwean government's failure to protect its own population from grievous harm.

4.3 International Responses to the Humanitarian Crisis in Zimbabwe

Responses to the crisis in Zimbabwe from the international community will be analysed at three levels: those of non-state actors; those of state actors (bilateral); and finally, those of inter-governmental organisations of which Zimbabwe is a member state (multilateral). At the bilateral level, the reactions of South Africa, Botswana, Zambia, the UK, the US, and China are at issue, for the following reasons: South Africa, as a neighbouring state and regional hegemon, had been on the receiving end in terms of the influx of refugees and illegal immigrants from Zimbabwe, and its bilateral role was enhanced by the fact that, at the height of the crisis, its President was appointed to mediate in the conflict. Botswana, just like South Africa, experienced a huge influx of refugees from Zimbabwe, and had adopted positions vis-à-vis Zimbabwe independent of the collective approach that has otherwise prevailed within the SADC. As for Zambia, its late President Levy Mwanawasa surprised political pundits by breaking ranks with his regional peers and taking advantage of his SADC Chairperson prerogatives to condemn the political violence in Zimbabwe. The rest of the SADC's member countries (including Zimbabwe's other two contiguous neighbours, namely Namibia and Mozambique) will not be discussed in terms of their bilateral engagements with Zimbabwe, since they reacted collectively through the SADC and the AU as

regional multilateral institutions. The reactions of the latter two organisations will be discussed in some detail.

As for the rest of bilateral state responses, the UK was selected because of its colonial ties to Zimbabwe, which have generated an obvious and major stake in the developments there. The US is a critical actor given its position as a superpower, its permanent membership of the UN Security Council, and its vested economic interests in Zimbabwe. The same applies to China which, in addition to the aforementioned factors, also has strong historical ties with the government of Zimbabwe. These date back to the liberation struggle, which China supported both ideologically and militarily. Russia and France, the other two UN Security Council permanent members, are not discussed because of limited historical and recent involvement in Zimbabwe. Russia, just like China, has steadfastly resisted the idea of humanitarian intervention in developing countries, citing the danger of political interference, while France has avoided serious political involvement in the affairs of Anglophone African states and has, instead, pooled its responses through the European Union (EU), including its position on Zimbabwe.

Multilateral responses beyond African regional organisations will be discussed in the context of the major IGOs to which Zimbabwe belong, or with which it has crucial relations. These organisations, including NAM, the EU, the Commonwealth, and the UN, offer important insights into worldwide responses to the crisis in Zimbabwe by virtue of their large (or influential) membership.

4.3.1 Responses by Non-State Actors

Despite numerous efforts by the Mugabe regime to create a media blackout in order to silence criticism of its instrumental role in the crisis afflicting Zimbabwe, and attempts to vilify critics as 'Western spies', civil society organisations have offered the most vociferous condemnation of the regime's actions. The Zimbabwe Lawyers for Human Rights (ZLHR), Zimbabwe Economic Support Network, the Zimbabwe Human Rights NGO Forum, Amnesty International, the Crisis Coalition, Doctors without Borders, Physicians for Human Rights, Human Rights Watch (HRW), the Zimbabwe Peace Project, Freedom House, and Genocide Watch, among other human rights

113

focus groups, played a pivotal role in raising public awareness about human rights violations in Zimbabwe and in offering early-warning preventive initiatives.

Operation *Murambatvsina*, in particular, elicited wide condemnation from the NGO community. The HRW (2005) alleges that the government of Zimbabwe violated the international convention on the prohibition on forced evictions and this amounted to arbitrary displacement. Back in 1995, in a report by the UN Committee on Economic, Social and Cultural Rights (UNCESCR), the Zimbabwean government confirmed that the proliferation of shanty-town shacks communicated the need for over 600 000 housing units nationwide (UNCESCR 1995). Notwithstanding its failure to address the housing problem as spelt out in the 1995 Committee Report, the government went on to destroy the few available shelters, feeding the argument that its destruction of dwellings amounted to a crime against humanity. The mental and physical suffering caused by the demolition of shelters and the forcible removal of people from better urban housing to remote farms without any schools or proper services and amenities, finds dual relevance in Articles 7 (d) and 7 (k) of the Rome Statute of the ICC. The Physicians for Human Rights report of 2009, as shown above, made a compelling case for the international community to invoke the RtoP norm, based on its assessment that the humanitarian disaster caused by Operation *Murambatvsina* ('Clean Up') in 2005 was in line with the definition of crimes against humanity (Physicians for Human Rights 2009: iii). In the same vein, a 2008 ICG report presented a case for intervention based on widespread, on-going, government-orchestrated human rights violations leading to millions of people being displaced, with an estimate of about 3 million Zimbabweans fleeing to South Africa (ICG 2008).

Another significant contribution by civil society in delivering on the RtoP in Zimbabwe involves the early-warning initiative and civil society mobilisation against a Chinese arms shipment to Zimbabwe in 2008, at a time when the country was experiencing an unprecedented humanitarian crisis as a result of drought, food shortages, and a cholera outbreak. As argued by Du Plessis (2008), the Zimbabwean government neglected the human security needs of its people by prioritising state security. This is evident in the regime's decision to procure weapons from China. In April 2008, the Chinese vessel *An Yue Jiang* remained unattended in the South African port of Durban when the South African Trade and Allied Workers Union (SATAWU) instructed its

114

workers not to offload the ship's cargo of arms, since the latter would be used against civilians. Together with the South African Litigation Centre (SALC), SATAWU challenged the morality of allowing transportation of weapons to a country already experiencing serious state-sponsored violence (Solidarity Peace Trust 2010; Du Plessis 2008).

On 21 April 2008, various civil society groups, including faith-based organisations, human rights groups, and student movements, convened what was called the 'African Emergency Summit on Zimbabwe' in order to reflect on the SADC mediation in Zimbabwe. The communiqué after the summit, which was held in Dar es Salaam, Tanzania, noted that the Zimbabwean state itself had been "the perpetrator of … heinous crimes and had neglected its own people" (African Civil Socierty Organisations 2008). The summit warned that "the international RtoP cannot be stopped by serving claims of sovereignty on the part of armed and predatory elites" (African Civil Socierty Organisations 2008). Raftopoulos (2010: 708) praised the initiative, arguing that "vigilance and courage of civic activists in Zimbabwe" helped to expose the brutality and repressive nature of the Mugabe regime. Indeed, faith-based organisations (FBOs), such as the CCJP and Solidarity Peace Trust, respectively, made a unique contribution to attract worldwide attention to the crisis by releasing numerous reports and photographic evidence on human rights violations in Zimbabwe. Other notable reactions to the humanitarian crisis by FBOs include constant calls for responsible leadership and condemning human rights violations in the country (Chitando 2011; Kaulemu 2010). The increasing role of religious leaders in matters of governance, which is construed as "ecumenical diplomacy" by Rupesinghe (1997: 7), gained prominence mainly because of the belief that religious leaders are better suited to and more trusted than politicians, and this makes them unique stakeholders in matters of conflict resolution (Chitando 2011; Kaulemu 2010). In 2006, the Zimbabwe Catholic Bishops Conference (ZCBC), the Zimbabwe Council of Churches (ZCC), and the CCJP mediated in the crisis by encouraging political tolerance between the MDC and ZANU-PF (Chitando 2011). Moreover, in their quest for political tolerance, the FBOs published a book in 2006, entitled *The Zimbabwe We Want: Towards a National Vision --- A Discussion Document*, which encouraged political tolerance, as well as a shared national agenda. The book was presented to President Mugabe, the idea being to engage the Zimbabwean leadership constructively by exposing the sad reality of the crisis in the country. Arguably, these actions helped to delegitimise

the Mugabe regime and prompted the African leadership to pressurise the ZANU-PF government to concede to a power-sharing arrangement.

An NGO initiative that is worth mentioning, even if it amounts to an application of the RtoP norm and the Rome Statute of the ICC long after the fact, is the attempt by Genocide Watch to hold the Mugabe regime accountable for the *Gukurahundi* atrocities. Despite the fact that it addresses an event that occurred during the 1980s and, therefore, falls outside the purview of explicit RtoP application, the calls for a serving President to be indicted is informed by RtoP principles and is relevant to the wider post-2000 discourse on the Zimbabwean humanitarian crisis. Activists have taken their cue from a similar RtoP application, again long after the fact, regarding the 1970s Khmer Rouge-inflicted genocide in Cambodia. Noting the obstacles to justice presented by Zimbabwe's state-controlled and partisan judiciary system, Genocide Watch in September 2010 called on the UN High Commissioner for Human Rights to conduct a "full investigation of the *Gukurahundi* and prosecute Mugabe and his co-perpetrators for crimes against humanity" (Genocide Watch 2010: 1).

Since the 1987 signing of the Unity Accord, no independent inquiry has been established in order to identify the perpetrators of the violence and hold them accountable for their actions. In the aftermath of Operation *Gukurahundi*, the government of Zimbabwe established the Chihambakwe Commission to investigate allegations of human rights violations, but the commission was disbanded before its findings were published (Reeler 2009). It is generally assumed, however, that the ruling party was instrumental in the killings. Referring to it as "incipient genocide", Genocide Watch (2010: 2) asserted that Operation *Gukurahundi* met the qualification of crimes against humanity, since the massacres orchestrated by ZANU-PF were meant to exterminate a specific ethnic group, the Ndebele. There is, in fact, speculation that Mugabe and his military inner circle are clinging to power because of fear of being prosecuted for the *Gukurahundi* massacres (Genocide Watch 2010; Reeler 2009; CCJP 1997).

In October 2008, encompassing the opinions of a wide range of non-governmental organisations, both local and international, Amnesty International made the case that the crisis in Zimbabwe satisfied all the threshold criteria for widespread systematic human rights violations, enough to

116

meet the definition of crimes against humanity (Amnesty International 2008). Quite paradoxically, the Zimbabwean government is a signatory to several international and regional human rights conventions, including the International Convention on Economic, Social and Cultural Rights (ICESCR), the International Convention on Civil and Political Rights (ICCPR), and the African Charter on Human and People's Rights, ACHPR (HRW 2009).

4.3.2 Responses at the Bilateral Level

4.3.2.1 South Africa's Response

Leadership in the response from the Southern African region to the humanitarian crisis in Zimbabwe has fallen largely to South Africa as the regional hegemon, and because the country was at the receiving end of the crisis, both socially and economically. At a very physical level, the contagious effects of the crisis were shown by the 2008-2009 outbreak of cholera in Zimbabwe, which spilled over into South African areas such as Musina and the Beit Bridge border post (Physicians for Human Rights 2009). The South African government had to hastily dispatch health personnel in order to prevent the pandemic from spreading to other parts of the country.

By 2006, an estimated 3.5 million Zimbabweans were believed to be living in South Africa, legally or illegally (Pendleton 2006), and their influx was raising the ire of many South Africans who saw them as competitors within the already strained South African labour market. The additional pressure for jobs, services, and other amenities contributed to the May 2008 xenophobic attacks on foreign nationals in South Africa --- violence against fellow Africans that shocked not just South African analysts, but observers throughout the continent and the world (Raftopoulos and Mlambo 2010; Forced Migration Studies Programme (FMSP) 2009; Hadland 2008; Hawkins 2008; Sibanda 2008). Relations between migrant labourers and locals were further soured by allegations of Zimbabweans fraudulently getting access to houses provided under the Reconstruction and Development Programme (RDP), which was meant for previously disadvantaged South African citizens (Hadland 2008).

117

The South African government and former President Thabo Mbeki, in particular, opted to engage the Zimbabwean government constructively through what is popularly labelled 'quiet diplomacy' (Landsberg 2010; Adolfo 2009; Coady and Solomon 2009). The definition proffered by Bennett (1995: 157) characterises quiet diplomacy (QD) as "skilful negotiation conducted with tact, persistence and impartiality, but without fanfare". Adebajo and Landsberg (2000: 21) substantiate the definition, arguing that QD is premised on the philosophy of "dialogue and negotiation", which entails that South Africa should be viewed as a "partner and [an] ally, not as a regional superpower".

Coady and Solomon (2009) concur that South Africa's adherence to QD was informed by the need to depart from the apartheid-era practice of destructive engagement. Engaging Zimbabwe through this type of low-key diplomacy needs also to be seen in terms of Mbeki's vision of an 'African Renaissance', where "effective structures for dialogue and co-operation" are believed to be the gateway to continental stability (Mills 2005: 2). The logic behind Mbeki's dream of an African renaissance was the desire to show that Africa can solve its own problems, the notion of 'African solutions to African problems' (Alexander and Raftopoulos 2005). Van Wyk (2002: 22) is of the opinion that "moral persuasion" rather than any coercion was resorted to in order to achieve a negotiated, peaceful settlement.

In contemplating South Africa's mediation in Zimbabwe, it is important to note the close relationship between ZANU-PF and South Africa's dominant ruling party, the African National Congress (ANC). The two liberation movements had fought together in Zimbabwe, and after the latter's independence in 1980 ZANU-PF provided support to the ANC's liberation efforts. It is this that might explain the statement by the head of the ANC's International Affairs and Policy Department, Mavivi Myokayaka-Manzini, describing the intimate connection between the ANC and ZANU-PF as "sealed in blood" (Johnson 2010). Former interim South African President Kgalema Motlanthe, during his 1997 to 2007-term as ANC Secretary-General, established a regional network of (former) Southern African liberation movements meant to guarantee solidarity and other related support to the Mugabe regime (Adolfo 2009). A further consideration is the imperatives of South Africa's post-apartheid foreign policy, in which it deliberately sought to distance itself from the Western power-paradigm and show solidarity with Africa's post-colonial

118

struggle (Lipton 2009: 332). This also explains why South Africa, like other states with a recent history of liberation struggle, reveres the principle of state sovereignty.

South Africa's mediatory role was premised on the fact that it had economic leverage over Zimbabwe and was in a position to exert sanctions on its neighbour. It was equally premised on the fact that South Africa had relatively more to lose than any other country if the situation in Zimbabwe exploded. Being the most developed economy in the region, it was bound to attract the bulk of Zimbabwean refugees and this would have negative effects on the country's political stability --- the May 2008 xenophobic attacks on foreigners being a case in point. The South African government, however, did not react as most observers had expected: to the contrary, it maintained unwavering support for, and defence of, the Mugabe regime, even to the point of voting against UN Security Council action against Zimbabwe (in South Africa's first-ever term as a non-permanent member of the Council during 2007-2008). One explanation for this has been a form of 'economic imperialism' as Graham (2006: 115) calls it. This claim is strengthened by McKinley's (2004) contention that Mbeki's reluctance to criticise Mugabe was based on the fact that members of the black elite in South Africa were benefitting from their neighbour's plight.

Economically speaking, the realist paradigm (in accounting for the behaviour of states in the conduct of international relations) seems best for explaining South Africa's responses to the crisis in Zimbabwe. For the realists, interests and nothing else explain the conduct of relations between states, and the logic of this zero-sum approach entails that one's losses always equal the other's gains (Turocy and Von Stengel 2001; Myerson 1991; Fendenberg and Tirole 1991; Morgenthau and Thompson 1985). This zero-sum approach resonates strongly in the literature on Zimbabwe-South African relations. It is alleged that Mbeki maintained support for the Mugabe regime because Zimbabwe is South Africa's main trading partner in Africa. Since the crisis took its toll, South Africa became the 'bread basket' for Zimbabwe, with an estimated 55.7 per cent of total imports in 2006 alone (Ankomah 2007). These figures increased with the escalation of the crisis, especially with the influx of economic refugees into South Africa who in turn sent goods and other remittances back home. In the light of such evidence, it can be argued that South Africa's economic interests could not be compromised just because of Western political sentiments about the crisis.

119

Since QD emerged as a meditation strategy for resolving the Zimbabwean crisis under the Mbeki Administration, its impact warrants some evaluation, particularly because the MDC dismissed it as a "do-nothing policy" (Bond 2002: 23). It is difficult to assess whether QD was indeed a ruse for inaction, because the process by definition is opaque: leaders engage each other in private and away from public scrutiny (Gevisser 2009: 298). This has kept the details of QD between South Africa and Zimbabwe outside the public domain and even outside official institutional memory. However, QD in the Zimbabwean crisis, whatever its theoretical merits as a low-key, behind-the-scenes technique, was discredited by the fatal flaw that one of its two essential stakeholders, the MDC, did not trust it as bona fide mediation, so much so that it requested the SADC on several occasions to relieve Mbeki of his duties as mediator. Analysts broadly agree that the Mbeki-brokered meditation failed to treat the MDC as an equal partner in the negotiation process. This may have been informed by what Gevisser (2009: 299) described as the "anachronistic perception" that the MDC represented a 'colonial outpost'. It is further alleged that this perception impaired Mbeki from recognising ZANU-PF's kleptocratic conduct. Arguably, political developments in South Africa also mattered more in guiding South Africa's response to the crisis in Zimbabwe. According to Gevisser (2009: 299), Mbeki's vilification of the opposition party in Zimbabwe and his insistence on QD as an "indispensable option" were attempts to limit the growing political influence of the Congress of South African Trade Unions (COSATU), which had increasingly asserted itself as an ally of the MDC and, at the same time, had become more vocal in its criticism of ANC policies.

Mbeki's solidarity with Mugabe confounded international as well as domestic observers. Gerson (2008: 1-2), for example, interpreted this not as brotherhood, but as "irresponsibility" and "indifference" towards the plight of ordinary Zimbabweans. As asserted by Heine (2009: 17), Mbeki's partiality as a mediator points to the fact that he was the "wrong man, in the wrong place, at the wrong time". This opinion holds currency in light of the way in which Mbeki assured the international community that the situation in Zimbabwe was being stabilised, when clearly it was spiralling out of control. The MDC became convinced that QD was actually strengthening Mugabe's grip on power, rather than helping the SADC region to deliver on its RtoP obligations (Gevisser 2009).

120

It was only after Mbeki's recall by the ANC and his exit from the South African Presidency in September 2008 that the South African government started to acknowledge the crisis situation in Zimbabwe. South African caretaker President Motlanthe noted that Zimbabwe was "facing serious humanitarian challenges characterised by acute food shortages and the outbreak of cholera" Sun 2008). However, the post-Mbeki South African government stopped short of suggesting any instrumental role by the ZANU-PF government in the crisis, thereby implicitly absolving the Mugabe regime from any accountability.

The role of the Zuma Administration (that took office in May 2009) will be discussed as part of the SADC response under point 4.3.3.2 below.

4.3.2.2 Botswana's Response

Botswana initially remained passive, when the situation in Zimbabwe deteriorated from 2000 onwards, even as it felt the contagious effects of the crisis. It was not until the run-up to the 2008 'harmonised' elections that Botswana revealed an independent position on Zimbabwe. In April 2000, Botswana Foreign Minister Phandu Skelemani refuted Mbeki's contention that there was no crisis in Zimbabwe, arguing that "everyone agreed that things are not normal, except Mbeki". He added that Mbeki was, perhaps, "so deeply involved that he firmly believes things are going right. But now he understands that the rest of [the] SADC feels this is a matter of urgency and we are risking lives …" (Rossouw and Moyo 2008). Following the controversial Zimbabwean elections, President Ian Khama became the first SADC leader to criticise Mugabe for holding on to power illegally. Botswana condemned Zimbabwe's electoral conduct in June 2008 for not conforming to the SADC guidelines governing democratic elections, and for breaching the AU Declaration on the Principles Governing Democratic Elections (Badza 2008).

Botswana even took the lead in mobilising the SADC and AU leadership to take action against the Mugabe regime. One account is when, on 1 July 2008, the Botswana government called upon both these regional organisations to exclude Zimbabwe from their meetings, citing electoral irregularities in the 2008 poll (Badza 2008). Botswana went even further by urging other countries in Southern Africa not to recognise Mugabe and to suspend Zimbabwe from the SADC. President

Khama affirmed his position by boycotting a number of SADC summits (Piet 2009). A communiqué released by the Botswana Ministry of Foreign Affairs and International Co-operation on 4 July 2008, titled 'Botswana's Position on Zimbabwe', reiterated that Botswana did not deem Mugabe's presidency to be legitimate and insisted that Botswana, as a democratic country, had an international obligation to promote democracy both at home and abroad (Diakanyo 2008). Botswana also threatened to close its High Commission in Zimbabwe.

In the aftermath of the June 2008 run-off, presidential elections in Zimbabwe, Botswana Foreign Minister Skelemani complained that Zimbabweans, who were fleeing the crisis in their own country, were draining his country's resources and appealed to the international community for assistance (*The Zimbabwean*, 27 July 2008); statistics from the Botswana Immigration Office indicated an increasing number of Zimbabweans entering the country through formal border points, rising from 746 212 in 2006 to 1 041 465 in 2008 (Campbell and Crush 2012). Skelemani's was an unequivocal and unprecedented call by a neighbouring country for the RtoP norm to be applied by the international community. Zimbabwe responded angrily by accusing Botswana of interfering in its internal affairs, and accused it of training MDC-T militia and of collaborating with the UK and the US in trying to destabilise Zimbabwe (Badza 2008). (The MDC-T represents the Tsvangirai-led faction of the MDC, formed in 2005 when there was a split in the party over whether or not to participate in senatorial elections, Tsvangirai insisting that the party should not contest as the playing field was not level; the smaller splinter group became known as the MDC-M under the leadership of Arthur Mutambara.) Predictably, relations between Botswana and Zimbabwe soured. Botswana remained resolute about condemning the Zimbabwean government for human rights violations, and for undemocratic electoral conduct.

But then, in 2010 it made a sudden *volte face* and demanded that the West lift sanctions imposed on the ZANU-PF government in Harare *(*Piet 2010: 1). President Khama reiterated that, despite being a vocal critic of the Mugabe regime, he was of the opinion that the situation in Zimbabwe needed to be given "a chance to heal" and that sanctions were undermining that process. It may be fair to say that Botswana's change in attitude on Zimbabwe could have been caused by fear of isolation by the SADC bloc, and also concern about being perceived as a Western puppet.

4.3.2.3 Zambia's Response

Initially, Zambia adopted a 'soft' approach to the Zimbabwean government, and in August 2007 the late Zambian President Levy Mwanawasa, as SADC Chairperson presiding over a SADC meeting in Lusaka, led discussions on possibilities for an economic rescue plan for Zimbabwe. But Zambia's position changed after the deliberate delay in releasing the results of the March 2008 'harmonised' elections. President Mwanawasa, in his capacity as SADC Chairperson, convened an extraordinary summit of the regional organisation on 12 April 2008 in order to discuss the crisis, but Mugabe failed to attend (Badza 2008). And, at the summit meeting, President Mbeki surprised the world when he announced that there was "no crisis in Zimbabwe" and that events in Zimbabwe were "politically normal" (Rossouw and Moyo 2008).

However, the sudden and unexpected death of President Mwanawasa on 19 August 2008 marked the end of criticism by Zambia's leadership and, arguably, derailed the momentum building up within the SADC to act against the Mugabe regime. President Rupiya Banda, who succeeded Mwanawasa, adopted a more conciliatory attitude towards Mugabe.

4.3.2.4 The US Response

Widespread reports about human rights violations during the 2000 farm invasions, attacks on media freedom, flawed processes in the judiciary, and political violence convinced Western countries to take drastic action against President Robert Mugabe and members of his inner circle (Cosgrove 2005). The US took the lead by responding decisively to the 2000 FTLRP when the US Congress, in December 2001, passed the Zimbabwe Democracy and Economic Recovery Act (ZIDERA). This Act, according to Ankomah (2007: 101), "became the cornerstone of … US policy towards Zimbabwe" in its efforts to promote democratic transition and economic recovery in that country. Article (d) of ZIDERA determines that the US Treasury should oppose or vote against any credit or loan facility, or any cancellation of debt owed by the government of Zimbabwe to the US or any global financial institutions, including the IMF and the WB (Chingono 2010; ZIDERA 2001). The Act stipulates that the provision of financial aid to Zimbabwe depend on that government's willingness to restore the rule of law, conduct free and fair elections, repeal

123

repressive legislation (such as POSA and AIPPA), initiate security-sector reform (placing the police and the military under civilian control), and adopt a legal and transparent land-reform process (Ankomah 2007; Mlambo 2006). The US government intensified its approach of using the 'stick' rather than the 'carrot' by imposing travel bans on high-level ZANU-PF and key government officials and their families, prohibiting business undertakings between US citizens and the government of Zimbabwe (for example, US jewelers are discouraged from trading in what is considered 'conflict diamonds' originating in the Marange region, because of Zimbabwean military raids in the area (Pan-African NewsWire 2012), as well as lobbying for international financial institutions to stop credit and loan facilities to the government in Harare (Ankomah 2007; Mlambo 2006). Chingono (2010) notes that the US, on several occasions, invoked ZIDERA, renewing sanctions on Zimbabwe targeting government elites, and some children of government officials studying in the US were deported.

In 2007, the US joined the wider international community in condemning the brutal attacks on, and detention of, the opposition leadership in Zimbabwe. Barack Obama, even before he was elected US President, strongly condemned the violence preceding the 2008 run-off presidential election. He is quoted as saying that (Obama 2008):

> … the United States must join with the international community in responding decisively to this crisis and it is time for the democratic aspirations of the people of Zimbabwe to be realised, … for the world to help a long-suffering country get back on its feet and become part of a more democratic and prosperous Southern Africa.

US Secretary of State Condoleezza Rice lamented at the time that "the international community again has been shown that the regime of Mugabe is ruthless and repressive and creates suffering for the people of Zimbabwe" (Solidarity Peace Trust 2008: 8). Since then, the US has been consistent and vocal in its condemnation of Mugabe's governance and human rights abuses.

4.3.2.5 The UK Response

Relations between Britain and Zimbabwe are rooted in its historical, colonial ties, and this has also allowed membership of, and multilateral engagements with, other former British colonies within the Commonwealth. As a result, Britain remains an interested party in all political developments

124

in Zimbabwe. As Oliver Colville, the British MP for Plymouth, Sutton and Devonport, noted in July 2012, the strategic importance of Zimbabwe for the UK lies in the fact that "... it is the gateway to South Africa, which is the principal regional power in Africa" (Colville 2012). However, after the election of Tony Blair as British Prime Minister in 1997, relations between London and Harare started to deteriorate. Following the constitutional referendum defeat and the introduction of the controversial FTLRP in 2000, the British government accused the Zimbabwean regime of an attempt to legitimise itself through land grabs and the regurgitation of liberation rhetoric (Taylor and Williams 2002). The Blair Administration was also sceptical about promised political reforms in Zimbabwe and found this incompatible with the implementation of the FTLRP (Chigora 2006). The deterioration of relations between Zimbabwe and the UK, according to Chigora (2006: 61), reflects a conflict of values where "the nexus between land reform and economic development" is incompatible with issues of "human rights, political stability, race relations, and equality". Possibly, the major concern for the UK was that funding for the FTLRP in Zimbabwe would create a precedent, as other former colonies (or indigenous peoples, such as the Aborigines in Australia, and the Maoris in New Zealand) could then also demand compensation for perceived colonial injustices (Chigora 2006).

Since the violent seizure of white-owned farms, relations between the British government and the Zimbabwean government were under tremendous strain, and this was amplified by British accusations of ZANU-PF vote-rigging in the 2002 presidential elections. In 2003, then British Prime Minister Tony Blair reacted by imposing arms embargoes and cutting off financial aid to the Zimbabwean government (Jacobs and Stultz 2009). In addition, the UK terminated the provision of an estimated 450 Land Rovers to the Zimbabwe Republic Police (ZRP), followed by the withdrawal of the British Military Advisory Training Team (BMATT). In its official communiqué on the situation in Zimbabwe, the House of Commons supported withdrawal of financial assistance to Zimbabwe, arguing that "... there is no point in donating tens of millions of pounds to Zimbabwe, aid [which] will [simply] camouflage the impact of ZANU-PF's wanton mismanagement" (House of Commons 2006: 2).

Successive UK administrations demonstrated policy consistency in terms of reacting to the Zimbabwean crisis (*The Economist* 2002: 4). When Gordon Brown took over from Tony Blair as

Prime Minister in 2007, he refused to attend the EU-Africa Summit because of Mugabe's presence (Jacobs and Stultz 2009). Brown is also cited as arguing that the government of Zimbabwe failed to protect its people and that the cholera epidemic, which was spilling over into South Africa, was evidence enough that the crisis constituted a threat to international security (Jacobs and Stultz 2009). Arguably, the UK leadership inspired other developed countries (notably in the Anglophone world and, more specifically, within the Commonwealth), such as Australia and New Zealand, to react to the crisis through public diplomacy, blaming and shaming the Mugabe regime for alleged human rights abuses. Despite somewhat loosening the strings on Zimbabwe in the post-GNU era, the British government remained committed to condemning human rights violations in Zimbabwe. In 2012, following repeated pronouncements by President Mugabe that he would announce the date for forthcoming elections "with or without" constitutional reform, Britain spoke out quite vigorously against the holding of elections. The UK government insisted that "any calls for elections without the finalisation of the constitution-making process are in breach of the GPA [Global Peace Agreement], as well as the Constitution of Zimbabwe, Amendment No 19, which gives legitimacy to the inclusive government" (Hoey 2012).

4.3.2.6 China's Response

Relations between Zimbabwe and China date back to the colonial period when China provided military assistance for Zimbabwe's war of liberation. The Chinese government singled out ZANU (one of Zimbabwe's liberation movements) for support, supplying it with weapons and providing military training to the Zimbabwe African National Liberation Army (ZANLA), ZANU's military wing (Edinger and Burke 2008; Eisenman 2005). Ideologically, Zimbabwe's post-independence governance structures were influenced by, and moulded along, communist and socialist philosophical lines --- amongst others, by those of the Chinese. This, however, changed in the 1990s when Zimbabwe had to concede to the challenges of the post-cold war era, which saw the introduction of capitalist-liberal reforms. Since then, Zimbabwe's domestic policies took a Western-oriented turn, causing some erosion in the Chinese influence. But with the introduction of the FTLRP, relations between Zimbabwe and the West deteriorated rapidly and with increasing international isolation, the Mugabe regime was left with no alternative but to adopt a 'Look East Policy', renewing its broader engagements with China and other Asian countries (such as Iran,

126

Malaysia, Pakistan, Singapore, and India) for alternative economic co-operation (Maroodza 2011; Edinger and Burke 2008). Since 2002, with the imposition of sanctions by the West, there has been increased bilateral co-operation between China and Zimbabwe. Co-operation has been conspicuous in the areas of defence, trade, science and technology, tourism, education, and agriculture (Manji and Marks 2007). In April 2005, Chinese Ambassador to Zimbabwe Chang Xianyi described bilateral relations as both a "profound fraternal relationship" and "an all-weather friendship" (Eisenman 2005: 1). In a metaphorical 'return of the prodigal son', President Mugabe was quoted in 2006 as saying that Zimbabwe "is returning to the days when our greatest friends were the Chinese … we look again to the East where the sun rises and no longer to the West where it sets" (Edinger and Burke 2008: 3).

The Chinese government has radically differed from the West in its interpretation of the crisis in Zimbabwe and has rejected labelling of the situation as a threat to international peace and security. This was demonstrated during the April 2008 elections, when China supplied arms to the Zimbabwean government despite mounting international concern about the involvement of security forces in human rights abuses in the country (Raftopoulos 2010; Du Plessis 2008; Badza 2008). This contrasts sharply with the position of much of the international community, which denounced the Zimbabwean government's abdication of its RtoP duties when it imported military hardware instead of feeding a starving nation.

The Chinese position on Zimbabwe can be explained in a number of ways. Firstly, as mentioned above, Zimbabwe and China had close ideological links and Beijing supported ZANU both militarily and economically during its protracted armed liberation struggle. They, therefore, share a hostile attitude towards any perceived imperialist or neo-colonialist agenda, as well as a common sentiment that Western countries use humanitarian intervention as a ruse to pursue their own self-interests when dealing with developing countries. Thus, from a political perspective, China supports post-colonial states (such as Zimbabwe) in protecting their hard-won sovereignty and resisting interference in their domestic affairs. In this regard, China (with the support of fellow UN Security Council permanent member, Russia) frustrated Security Council attempts to impose sanctions on the Mugabe regime.

Secondly, following the imposition of sanctions on Zimbabwe by the West, Harare's 'Look East Policy' resulted in China becoming its largest trading partner (Jacobs and Stultz 2009). China condemned the imposition of sanctions on Zimbabwe and Chinese Foreign Minister Yary Jiechi, in a visit to Harare in 2011, called upon Western nations to lift all sanctions, including so-called 'smart sanctions'. He declared that "we believe there should be [a] lifting of sanctions by certain countries", and "Africans have the right to choose their own way of development as they are masters of their own continent" (Xinhua 2011: 1). Thus, it can be surmised that China did not factor any RtoP principles into its relations with Zimbabwe, regardless of the crisis that consumed the country.

4.3.3 Responses at the Regional (African) Multilateral Level

The role of regional and sub-regional institutions, such as the SADC, as critical actors in peace and security matters gained currency in the 1990s when it became clear that regional actors, on account of their geopolitical proximity, shared historical (political) and cultural (often ethnic) experiences and have a vital role to play in detecting early-warning signs and providing open communication channels. More importantly, when conflicts erupt, the chances for regional spill-over effects are practically inevitable, hence the need for other regional stakeholders to invest in sustainable peace and stability (Hammer *et al.* 2008). In the case of Zimbabwe, the AU and the SADC are the notable regional institutions that adopted multilateral responses to the crisis situation. The following section, therefore, examines the responses of these two institutions separately, starting with the AU as the overarching continental body and then the SADC as the sub-regional institution.

4.3.3.1 The AU Response

The African Union's involvement in the Zimbabwean crisis finds legal justification in the AU Constitutive Act (2000), specifically Article 4 (h), in which the organisation pledges to intervene in member states in the event of a severe violation of human rights (Spies and Dzimiri 2011; Mwanasali 2008). In addition, the AU Peace and Security Council (PSC), pursuant to Article 5 (2)

128

of the Constitutive Act, is mandated to deliver on "collective security and early-warning arrangements to facilitate [a] timely and efficient response to conflict and crisis situations in Africa" (Mwanasali 2008). The crisis situation in Zimbabwe, therefore, offered a golden opportunity for the AU to live up to its mandate and put its words into action.

Gottschalk and Schmidt (2004) argue that the AU adopted a cautious approach on Zimbabwe, fearing that a confrontational approach might prompt the country's withdrawal from the organisation. As mentioned above, in the wake of an international outcry, the UN appointed a Special Envoy to do an impact assessment of the demolition of shelters and shacks that were carried out as part of Operation *Murambatsvina*. The subsequent report documented widespread and serious human rights abuses committed by the government of Zimbabwe, and recommended political dialogue between the ruling party and the opposition (Tibaijuka 2005). For its part, the AU (through Alpha Oumar Konare, the then Chairperson of the AU Commission on Human and People's Rights, AU-CHPR) mandated Commissioner Bahame Nyandunga, Special Rapporteur for the AU-CHPR on Refugees, Asylum-Seekers and Internally Displaced Persons, to carry out a separate fact-finding mission on Operation *Murambatsvina*, which took place between 30 June and 4 July 2005 (ReliefWeb 2005). Instead of condemning the *Murambatsvina* demolitions, the AU merely echoed the political dialogue recommendation, and nominated former Mozambican President Joaquim Chissano as the AU's Special Representative to Zimbabwe. The motive was to persuade President Mugabe to negotiate with the MDC (Murithi and Mawadza 2011; Murithi 2009). Despite Mugabe's rejection of this AU initiative, alleging that he could not negotiate with the opposition MDC whom he accused of selling-out to the British government, Murithi (2009: 96) interprets the appointment of Chissano as a sign of "diplomatic non-indifference". Thus, it can be argued that the AU at least tried to demonstrate that it was now moving away from the 'culture of indifference' that its predecessor, the OAU, was accused of nurturing towards conflict on the continent. The involvement of Chissano as AU Special Representative did not have the desired effect as evidenced by the intensification of violence, resulting in the Zimbabwean police's brutal attack on, and detention of, the MDC leadership on 11 March 2007: Morgan Tsvangirai, Arthur Mutambara and 50 other MDC members were assaulted and arrested, together with the members of various civic organisations, during a 'Save Zimbabwe' prayer meeting in Highfields, Harare (Murithi and Mawadza 2011; Mlambo and Raftopoulos 2010).

129

With the establishment of the AU Peace and Security Council in 2004, the Zimbabwe situation occasionally featured on the agenda of AU meetings and as part of AU communiqués. Following the March 2007 incident, described by Mlambo and Raftopoulos (2010) as the "beating, arrest, and torture of opposition … and civic leaders", the AU took the official position of delegating the responsibility to take action on the political situation in Zimbabwe to the SADC (Ploch 2010). The act of assaulting and detaining the Zimbabwean opposition leadership attracted regional condemnation and the AU Chairman at the time, former Ghanaian President John Kufuor, labelled the incident "very embarrassing". (Ploch 2010).

During the 2008 'harmonised' elections, the AU Pan-African Parliament (PAP) deployed an election-observer team to Zimbabwe. The organisation's involvement in the Zimbabwean elections was premised on the AU Charter on Democracy, Elections and Governance (AU 2007), Chapter 7 (Articles 19 to 24) and Chapter 8 (Articles 25 to 28), which mandate the AU to deploy election observers in order to monitor and supervise an electoral process in a member state. The PAP's Observer Mission expressed concern about violence and loss of life in the run-up to the elections, warned that the crisis could destabilise the entire country, and pointed out that the situation also had regional implications (AU-PAP 2008). A report compiled by Marwick Khumalo, the mission leader, concluded that "… the current atmosphere prevailing in the country did not give rise to the conduct of free, fair and credible elections" (AU 2008: 20). The recommendation was that both the SADC and AU leadership 'should' engage the broader political leadership and come up with a negotiated, transitional settlement. The AU report was also supported by the preliminary SADC Election Observer Mission (SEOM) report, released on 30 June 2008.

This culminated in a number of AU preventive modalities, which initiated dialogue between ZANU-PF and the two MDC factions. After the violent and disputed 2008 run-off presidential elections, the AU convened the 11th Summit of the AU Assembly of Heads of State and Government in Sharm-el Sheik in Egypt (AU 2008). The summit communiqué recommended the creation of a Government of National Unity (GNU) in Zimbabwe, pledged to support the Mbeki-led SADC facilitation team, and stated that the SADC mediation efforts should be continued in order to assist the leadership and the people of Zimbabwe to resolve the crisis. In addition, it

appealed to member states to refrain from any action that may negatively impact on the climate of dialogue (AU/Res 1 [XI] 2008). The AU continued to play a supportive and facilitating role in addressing the crisis in Zimbabwe, and in December 2008 the organisation pledged US$100 000 towards alleviating the effects of the cholera outbreak in the country (ReliefWeb 2008).

AU Commission Chairman Jean Ping participated in the 11 February 2009 inauguration of the GNU, where Mugabe was appointed President, while Morgan Tsvangirai assumed the position of Prime Minister. This was in stark contrast to the post-run-off election period, when most of the AU leadership did not attend the swearing in of Mugabe as President after the discredited single-candidate presidential race (Murithi and Mawadza 2011).

The AU's delegation of authority to the SADC to mediate in the crisis in Zimbabwe is in line with the AU-PSC statutes, which stipulate that "regional mechanisms are part of the overall security architecture of the African Union" (Murithi and Mawadza 2011). Even so, the AU's involvement in the crisis has so far demonstrated that the organisation played a mere peripheral role, to the point of allowing the ZANU-PF leadership to dictate the timing and methodology of resolving the crisis. In this regard, the AU's lack of bold action may be explained by the fact that the founding of the organisation, as successor to the OAU, coincided with the onset of the Zimbabwean crisis. Its conflict-resolution structures were, therefore, still in their embryonic stages and too weak to address the complexities of the situation in Zimbabwe. Moreover, the main drivers behind the AU's founding, the Presidents of three key African states (Olusegun Obasanjo of Nigeria, Thabo Mbeki of South Africa, and Muammar Ghadaffi of Libya), were all sympathetic to the Mugabe regime. As mentioned above, it is also important to note that the roots of the crisis remain disputed, and many African observers see the crisis as the result of foreign intervention. From this perspective, many of the AU's leaders still believe that the humanitarian crisis in Zimbabwe developed because external players tried to punish the Mugabe regime for its land-reform initiatives.

Generally, the continent-wide reaction to the crisis in Zimbabwe was fraught with division and paralysis. More than anything else, the unchecked escalation of political violence in Zimbabwe exposed a tardy co-ordination in multilateral responses. But, at the level of community leadership

African voices were not silent, and not all African leaders shied away from confronting the Mugabe regime. An example is Ghana's parliamentary debate on Zimbabwe, where Ghanaian parliamentarians openly supported sanctions and even proposed military intervention by the UN as an option for resolving the crisis (Kotey 2008). In solidarity, Archbishop (and Nobel Peace Prize laureate) Desmond Tutu of South Africa urged the AU and the international community to intervene with force in Zimbabwe, and explore possibilities for military intervention under the auspices of the RtoP norm (BBC News 2008). As mentioned previously, Botswana urged other countries in Southern Africa not to recognise Mugabe, following the illegitimate presidential run-off election in 2008, and called for Zimbabwe's suspension from the SADC. Prime Minister Raila Odinga of Kenya, during a press interview, also urged the AU to deploy peace-keepers to Zimbabwe for preventive measures, but this elicited condemnation from most of the AU leadership (Campbell 2008).

The AU's initiative to engage with the Zimbabwe crisis needs to be commended for complying with its stated paradigm shift "from non-interference to non-indifference" (Murithi 2009: 94). However, its deflection and relegation of responsibility for resolution of the conflict to the SADC, renders an analysis of this sub-regional organisation's responses even more pertinent.

4.3.3.2 The SADC Response

The first official SADC initiative in response to the crisis in Zimbabwe was in the aftermath of the contested June 2000 parliamentary elections. At the August 2000 SADC Summit in Windhoek, Namibia, the regional leadership initially focused on addressing the economic situation in Zimbabwe in order to contain any spill-over effects into neighbouring countries (SADC 2000). To achieve this objective, the SADC facilitated political dialogue between the Zimbabwe government and the Western donor community, while at the same time engaging the opposition MDC (Pallotti 2013). Another initiative of the SADC leadership was in September 2001 when an SADC task force delegation, led by Malawian President, Bakili Muluzi, visited Harare in order "to work with the government … on the economic and political issues affecting [the country]" (SADC 2001). This conciliatory approach of the SADC leadership, however, avoided confronting growing concerns about human rights violations in Zimbabwe, including electoral violence and evidence

132

of the harassment of opposition party supporters in both the 2000 parliamentary and 2002 presidential elections.

As alluded to earlier, the SADC was galvanised into a serious engagement with the crisis in Zimbabwe only after the 11 March 2007 police attack on the MDC leadership. In response to the intensification of politically motivated violence, the SADC convened an Extraordinary Summit of Heads of State and Government in Tanzania on 29 March 2007. At the summit, South Africa (through President Thabo Mbeki) was officially mandated to mediate in the crisis (Nathan 2011). The Mbeki-brokered mediation had initial success when it induced some reform in the electoral laws of Zimbabwe prior to the March 2008 'harmonised' elections. The resulting conditions of relative stability allowed the MDC to campaign freely. However, renewed political violence prior to and after the March 2008 'harmonised' elections demonstrated that the SADC lacked a 'Plan B' and, consequently, it could not muster any robust approaches to end the crisis. The SADC Election Observer Mission (SEOM), in their preliminary statement on 29 June 2008, revealed the brutal manner in which the run-off elections were conducted. The report declared that "the process leading up to the presidential run-off elections held on 27 June 2008 did not conform to [the] SADC Principles and Guidelines Governing Democratic Elections". It added that "the Mission is of the view that the prevailing environment impinged on the credibility of the electoral process. The elections did not represent the will of the people of Zimbabwe" (SEOM 2008: 3).

At the political level, the unfolding humanitarian crisis in Zimbabwe caused major divisions within the regional fabric of the SADC. In particular, the period following the 2008 elections saw major disagreements with regard to crisis-response mechanisms and led to a deterioration of relations among member states, with Botswana and Zambia calling for intervention to protect humanity at risk (discussed above under section 4.3.2). Acting on an early-warning preventive initiative prior to the run-off elections, the Tanzanian Foreign Minister (speaking on behalf of the SADC Organ on Politics, Defence and Security, OPDS) warned that prevailing conditions would not allow for the elections to be free and fair (Masunungure 2008). Hawkins (2003), in an earlier discussion of the contagious effects of the economic crisis in Zimbabwe, warned about a serious risk of lasting damage to the regional economy and its peoples, as well as the potential of rendering largely ineffective the SADC region's mechanisms for ensuring stability and adherence to democratic

principles and good governance. It is important to note that Article 4 of the 1992 SADC Treaty determines that the SADC and its member states shall act in accordance with the following principles: the sovereign equality of all member states; solidarity, peace and security; human rights, democracy and the rule of law; equity, balance and mutual benefit; and the peaceful settlement of disputes. Furthermore, Article 4 (c) commits member states to act in accordance with "the principles of human rights, democracy and the rule of law", while Article 6 (2) provides that "SADC member states shall not discriminate against any person on [the] grounds of gender, religion, political views, race, ethnic origin, culture, ill-health, disability, or such other grounds as may be determined … [from time to time]".

Although the SADC regional leadership tried to keep a tight lid on the aforementioned divisions and differences, Hawkins (2008: 8) repeated his earlier warning that the crisis threatened the SADC's very foundations of ensuring regional security and stability. Mlambo and Raftopoulos (2010: 7) echoed the same sentiments, arguing that the region was confronted with the "challenge of living up to democratic principles while, at the same time, preserving the values of the liberation struggle".

Nevertheless, amidst a global outcry the SADC attempted to present a unified front in its approach to the crisis, and the SADC-OPDS troika took a number of initiatives in the aftermath of the 2008 elections. The 28th Ordinary SADC Summit meeting was convened in Sandton, South Africa on 16 and 17 August 2008, and in the summit communiqué the troika pleaded with the feuding parties in Zimbabwe to engage in urgent negotiations to resolve the crisis (SADC Communiqué 2008). As a result, ZANU-PF and the two MDC factions entered into the GPA on 15 September 2008. As part of the agreement, Mugabe would retain his position as President, the MDC-T's Tsvangirai would serve as Prime Minister, while the MDC-M's Mutambara would occupy the position of a Deputy Prime Minister (MoU 2008). The OPDS troika then met in Mbabane, Swaziland on 20 October 2008, with the aim of reviewing the political situation in Zimbabwe, and again in Harare on 27 and 28 October 2008 in order to address the contentious issue of the allocation of cabinet posts, including sharing responsibility for the Ministry of Home Affairs --- a critical ministry that controls the police. ZANU-PF was loath to share control over this ministry with the opposition MDC, fearing that it would lose its grip on the monopoly of power (SADC Communiqué 2008).

134

Thus, the troika reached a dead-end in resolving the issue and deferred the matter to another SADC troika meeting on 9 November 2008 in Sandton.

Even if the SADC had been at the forefront of addressing the outstanding issues between ZANU-PF and the MDC since the inception of the GPA, the organisation's overall reaction to the Zimbabwean crisis seems to have been heavily influenced by what has been referred to as the 'politics of solidarity' (Adolfo (2009: 7). This phenomenon warrants some explanation: SADC countries have a collective memory of painful experiences with racial domination and colonialism, and this has fostered a formidable sense of solidarity (Murithi and Mawadza 2011; Alden 2010; Adolfo 2009; Mills 2005). Adolfo (2009: 7) argues that the extent of this regional solidarity is a sense of "comrades-in-arms" who strive to preserve the gains of the liberation struggle in which they fought side by side, regardless of nationality. This solidarity within the SADC manifested itself on several occasions in international and regional forums where member states attacked the imposition of Western sanctions on Zimbabwe. During the October 2002 SADC Summit in Luanda, Angola, a decision was made to relieve Zimbabwe of its deputy chairmanship of the OPDS and it was replaced by Tanzania. Thus, at first glance, it would appear that the SADC, at a rather early stage, had resolved to exert pressure on Mugabe to induce democratic reforms. However, quite paradoxically, at the same summit meeting Angolan President Eduardo dos Santos openly denounced Western countries for imposing sanctions on Zimbabwe (Alden and Schoeman 2003). It can be argued, therefore, that the politics of solidarity inhibited the SADC from taking a tough stand against the Mugabe regime and, by extension, impacted on the organisation's implementation of its RtoP duties.

It is also important to note that the SADC Protocol on Politics, Defence and Security (in particular, Article 11.2) restrains the organisation from conducting any military intervention activities in member states (SADC 1996). Unlike the AU Constitutive Act, which calls for intervention when a crisis constitutes a threat to regional security, the SADC Protocol still regards sovereignty as sacrosanct, hence also the principles of territorial integrity and non-interference in domestic affairs (Adolfo 2009). It only provides for the peaceful resolution of disputes through mechanisms such as "mediation, conciliation, negotiation, and arbitration" (Adolfo 2009: 11).

135

The SADC dilemma in Zimbabwean crisis situation also reveals Mugabe as an astute politician, who has manipulated the race card to his own advantage. Knowing the status of both South Africa and Namibia as countries which just emerged from white racial domination, he skilfully managed to convince the SADC leadership that Western-imposed sanctions were a racial ploy meant to reverse the gains of the liberation struggle. Hammer; Raftopoulos and Jensen (2003: 8) note that "the mobilisation of race as a legitimate force has been used to justify the battle against historical inequalities, while trying to [shrewdly] conceal … structures that increase such inequalities". Contrary to Fukuyama's (1992) claim that the demise of communism ushered in a new world order where ideology does not count, in the case of the SADC ideology is still a very strong unifying factor. In fact, post-2000 political developments in Zimbabwe have witnessed the heightened role of ideology in which Mugabe seems to have emerged as the new architect of a radical Pan-Africanism.

The SADC has demonstrated support for Mugabe in many different ways. In 2008, at the height of food shortages and the outbreak of cholera, the group did not take Mugabe to task but instead decided to constitute the Zimbabwe Humanitarian and Development Assistance Framework (ZHDAF) under which all SADC member countries were expected to contribute according its available resources and capabilities. But such initiatives could only reduce the humanitarian crisis and could not hope to produce a lasting solution. Again, at the SADC's Heads of State and Government Extraordinary Summit on 30 March 2009 in Swaziland, member states agreed to "stage a diplomatic campaign to lift sanctions against Zimbabwe and mobilise resources to support Zimbabwe's economic recovery" (SADC 2009). On 11 October 2007, Mike Campbell (Pty) Ltd and other white commercial farmers referred the case of land-grabbing to the SADC Tribunal. However, the biggest support for Mugabe was displayed in the callous disregard of the 2007 Tribunal ruling on the FTLRP (Ruppel and Bangamwabo 2008; Nathan 2011). The Tribunal not only found that the Zimbabwean government had violated Article 4 (c) and 6 (2) of the 1992 SADC Treaty, but also declared that it had acted contrary to the AU Charter on Human and People's Rights in that the FTLRP was adopted to serve political ends instead of land reform benefitting the landless and the poor (SADC Tribunal 2007).

Commenting on these legal developments, Mugabe in 2008 described the SADC Tribunal ruling as an "exercise in futility" (Nathan 2011: 3). His government proceeded to show total contempt for the ruling as evidenced in the continued violent invasion of farms. Instead of holding the Zimbabwe government accountable, the SADC Summit genuflected to Mugabe when it controversially dissolved the SADC Tribunal in 2011. Nathan (2011: 1) argues that the manner in which the case of the white commercial farmers was handled by the SADC shows "egregious" disregard for human values and the rule of law. Another view posits that the SADC's handling of the issue needs to be analysed in the context of the realities of resource distribution. Zimbabwe, Namibia and South Africa, being the last SADC countries to attain independence and/or liberation from minority rule, are said to be confronted with a mammoth task of land redistribution (Adolfo 2009; Hammer; Raftopolous and Jensen 2002). This may have led the region to adopt a cautious approach in handling the land question in Zimbabwe since, whatever modality was to be adopted, would set a precedent for neighbouring states facing the same challenge.

There is also a historical explanation attached to the SADC position on the Zimbabwe crisis, as experiences of race discrimination and colonialism fostered regional solidarity (Alden 2010; Adolfo 2009; Mills 2005). Adolfo (2009: 7) adds that its comrades-in-arms history "still holds significance" for the region and that SADC countries will always strive to preserve the gains of the liberation struggle. SADC member states supported each other in their opposition to colonial domination, and during the anti-apartheid struggle some were used as operational bases by South African revolutionary movements. As a result, the geo-politics of the region fostered relational ties that have stood the test of time. This view shifts all the blame away from Mbeki's failed mediation efforts by inferring that, despite his country's regional hegemonic leverage (militarily and economically), there is nothing he could have done to turn that advantage into coercive power, especially in light of the fact that Mugabe is regarded as his political 'senior'. By implication, this may also explain why the MDC is construed both as a political misfit and an alien aberration within the region.

There are several explanations as to why the MDC lost favour with the SADC bloc. Firstly, the roots of the MDC as a political party are anchored in the capitalist ideology. Its constitutive coalition of civil society organisations and trade unions in its quest for change does not have a

137

Marxist revolutionary foundation like the ANC and ZANU-PF, for example (Mapuva 2010). Secondly, there is a perception among most of the African leadership that the MDC is 'counter-revolutionary' and a Western political puppet. Hammer; Raftopoulos and Jensen (2003) point out that continued adherence to revolutionary principles by SADC member states poses a challenge for the post-independence transformation of liberation movements into democratic political institutions. Again, from an ideological perspective, what constitutes legitimate rule in the eyes of SADC leaders seems to be the revolutionary credentials of former liberation movements, such as the ANC in South Africa, the South West Africa People's Organisation (SWAPO) in Namibia, and the *Movimento Popular de Libertação de Angola* (MPLA) in Angola, to cite a few (Dobell 1998). Indeed, SADC leaders who have provided the staunchest support to Mugabe have been his fellow liberation struggle leaders, such as Thabo Mbeki of South Africa, Sam Nujoma of Namibia, and Eduardo dos Santos of Angola. This is in stark contrast to President Ian Khama of Botswana and the late President Levy Mwanawasa of Zambia, who represent a post-liberation and more pragmatic generation of SADC leaders. This might also explain why the senior SADC leadership found it hard to stomach the MDC's liberal-democratic approach to governance and its open embrace of Western values. As pointed out by Sachikonye (2005b), the SADC's reluctance to hold the government of Zimbabwe accountable for the crisis emanated from the fear of, once again, being subjected to Western influence. In addition, Mbeki's revival of the 'African Renaissance' discourse, which called for African solutions to African problems, might have triggered the intensification of anti-Western, anti-imperialist rhetoric.

From a scholarly viewpoint, it would be unfair to totally fault the SADC's handling of the Zimbabwean humanitarian crisis. The first notable development is that under SADC pressure, and for the first time since the formation of the MDC, ZANU-PF conceded to sharing the political space, made amendments to the POSA and AIPPA legislation, and opened the draft constitution to public discussion (Solidarity Peace Trust 2010; Reeler 2009). Also, SADC mediation can be credited for facilitating the draft constitution, as well as Section 64 (1) (e) of the Election Act, which empowered the election presiding officer in each constituency to count all the ballot papers and post the result outside the polling station, before handing the ballot boxes to the central electoral office (which, paradoxically, should have been the normal practice). The Mbeki mediation evidently induced a relatively peaceful atmosphere leading to the 29 March 2008

'harmonised' elections, and this allowed the MDC to campaign in both urban and rural areas. Equally, the signing of the GPA in September 2008 and the subsequent formation of the GNU in April 2010, with all its imperfections, would not have taken place without SADC-sponsored mediation.

Despite the portrayal of the GPA as a "marriage of convenience" (it "failed in its first 100 days", especially in light of Mugabe wielding more influence over and control of the security forces), it paved the way for the establishment of an inclusive government on 13 February 2009, as provided for by the GNU (Welz 2010: 605). Earlier, on 21 July 2008, the parties to the GPA signed a memorandum of understanding (MoU), which was deemed to be a working document for the GNU. In its preamble under Section 10.2, the MoU commits parties to promote a violence-free environment by prohibiting "violence, intimidation, and hate speech", and urged respect for "transparency, dignity and equality" (MoU 2008:5). On 11 February 2009, under SADC pressure, the Mugabe-led government conceded to a constitutional amendment, which paved the way for the creation of the offices of Prime Minister and Deputy Prime Minister (*Government Gazette Extraordinary* 2009). To a certain degree, it proved to be a feasible conflict-resolution strategy and a signal of commitment to the RtoP principle by the SADC leadership. The inception of the GNU brought a ray of hope and was followed by the re-opening of schools, the resuming of work by civil servants, hospitals starting to function again, the cholera epidemic subsiding, shops being stocked with new inventory, and the valueless Zimbabwe dollar being shelved for the US dollar. Political violence also abated. Thus, for ordinary Zimbabweans the SADC-initiated power-sharing arrangement brought relative stability in the post-GNU period, both economically and politically, even though the root causes of the crisis had not been addressed. As Mapuva (2010: 254) argues, one major shortcoming of the GNU is that of the "straightforward denial of [the] popular will", since those who have actually lost the election, found their way back into leadership positions.

Despite its touted benefits for all concerned, internal cracks within the GNU quickly became apparent. Among these is President Mugabe's unilateral appointment of key public servants, such as those of the Attorney-General, the Reserve Bank Governor, and military commanders. The GNU arrangement has also not succeeded in putting an end to nepotism within the state security apparatus. The police, the army and the secret intelligence service are allegedly at the service of

139

the President, and youth militia and war veterans continue to perpetrate violence against MDC supporters (ICG 2010). Moreover, lack of security-sector reform has been a major shortcoming. The RtoP preventive 'tool box' recommends security-sector reform and strengthening of the judiciary as integral to satisfying the 'responsibility to prevent' (Evans 2008). So far, however, these requirements have not been met, and this may imply a lack of political will on the part of the SADC leadership to exert the necessary pressure on Mugabe. The architects of the GNU can thus be taken to task for not considering the critical role of the state security forces in the governance structures of Zimbabwe. The army and state security agencies still populate key strategic ministries, thereby hindering any form of transition to what might begin to resemble a democratic society. Moreover, repressive legislation like POSA and AIPPA are still on the statute books, and these are allegedly arbitrarily applied against opposition supporters. All of these developments may lead to the assertion that the GNU did not fully satisfy the preventive elements inherent in the RtoP notion, and that ZANU-PF and the MDC remain strong and ardent political opponents whose collaboration under the GPA political model proved to be a totally unrealistic expectation.

Recent trends and developments in the SADC region, however, suggest that regional leaders are becoming less tolerant of ZANU-PF's undemocratic political conduct. Between 16 and 18 March 2010, the SADC Troika on Politics, Defence and Security met and South African President Jacob Zuma set 31 March 2010 as a deadline for implementing reforms in Zimbabwe (Chitupa-Mashiri 2011). Such reforms include conducting a land-audit, removing media restrictions, ending the use of hate speech, restoring the rule of law, and enacting constitutional reforms, among others outstanding GPA issues (Chitupa-Mashiri 2011). The slow pace of political reform in Zimbabwe may be attributed to the fact that ZANU-PF has remained the 'Big Brother', both in the GNU and within the SADC.

But, in both the 31 March 2011 SADC Troika Summit in Livingstone, Zambia, and the 11 and 12 June 2011 Summit in Sandton, South Africa, the regional leadership managed to shake up Mugabe and his image of political invincibility. During these summits, the SADC produced a draft road map for conducting free and fair elections, in line with the SADC guidelines governing the conduct of elections. The SADC troika also, for the first time, openly criticised Mugabe for his continued use of violence against opposition party supporters and his failure to address outstanding GNU

issues (SADC 2011). The SADC, through President Zuma, came up with a Joint Monitoring and Implementation Committee (JOMIC) in order to ensure that GPA dictates are followed. By producing a road map, it can be inferred that the SADC is bolstering its strategy of preventive diplomacy, since there is a decree that no elections will be conducted before reforms are affected, not only of the Constitution, but also of the security sector which is deemed to be instrumental in electorally-related violence (SADC 2011).

A major challenge confronting the SADC is the need for converting rhetoric into action. The organisation is in dire need of a punitive approach to non-compliance with its directives, and the lack of such an approach militates against the achievement of any mediatory successes.

4.3.4 Responses at the Wider Multilateral Level

4.3.4.1 The Commonwealth Response

The British Commonwealth of Nations is an IGO consisting of 54 member countries (as at January 2013), naturally including the UK and most of its former colonies. Even though most member states are former British colonies, some (like Mozambique) have joined because of shared interests with, and proximity to, former British colonies.

According to the 20 January 1971 Singapore Declaration, and the 20 October 1991 Harare Declaration, membership of the Commonwealth is voluntary and member states co-operate in the promotion of democracy, human rights, the rule of law, good governance, and promotion of world peace, among other liberal values. Zimbabwe joined the Commonwealth in 1980 after attaining independence, and enjoyed good relations with fellow member countries until 2003 when it withdrew from membership (Mashingaidze 2006; Mlambo 2006).

Shortly after the March 2002 presidential elections, the Commonwealth suspended Zimbabwe from membership for a year, following reports by an election observer team from the Commonwealth of gross electoral irregularities orchestrated by the Mugabe regime. Paradoxically, this action was informed by the Harare Commonwealth Declaration of 1991, which emphasises

141

the need for member states to apply the rule of law, to respect the liberty of the individual under international law, to allow the right for democratic space in national affairs, and to fashion government policies that could also serve the objectives of global economic development (Taylor and Williams 2002; Commonwealth 1991). The following year (during the Commonwealth Summit in Abuja, Nigeria), a motion was tabled by Britain to have Zimbabwe expelled from the organisation, and this compelled the Zimbabwean government to pre-empt Commonwealth action by pulling out unilaterally (Mlambo 2006).

Just like the failure of other multilateral initiatives in response to the crisis in Zimbabwe, Taylor and Williams (2002) attribute the Commonwealth's lack of action to an absence of consensus on how to put effective pressure on the Mugabe regime. Divisions among Commonwealth members, mainly caused by African states that persisted in supporting Mugabe and his land policy, prevented the organisation from fashioning a unified stance. During the March 2002 Commonwealth Heads of State and Government Meeting (CHOGM) in Coolum, Australia, criticism from African member states even alleged that "ostracising Mugabe" was inspired by notions of white supremacy (Taylor and Williams 2002: 556). In 2003, the SADC-OPDS reacted strongly to Zimbabwe's suspension from the Commonwealth arguing that "… the decision will do nothing to assist the people of Zimbabwe [to] overcome their present difficulties .... the present situation in Zimbabwe calls for engagement by the Commonwealth and not isolation and further punishment" (SDFA 2003).

As a result of these divergent views on Zimbabwe, the Commonwealth merely succeeded in aggravating Zimbabwe to the point of pulling out of the organisation. Withdrawal from the Commonwealth had no significant impact on the Mugabe regime, but had lots of negative repercussions for ordinary Zimbabweans, inter alia the loss of Commonwealth scholarships for academics and students.

4.3.4.2 The EU Response

Since independence in 1980, Zimbabwe enjoyed vibrant multilateral and bilateral relations with EU member states. On 23 June 2000, the EU concluded the Cotonou Agreement with 79 countries

from Africa, the Caribbean and the Pacific (ACP), essentially a partnership agreement with developing countries, including Zimbabwe, agreeing to co-operate in matters of climate change, food security, regional integration, and economic development (Chigora 2006). Following reports of government-orchestrated farm invasions and violence during the 2000 parliamentary elections in Zimbabwe, the EU Council concluded that the 2002 presidential elections would, most probably, also be marred by government-perpetrated violence. It subsequently invoked Article 96 of the Cotonou Agreement and introduced restrictive measures against the Zimbabwean government (EU 2002). Thus, on 18 February 2002, the EU instituted a number of financial and non-financial restrictions, involving the suspension of government-to-government co-operation, targeted measures against individuals and companies, and arms embargoes against the Mugabe regime (EU 2002). These included the freezing of assets and the imposition of travel bans on 198 high-ranking ZANU-PF officials believed to be contributing to the undermining of the rule of law and democracy (Mlambo 2006; De Vries and Hazelzet 2005; Taylor and Williams 2002). De Vries and Hazelzet (2005) note that, unlike the EU which documented the names of targeted ZANU-PF officials, the US merely announced that it had imposed travel bans on the ZANU-PF leadership.

In subsequent years, the EU Council simply renewed these restrictive measures. The EU Council's communiqué of 19 February 2004 announced that pursuant to its common position, "… Council impose travel bans and [the] freezing of funds on the government of Zimbabwe and persons who bear wide responsibility for serious violation[s] of human rights, of the freedom of opinion, [and] of association" (EU Council Common Position 2004/161/CFSP). In terms of financial aid, it is estimated that by 2005 about US$110 million in development aid was withdrawn by the EU (De Vries and Hazelzet 2005: 116) and, to punish the Zimbabwean government even further, sanctions were renewed until 20 February 2009 (EU Council CommoDecision 2008/922/CFSP). Moreover, in 2009 the EU Council once again issued a communiqué condemning the Zimbabwean government for its failure to address the social and economic needs of its people, declaring that "the situation in Zimbabwe has deteriorated in a manner that stands in stark contrast to the duties and responsibilities of governments, according to global and regional standards …" (EU 2009).

143

From the outset, the EU's position on Zimbabwe was a carrot-and-stick approach. Following the implementation of the GPA that gave birth to the GNU, the EU conducted an in-depth assessment of the political, social and economic situation in Zimbabwe. In response to the 15 February 2011 report by the High Representative for European Foreign and Security Policy, Catherine Ashton, the EU scrapped travel, visa and financial restrictions on 35 Zimbabwean government officials (EU 2011). This followed a complaint by President Zuma during the 29 September 2010 EU-Africa Summit that "sticking to the sanctions on individuals will give credit to the argument of … ZANU-PF that the functioning of the unity government is not supported to the fullest" (EU 2010). Zuma's viewpoint was that sanctions were hampering regional initiatives to resolve the crisis in Zimbabwe. This gesture may be interpreted as signifying the EU's preparedness to engage the Zimbabwe government in a constructive way. John Makumbe of the University of Zimbabwe posited that "to remove some individuals, while maintaining some on the sanctions list, is meant to send a message that ZANU-PF should behave responsibly". Consequently, President Mugabe and others believed to be threatening maintenance of the rule of law, the pursuit of democracy, and the safeguarding of fundamental human freedoms were retained on the list of sanctioned people. From an RtoP point of view, it can be asserted that by removing 35 names from the list of targeted people ZANU-PF had been given some incentive to co-operate while, at the same time, the EU maintained a cautious approach in its engagement with the government of Zimbabwe.

4.3.4.3 The NAM Response

The Non-Aligned Movement (NAM) was established in 1961 at the height of the cold war and in January 2013 had a membership of 120 countries. NAM sought to strengthen the collective resolve of developing countries in resisting pressures to align with either of the two feuding superpowers, the US or the USSR (now Russia), and thus being forced into belonging to a specific ideological bloc (Strydom 2007). At its inception, NAM aimed to end all forms of oppression, including racism, colonialism, and territorial encroachment. It is in the same context that, upon attaining independence in 1980, Zimbabwe joined NAM which eventually culminated in Zimbabwe hosting the 8th NAM Summit in Harare in September 1986 (Jain 2009; Strydom 2007). The election of President Mugabe as chairman of NAM in the same year increased Zimbabwe's international visibility and his personal prestige as a respected African leader. However, with the deterioration

of the humanitarian crisis in Zimbabwe there were expectations that NAM would adopt a focused and decisive response, but the inverse was the case. President Mugabe enjoyed wide NAM support and on several occasions used the organisation's summits as a platform to attack Western nations, which he accused of instigating international opposition to Zimbabwe, worsening the economic and political situation in his country. In their official communiqué after the 2003 NAM Summit in Malaysia, NAM leaders commended the government of Zimbabwe for "… its endeavours … [towards] correcting historical injustices through the land redistribution programme in accordance with its national laws, and called upon the international community to give full support to these efforts" (NAM 2003). NAM members collectively castigated the West for imposing sanctions without the blessing of the UN, calling such action illegal and with "deleterious effect[s] on the Zimbabwe economy" (Ankomah 2007: 85). The non-Western world was also made to believe that the fight between the Mugabe regime and the West was mainly a colonial struggle between former master and servant. The same position was maintained during both the 15th NAM Summit held in Sharm al-Sheikh, Egypt (July 2009), and the NAM Ministerial Meeting also held in Egypt in May 2012. The NAM leadership demanded that Western countries lift sanctions which are "arbitrary and unilateral" (NAM 2009:64). The Ministerial Committee, inter alia, castigated the Swiss government for denying visas to some ZANU-PF officials destined to attend the International Telecommunication Union (ITU) Broadband Summit in October 2011 in Geneva (NAM 2012). Contrary to the belief that the predatory nature of the Mugabe government is to blame for the suffering of ordinary Zimbabweans, NAM attributed their humanitarian predicament to the unjustified continuation of international sanctions which, it alleged, impeded the country's economic recovery (NAM 2012).

Operation *Murambatsvina* is one notable humanitarian crisis where NAM showed its solidarity with the government of Zimbabwe, rather than empathise with the victims of the Mugabe regime's callous actions. Unlike international actors, such as the US and the EU who were vocal on the human cost of Operation *Murambatsvina,* NAM opted to remain silent on the matter. In fact, upon the release of the report of the UN Special Envoy on Human Settlements in 2005, the Zimbabwean government decided to invite a NAM delegation to Harare in order to neutralise and downplay the Tibaijuka (Special Envoy) Report. According to the *Zimbabwe Herald* of 27 July 2005, the 18 NAM diplomats invited by the Zimbabwe government, instead of commenting on the findings of

145

the Tibaijuka Report, praised Mugabe for adopting a post-Operation *Murambatsvina* reconstruction initiative known as Operation *Garikai* (Restore Hope).

At its Ministerial Meeting in Sharm-el Sheikh, Egypt from 7 to 10 May 2012, NAM praised the SADC and President Mbeki's mediation team for successfully facilitating a GPA arrangement in Zimbabwe (NAM 2012). With implicit reference to Zimbabwe, at its 16th Summit held in Teheran, Iran from 26 to 31 August 2012, NAM called upon member states to remain resolute in their opposition to Western sanctions imposed on certain NAM member countries. As of January 2013, Iran, North Korea, Syria, and Zimbabwe are the NAM member states under some form of Western economic sanctions. But, instead of focusing on the human rights situation in the sanctioned countries, NAM urged member states to form strategic South-South economic and political partnerships in order to repel 'the forces of globalisation and neo-colonialism' from the West (Zharara 2012). In his own address to the summit, President Mugabe rallied anti-Western sentiment by calling for the meeting "to serve as a platform to reinvigorate and resuscitate the Movement", and warned that the world was "confronted with the arrogance … [of] Western powers" (NAM 2012).

NAM's constituent structure is fundamental to understanding the manner in which this organisation, specifically, and the international community by extension, exercised (or not exercised) its duty to protect Zimbabweans at risk. Worth noting is that NAM members constitute nearly two-thirds of the UN membership and this numerical advantage militates against the international community, through the UN, adopting any decisive stance on Zimbabwe. NAM's continued solidarity (arguably, its only *raison d'être*) in portraying a West-against-the-Rest scenario, and the Mugabe regime's insistence that the humanitarian crisis in Zimbabwe is a result of this neo-colonial structural exploitation, effectively condemned any RtoP action on Zimbabwe to be still-born.

4.3.4.4 The UN Response

Under international law (Chapter VII of the UN Charter), the UN Security Council is the only entity that has a mandate to intervene forcibly in situations threatening international peace and security. The Council has, therefore, become the legal point of reference on any humanitarian issue where the RtoP norm might be invoked. Since 2000, the humanitarian crisis in Zimbabwe did not prompt any significant UN reaction, except when the images of the 2005 Operation *Murambatsvina* housing demolitions prompted the then UN Secretary-General Kofi Annan to delegate Special Envoy Tibaijuka to conduct a fact-finding and impact assessment mission on the effects of the operation (Dzimiri and Runhare 2012; HRW 2005; Tibaijuka 2005). As discussed earlier, the Special Envoy produced a report which strongly criticised the Zimbabwe government for causing the Operation *Murambatsvina* tragedy, and also for restricting the space of aid organisations to provide assistance (Tibaijuka 2005). The Report was tabled before the UN Security Council, but the Council was divided over the issue with China, Russia and (then non-permanent member) Algeria objecting to a debate on the issue (Ploch 2010). Thus, the resistance of China and Russia, in their capacity as permanent members of the Council, effectively kept the matter away from UN Security Council scrutiny. However, Kofi Annan, in his capacity as UN Secretary-General, issued a strongly worded statement condemning the Mugabe regime for its actions, saying: "… I call on the [Zimbabwe] government to stop these forced evictions and demolitions immediately and to ensure that those who orchestrated this ill-advised policy are held fully accountable for their actions …" (Ban-Ki-moon 2005).

From an RtoP point of view, the UN Secretary-General's criticism and the visit by the UN Special Envoy in June 2005 signified some measure of adherence to RtoP principles. A stronger UN reaction was possibly inhibited by the declaration of the UN Special Envoy on Operation *Murambatsvina* that, despite the humanitarian catastrophe caused by the large-scale demolition of houses, "… a case for crimes against humanity under Article 7 of the Rome Statute might be difficult to sustain" (Tibaijuka 2005: 76). The Report did call for the Mugabe regime to be held directly accountable when it stated, rather weakly, that "the government of Zimbabwe is collectively responsible for what has happened … it acted on the basis of improper advice by a few architects of the operation" (Tibaijuka 2005: 76). This watered-down language seemed to have

147

left a window of opportunity for the Mugabe regime to avoid direct, instrumental blame. Indeed, if the government had been willing to respond to the criticism in a positive manner, those responsible for the demolitions should, in the interim, have been identified and prosecuted.

Commenting on the deteriorating situation in Zimbabwe during the Fifth Annual Nelson Mandela Memorial Lecture on 22 July 2007, UN Secretary-General Kofi Annan described the situation in Zimbabwe as "intolerable and unsustainable", calling it a clear "example of conflict in Africa". Annan lamented that "it is a pernicious, self-destructive form of reason[ing] to rise up and expel tyrannical leaders who are white, but to … [tolerate] leaders who are black" (Annan 2007).

The unprecedented June 2008 electoral violence, accompanied by a worsening humanitarian crisis, triggered the first serious debate on Zimbabwe at the UN Security Council level. As mentioned earlier, ZANU-PF's loss to the MDC in the 29 March 2008 'harmonised' elections saw a violent campaign of retribution by the ruling party, displacing millions of people, with many injured and killed (UNSC/9396 2008). During the period preceding the elections, it appeared that the UN was convinced that the Mbeki-brokered mediation was going to yield a lasting solution. Following Mugabe's abuse of his Presidential prerogatives and his delay in releasing the election results, newly appointed UN Secretary-General Ban Ki-Moon, on his visit to Accra, Ghana on 12 April 2008, condemned Mugabe for trampling on the principles of democracy. Earlier, Ban expressed concern that the Zimbabwean electoral authorities had failed to release the results and called upon the Zimbabwe Electoral Commission (ZEC) to discharge its duties and release the results expeditiously (Ban 2008). Indeed, he now argued for a joint AU-UN intervention in the Zimbabwean crisis (Badza 2008), and emphasised that "the international community continues to watch and wait for decisive action. The credibility of the democratic process in Africa could be at stake here [in Zimbabwe]" (Aziakou 2008: 1). This culminated in a special session of the UN Security Council on Zimbabwe, held on 29 April 2008. A draft resolution, sponsored by the US and the UK, asked for the imposition of sanctions, the freezing of assets, and travel bans on Mugabe and his accomplices in political violence, and this was supported by 9 out of the 15 members (a majority) of the Council. Belgium, Burkina Faso, Costa Rica, Croatia, France, Italy, Panama, the UK and the US supported the resolution, while China, Libya, South Africa, Russia and Vietnam were opposed (Indonesia abstained). Interestingly, the supporters of the resolution

included a fellow African state, Burkina Faso, but the opponents were joined by the two other non-permanent African members at the time, South Africa and Libya. Despite the majority support, the veto-carrying votes of Russia and China scuppered the resolution (UN Security Council 2008; Badza 2008). The deep divisions in the Security Council's voting on the issue demonstrated that many international actors (however, not all, and certainly not a critical mass) regarded the crisis in Zimbabwe as constituting a threat to international peace and security, as provided for under Chapter VII of the UN Charter.

Commenting during a press conference with the African Press Organisation (APO) in Harare, soon after the June 2008 run-off elections, UN Deputy Secretary-General Asha-Rose Migiro reinforced international condemnation of the regime's role in the electoral crisis in Zimbabwe, arguing that "… when an election is conducted in an atmosphere of fear and violence, its integrity and credibility is tarnished and, hence, cannot reflect the will of the people" (African Press Organisation 2008). The Zimbabwean crisis also featured on the agenda of the UN General Assembly Session of 2010 and concern was raised over the continued use of diamond revenue to sustain the repressive regime instead of channelling the proceeds towards addressing the food security and health crises (UN General Assembly 2010).

4.4 Conclusion

The overall objective of this chapter was to analyse the RtoP-driven responses by the international community (including NGOs, individual countries, and multilateral organisations) to the humanitarian crisis in Zimbabwe, stretching over roughly a decade of turmoil in that country. The chapter started off by placing the humanitarian crisis in Zimbabwe in an historical context in order to determine the root causes of the country's catastrophic 'crisis decade' (2000 to 2010). In the years immediately following independence in 1980, Zimbabwe was a textbook example of transition to statehood: the country was prosperous and at peace, and President Mugabe was revered globally for his statesmanship. However, there were structural flaws in the transition: despite the fact that the Lancaster House Agreement ushered in a new era of black majority rule in Zimbabwe, its failure to address the land question prompted the government of Zimbabwe to resort to radical remedial actions, notably the 2000 FTLRP. But the programme plunged the economy of

149

Zimbabwe into crisis, and among the many aspects of human security that were compromised, food security became a critical concern as the agriculture-driven economy disintegrated. The manner in which the programme was implemented and the increasingly strident ideological rhetoric used to justify its extreme measures, bedevilled relations between Zimbabwe and the West, especially with the country's former colonial ruler, the UK.

Ominous signs of autocratic behaviour by the Mugabe government presented itself well before the FTLRP's violent land seizures attracted international attention. The *Gukurahundi* killings in the 1980s already confirmed the regime's contempt for democracy, the rule of law, and the lives of civilians. The violence was predicated on both ethno-centricity and party politics, and its ruthless execution confirmed the spectre of systematic, government-sponsored abuse of the civilian population, mostly the Ndebele supporters of ZAPU --- hence the retrospective RtoP view that it had constituted a case for international intervention.

Increasingly erratic and politically-driven economic policies (including the unbudgeted for pay-outs to war veterans in 1997, and the 1998 military intervention in the DRC) reinforced the idea that Zimbabwe was descending into a man-made disaster. With civilian dissent on the rise, the political landscape became ripe for opposition politics and the MDC was founded in 1999. Its creation, a direct challenge to the supremacy of the ZANU-PF-dominated government, infuriated the Mugabe regime which accused it of being a Western puppet. Civil unrest became more pronounced as ZANU-PF intensified its strategies to enforce civilian compliance, resorting to the enactment of repressive legislation (POSA and the AIPPA) and also, quite worryingly, to the instigation and perpetration of outright violence.

More and more Zimbabwean state institutions were militarised, and the increasing role of the state security services in governance affairs resulted in arbitrary detentions, rape, intimidation, forced disappearances, and the torture of thousands of opposition sympathisers. Waning support for the ruling party elicited another response from the beleaguered government: the mass politicisation of the youth through the NYS programme, and the encouragement and use of youth militia and other government agents to violate the human rights of opposition supporters. For all intents and

150

purposes, the Mugabe regime was at war with its own people and the democratic fabric of Zimbabwean society was being destroyed in the process.

The involvement of the military and other elements of the state security apparatus in various destructive and violent operations continued unabated, and the attention of the international community was once again captured by the enormity of the consequences of Operation *Murambatsvina* in 2005. This military-led operation (just like Operation *Makavhoterapapi*) was unapologetically used to punish the opposition and its supporters. Coincidentally, and ironically, this campaign was conducted in the same year in which the UN World Summit had endorsed the principles of the RtoP. As the 2005 Human Rights Watch Report on Operation *Murambatsvina* found, the large-scale destruction of houses and the forced displacement of over 700 000 people was a brutal peace-time attack by a government on its own people. Analysed in terms of Article 7 of the 1998 Rome Statute of the ICC, what happened under Operation *Murambatsvina* amounted to a widespread and systematic attack directed at a civilian population and pursued as government policy. Clearly, Zimbabwe was of RtoP concern, and the escalating socio-economic and political turmoil attracted a growing chorus of condemnation from local and international analysts. The violence and forced displacement of millions of people prior to, and after, the June 2008 run-off election, finally prompted calls for humanitarian intervention under the auspices of the UN Security Council, in line with the RtoP's principle of the 'Responsibility to React'.

A large and diverse group of non-state actors, ranging from the Physicians for Human Rights and the International Crisis Croup to Ghanaian parliamentarians and Nobel Peace Prize Laureate Desmond Tutu, urged the world to intervene. Indeed, as this study found, the involvement of civil society in the Zimbabwean crisis proved to be most consistent with the provisions of the 2001 ICISS Report, the 2005 World Summit Outcome Document, and the view of the AU through its Peace and Security Protocol (Article 20), which all acknowledge the role of civil society in delivering on the RtoP's early-warning, peace-making, conflict resolution, and humanitarian action provisions. Gareth Evans (2008: 71), one of the world's leading pioneers and exponents of the RtoP norm, lauded the critical role of these "world ears and eyes" in exposing gross and systematic human rights abuses in Zimbabwe.

However, for actual intervention in, or significant punitive measures to be taken against, a sovereign state like Zimbabwe, more than non-state condemnation and humanitarian relief was required: in terms of RtoP principles and broader international law, the UN Security Council had to mandate a co-ordinated intervention --- and this never happened. Despite the appeals for action by two consecutive UN Secretaries-General (Kofi Annan and Ban Ki-Moon), the UN Security Council reflected the deep divisions among UN member states on the issue of Zimbabwe. Permanent Council members, China and Russia, and (then non-permanent member) South Africa ensured that the Zimbabwe crisis was either kept off the UN Security Council agenda, or resulting in a non-decisive, still-born special session on Zimbabwe in April 2008. The political paralysis in the Council demonstrated that many international actors (but not all, and certainly not a critical mass) regarded the crisis in Zimbabwe as constituting a threat to international peace and security, as provided for under Chapter VII of the UN Charter.

It is at the multilateral level that international responses to the crisis situation in Zimbabwe were most inconsistent and unco-ordinated, not least so within Africa itself. With the AU having delegated authority to the SADC to resolve the crisis in Zimbabwe, this chapter focused, in particular, on the multilateral responses of the SADC towards Zimbabwe. Despite isolated attempts by individual member states of the SADC (such as Botswana and Zambia) to hold Mugabe accountable, the organisation (for the most part) failed to fashion a common position on, and approach to, ending the crisis. The SADC's lack of a robust approach was cleverly exploited by Mugabe, who used ideological rhetoric to tap into regional solidarity and to square off non-aligned states against his Western critics, playing the race card even in wider global forums such as NAM and the Commonwealth (whose members are predominantly developing countries) in order to divert attention from the Zimbabwean government's responsibility to protect its own people.

With most of the SADC countries being led by movements that continue to draw legitimacy from their own struggle against colonial rule, ideological solidarity became a major impediment to regional multilateral efforts to address the crisis in Zimbabwe. The land question at the centre of Zimbabwean politics is of regional concern and has proven to be a political minefield within the SADC. This was controversially demonstrated by the SADC's dissolution of its own Appeals

152

Tribunal in 2011, following Zimbabwe's flagrant disregard of the 2007 Tribunal ruling on the FTLRP.

Apart from the lack of political will within the SADC to address the humanitarian crisis in Zimbabwe, specific institutional problems also presented obstacles to the organisation's hoped-for operationalisation of the RtoP. Article 4 (h) of the AU Constitutive Act clearly prescribes intervention when a crisis constitutes a threat to regional peace and stability. However, contrary to the AU's constitutional provisions on intervention for human protection purposes, the SADC Protocol (drafted in a period before the RtoP principles were codified at the global level) still regards sovereignty as sacrosanct --- hence, also territorial integrity and the principle of non-interference. Therefore, at a political as well as functional level, the SADC's legal framework is not compliant with the AU's own statutes and, by implication, undermines an AU-delegated role to implement the RtoP norm.

Thus, despite a few individual African governments that were pressing for action on Zimbabwe at the multilateral level, there was, as Coltart (2007: 6) lamented, for the most part a "state of denial and paralysis". However, this does not imply a total lack of RtoP action on Zimbabwe; both regionally and internationally, non-military measures (including sanctions and preventive diplomacy) were instituted, even if not properly co-ordinated.

The most prominent of these efforts was the SADC-brokered 2008 GPA which saw the introduction of a GNU in Zimbabwe in 2009. Analysts are deeply divided on the RtoP credentials of the mediation process that led to the GPA, as well as the political process that followed upon its implementation. Led by South African President Thabo Mbeki, the approach pursued by the SADC region envisioned a form of quiet diplomacy that avoided confrontation with the government of Zimbabwe, almost at any cost. The anticipation was that South Africa (impacted more extensively than any other state in the region by the spill-over effects of the crisis) would use its economic muscle and broader regional hegemonic leverage to persuade the ZANU-PF-led government of Zimbabwe to agree to, and then implement, political reforms. However, the appointment of Mbeki as chief mediator arguably compromised the SADC's search for a political solution, as he was not seen as a neutral player --- hence, the main opposition MDC's repeated requests for his removal

153

from the mediation process. Several attempts by actors in the international community to hold the government of Zimbabwe accountable for threatening human security were frustrated by Mbeki's insistence that the situation was under control. Mbeki's denial of the severity of the crisis and his appeasement of Mugabe, cushioned the pressure on the Zimbabwean government and, as critics would argue, caused an escalation rather easing of the human security crisis.

While his supporters hailed Mbeki for negotiating a relatively peaceful run-up to the 2008 elections, the political violence that erupted prior to the subsequent run-off elections once again revealed the fault lines within the SADC and AU responses. Despite the formation of the GNU, the on-going appeasement of Mugabe by the SADC leadership, and South Africa in particular, cast serious doubts on whether the mediation process was informed by RtoP principles, or simply an attempt to prolong the regime of a liberation-struggle comrade.

The most explicit RtoP response strategy that was used by the wider international community (notably the US, the UK, the EU, and other Western allies) involved the imposition of political and economic sanctions, more specifically so-called 'smart sanctions' that sought to isolate the ruling elite in the government of Zimbabwe. Notable punitive actions included the withdrawal of financial assistance to Zimbabwe by the IMF and World Bank, and isolation by organisations like the Commonwealth. Sanctions were justified as attempts to forestall the escalation and degeneration of the Zimbabwe crisis, and it can be argued that these actions complied with the ICISS's vision of using non-military means in a bid to induce behavioural change in an errant government. Based on the findings of this study, however, it can be concluded that sanctions proved to be an ineffective tool in response to the humanitarian crisis in Zimbabwe. Sanctions produced mixed results and in some cases even proved counterproductive, because other international actors assisted the Mugabe regime in undermining their effects, while impacting negatively on ordinary citizens rather than on the politicians they were supposed to target.

One striking feature of the Zimbabwean crisis is that it divided the international community and stirred up a 'West-against-the-Rest' polemic. A coherent RtoP response was further diluted by a lack of multilateral co-ordination, resulting in a bilateral, country-by-country approach. As will be discussed in subsequent chapters, the Zimbabwean case study highlighted one of the most daunting

challenges to the operationalisation of the RtoP norm, namely the subjective nature of motivations put forward for international responses. This is a major challenge for the conceptual evolution of the RtoP, besides presenting a formidable obstacle when it comes to its operationalisation.

Having examined the Zimbabwean case, the next chapter will assess the extent to which the Darfur crisis warranted the invoking of RtoP principles. A comprehensive 'inventory' of regional, continental and international responses to this crisis will be compiled, as viewed through the theoretical lens of the RtoP.

CHAPTER FIVE

APPLICATION OF THE 'RESPONSIBILITY TO PROTECT':
THE CASE OF DARFUR

5.1 Introduction

The Darfur crisis escalated soon after the publication of the landmark RtoP report of the ICISS in 2001, and concurrent with the endorsement of the norm by the UN 2005 World Summit. Darfur, therefore, offered an almost immediate litmus test for the utility of the RtoP as a normative guide for the international community in its responses to crises of a humanitarian nature.

This chapter mirrors the previous chapter as it examines the extent to which the RtoP norm has infused the modus operandi of the international community. In order to achieve this objective, the evolution of the crisis will be discussed. Special attention will be paid as to how historical factors, especially the Darfur region's political and economic marginalisation within Sudan, fuelled the escalation of the humanitarian crisis. Among other catalysts of the conflict, ethno-centrism, Darfur's religious profile, resource scarcity, as well as the direct post-independence marginalisation of the region by the central government, will be considered. Special attention will be paid to the militarisation of the conflict and the responses of the Sudanese government to the humanitarian exigencies. Thereafter, an analysis will be done of the responses of the broader international community at the non-governmental and at the governmental levels, both bilateral and multilateral, and these responses will be contextualised in terms of various conceptualisations of the crisis.

At the bilateral level, Chad's pioneering role in intervening for human protection purposes will be discussed against the backdrop of the influx of refugees from Darfur and the destabilisation of Chad by rebels who had crossed over from Sudan. Other notable bilateral engagements, including those with the US, the UK, China, Russia, and South Africa, will be examined for reasons that will be explained. The Darfur-related interactions with Libya and the Central African Republic, two of

156

Sudan's neighbouring countries, will not be analysed at the bilateral level since their responses occurred mainly within the context of multilateral organisations. The role of the AU, the Union of the Arab League (UAL), the EU, the UN Security Council and the ICC, will be discussed under the rubric of multilateral responses. As was the case in the previous chapter, the analysis is informed by the triadic nature of the RtoP norm, namely the 'responsibility to prevent', the 'responsibility to react', and the 'responsibility to rebuild'.

5.2 Background to the Darfur Crisis

The Darfur crisis can be analysed from several vantage points. A background study of the region reveals that certain socio-economic, political and environmental issues may be at the root of the conflict. In this regard, social problems such as ethno-centrism, as well as political marginalisation, can be identified among the major root causes of the conflict.

5.2.1 The Roots of the Conflict: Ethnicity and the Politics of Marginalisation

Darfur's population is estimated at 6 million and of this total, some 60 per cent are subsistence farmers and the rest are nomadic or semi-nomadic herders (Sampson 2011). The main ethnic groups are the Fur and the Massalit. The Fur (from whom the name Darfur is derived) are the inhabitants of the central part of the region and, like the Massalit, are sedentary, cultivating farmers. The northern part of the region is occupied by the Zaghawa and Bedeyat nomads of black African descent. Other ethnic groups in the region are the Arab Berti, Bargu, Bergid, Tama and Tunju, who are also sedentary farmers (Global Security Report 2012; Mbuen 2009; Quach 2004). Given the history of droughts and water scarcity in the region, the capacity of Darfurians to cope with nature has been compromised, with many tensions revolving around access to scarce resources (see Conflict Map of Darfur in Appendix 2). Thus, pastoral farmers have a long history of clashing with sedentary farmers over land and water (Traub 2010; Mbuen 2009).

157

Most analysts agree that the crisis in Darfur has its roots in the region's deliberate historical neglect by the central government of Sudan in Khartoum (Sampson 2011; Mbuen 2009; Murithi 2008). A structural explanation of the crisis in Darfur is that the politics of marginalisation, and the concomitant underdevelopment in the region, can be attributed to its colonial antecedents in which British colonial policy favoured Arabs over blacks (Murithi 2008; Quach 2004). As a consequence, power became more concentrated in the North of Sudan, compared to Darfur and the rest of the country. A major allegation levelled against the government of Sudan is the strategic underdevelopment of the Darfur region, in a divide-and-rule strategy that has forced Darfurians to battle for scarce resources. Accordingly, Quach (2004: 1) posits that Darfur is nothing but "an explosion of structural violence", rooted in a constant struggle for national wealth between the centre and its peripherals. Walter Rodney's (1972) discussion on the contestation between centre and periphery in relations between Europe and Africa, and his thesis on the underdevelopment of the periphery, applies at a microcosmic level also to the prolonged social, economic and political marginalisation of Darfur by the central government of Sudan.

Moreover, the socio-economic dimensions of the Darfur conflict can, inter alia, be understood through the lens of the 'Protracted Social Conflict' theory of Azar (1990). The theory focuses on the negative impact of underdevelopment and other domestic, social roots of a conflict, such as bad governance; accordingly, "… reducing overt conflict requires [a] reduction in [the] levels of underdevelopment" (Azar 1990: 15). The hypothesis is that groups which seek to satisfy their identity and security needs through conflict are, in effect, seeking change in the structure of their society. Porto (2002) adds that a sense of relative deprivation and unrealised expectations are seen as the most important factors in creating deep-seated grievances. Political violence results from an intolerable gap between what people want and what they get. Azar (1990) concludes that the role of the state is to satisfy or frustrate basic communal needs, thus preventing or promoting conflict. The 'Protracted Social Conflict' theory reinforces the notion that the crisis in Darfur represents a quest for recognition and the ending of its continued marginalisation by the centre (the North). Seen from this perspective, the structural violence that manifested itself through pervasive discrimination, and the social, economic and political marginalisation of non-Arab, African communities, resulted in overt forms of violence (Sampson 2011; Adar 2010; Murithi 2008; Deng 2007; Quach 2004).

The regime of Sudanese President Omar Hassan Ahmed al-Bashir (who assumed power in a military coup on 30 June 1989) perpetuated the practices of his predecessors (and of the colonial authorities) of marginalising the periphery, instead of reforming the social, economic and political structures of the country (Mamdani 2009; Deng 2007; Mamdani 2007; Johnson 2003; Khalid 1990). Quach (2004: 6) attributes this pattern of governance to what he calls the Arab "clientelistic network" between a ruling class, a military junta, and an elité. The predatory nature of this alliance exploited national resources at the expense of peripheral communities (Quach 2004; Khalid 1990). Oil revenue has been of particular concern, and in the case of Darfur the discovery of oil in 1983 eventually fuelled conflict when Darfurians demanded a "[fair] share of Sudan's US$1 million per day oil revenue" (Daly 2010: 273). Khartoum's refusal to consider these claims, instead continuing its exploitative and discriminatory policies, sowed the seeds for both ethnic and political tensions in, inter alia, the Darfur region.

The conflict that triggered the humanitarian crisis in Darfur started in February 2003 when the main rebel groups in the region, the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM), pooled their efforts and resources in the Darfur Liberation Front, DLF (Mamdani 2009). The DLF was led by the charismatic Abd al-Wahid Muhammed al-Nur, deriving its support and recruiting manpower from non-Arab tribes like the sedentary Fur and Massalit, and the nomadic Zaghawa; logistical support and ammunition was initially supplied by Eritrea and the John Garang's SLA (Mamdani 2009). When the DLF launched an offensive on the government of Sudan, it led to the capture of the provincial capital of central Darfur, Gulu, and the military base at El-Fasher. The Front managed to seize control of military installations, aircrafts and airports, and demanded greater political and economic participation for Darfurians (Mamdani 2009; Williams and Bellamy 2005; Power 2004; Igiri and Lyman 2004).

The vision of the DLF was soon expanded to the liberation of Sudan as a whole and, as a result, it evolved into the Sudan Liberation Movement (SLM). Central to their message was what Mamdani (2009: 245) refers to as the "exclusionist rhetoric" --- that is, the message that the people of Darfur had suffered neglect and were "marginalised and deprived of their rights to development and social participation" by the government in Khartoum. Although other causes are equally plausible, the

159

'exclusionist rhetoric' carries much symbolic weight in the discourse around the roots of the Darfur conflict. Darfur's neglect and underdevelopment by successive regimes in Khartoum is also discussed by El-Tom (2006), who alludes to an anonymous publication, the so-called 'Black Book' (*al-kitab al-aswad*), which triggered popular consciousness among the people of Darfur. Concerns about the underrepresentation of peripheral regions in Sudan's parliament, cabinet, councils, and provincial governments are central to this discussion.

The conflict in Darfur assumed an ethnic and religious dimension when the non-Arab, African Christians and traditional communities were targeted for attacks by Sudanese government forces and its proxy ally, the *Janjaweed* militia (Sampson 2011). In this regard, some brief historical context is necessary. A broader historical account of tribal relations in the Darfur region, proffered by Mamdani (2009), acknowledges that since the 1950s black Africans and Arabs in this region were constantly at loggerheads over water, land, and other scarce resources. But relations improved due to inter-tribal marriages that acted as a deterrent against violent confrontation. Tensions resurfaced when the predominantly Muslim government of Sudan implemented policies, such as sharia law, as early as 1983 in order to Islamise the whole of Sudan. The attempted Islamisation of the country created a huge rift between Muslims and non-Muslim communities and, as Deegan (2009) points out, minority rights in Sudan became equated with religious rights. This allowed the Sudanese government to exploit religious and ethnic rifts to serve its own political ends and, thus, when the conflict in Darfur assumed a military dimension, the government in Khartoum labelled it an ethnic dispute. However, Igiri and Lyman (2004) claim that the ethnic dimension ascribed to the conflict was a callous manipulation by the government of Sudan in order to justify the decision to quell the revolt by arming the Arab tribes in Darfur, and turning them against their fellow black Darfurians.

5.2.2 Escalation of the Crisis and the Sudanese Government's Response

The Khartoum's response to the crisis warrants specific scrutiny: initially, as mentioned above, it attempted to trivialise the rebel uprising as a mere insurgency and tribal clash, not driven by any genuine grievances (Mamdani 2009; Williams and Bellamy 2005). In due course, however, the government realised the severity of the uprising and tried to negotiate a solution. Allegations of

serious human rights violations in the early phases of the Darfur conflict pressurised the Bashir regime into establishing Specialised Criminal Courts on Events in Darfur as a framewok for prosecution of crimes in Darfur and negotiation committees for dispute resolution (Human Rights Watch 2006; Chief Jusice Decree 2005, Presidential Decision 97:2004). In May 2004, Presidential Decision N0.97 etsablsihed a National Commission of Inquiry (NCI), charged with the task of investigating allegations of human rights abuses, especially the rape of women by state security forces and *Janjaweed* militia, was constituted (Presidential Decision 97:2004; UNHCHR 2005). During the UN Secretary-General's visit to Sudan from 29 June to 3 July 2004, the Sudanese government announced further steps to combat sexual violence in Darfur by establishing a 'State Committee on Combating Gender-Based Violence in Southern Darfur', whose mandate would be to identify and try the perpetrators of such crimes (UN 2004). These seemingly robust actions by the government of Sudan created the impression that the perpetrators of human rights abuses in Darfur would be held accountable for their deeds, but instead they proved to be spurious and, unsurprisingly, elicited allegations of being a mere 'window-dressing exercise'.

These initiatives failed since there were allegations of *male fide* --- the negotiation committees, for example, were tribally constituted (Mbuen 2009, Human Rights Watch 2006). According to Mamdani (2009), the strategy of constituting the negotiation committees along tribal lines led to a dead-end, since the rebel factions interpreted it as a 'divide-and-rule' strategy. Rebel groups were convinced that the grievances of all Darfurians were essentially similar, and that there was no need to ascribe these to a particular tribe. Thus, the SLA vowed that "it would negotiate as long as the government recognised the political nature of its struggle and stopped calling its members armed robbers" (Mamdani 2009: 254).

The Sudanese government's questionable commitment to ending the conflict in Darfur could also not be rectified by the Constitution of Sudan: on the contrary, Articles 45 and 74 of the 1998 Sudanese Constitution ensured presidential immunity in the case of criminal liability (Sudan, Constitution 1998). Moreover, Section 33 of the 1999 National Security Act protects state security personnel, providing them with immunity from offences committed while executing their duties, and ensuring that they can only be tried at the discretion of the National Security Director (Sudan,

National Security Act 1999). The NCI could, therefore, not carry out its duties independently, nor publicise its findings.

Running out of options, the Sudanese government reacted forcefully by launching massive air strikes and deploying some of its ground troops in what was labelled a "counter-insurgence operation" (Sampson 2011). The complexion of the crisis changed when the government in Khartoum started recruiting and arming fellow Arabs in Darfur, forming a local militia force called the Popular Defence Force, PDF (Adar 2010). This later became popularly known as the *Janjaweed*, or 'armed man on horse' in the local parlance (Sampson 2011; Adar 2010; De Waal 2005a). While pursuing the rebels, the Sudan Armed Forces (SAF) and its proxy *Janjaweed* militia committed wanton killings, abductions, forced displacements and, it is alleged, deliberately destroyed crops, livestock, and other means of human survival (Grono 2006; Williams and Bellamy 2005). Arguably, by targeting villagers and civilians, the Sudanese government's objective was to weaken civilian morale and support for the rebels (ICG 2006; De Waal 2005a). Daly (2010) contends that, as a result of the excessive use of force, the government of Sudan found itself at war with its people, instead of protecting them.

In its handling of the Darfur crisis, the Sudanese government adopted a carrot-and-stick approach, but executed in tandem: while negotiating, it destabilised the process by instructing the *Janjaweed* to carry out a total onslaught on the people of Darfur. A case in point is the 2004 Geneva Conference on Darfur (sponsored by the Henry Dunant Foundation), in which the Sudanese government initially participated but later withdrew on the pretext that the process was heavily politicised; it also demanded that the conference be held in Khartoum (Daly 2010). Thus, the Bashir regime put forward what amounted to essentially cosmetic proposals for solving the crisis, even more so in the wake of the 2005 referral of the conflict in Darfur to the ICC (by means of UN Security Council Resolution 1593). An example was the October 2005 Conference of Political Parties and Civic Organisations held in Khartoum, whose motive, according to Solomon (2008), was to 'buy out' the rebels by pledging US$250 million for development projects in Darfur in a bid to block the ICC from proceeding with Bashir's indictment. However, this did not yield any positive results as JEM and the SLA refused to participate.

162

One of the SLA's preconditions for negotiations was that the Sudanese government should disarm the *Janjaweed* (Mamdani 2009: 254). The Bashir regime did not do so, and instead allowed the militia to act with total impunity. Williamson (2006) wryly notes that the government in Khartoum, instead of holding the *Janjaweed* accountable for their actions, concentrated on minor cases of stock theft and the possession of unlicensed firearms. De Waal (2005) laments that there is no record of the Sudanese government requesting the international community to assist in disarming or fighting the *Janjaweed*. The Bashir regime also allowed the situation to degenerate into a humanitarian catastrophe by objecting to the deployment of any international peace-keeping force for human protection purposes (UN- International Commission of Inquiry Report on Darfur 2005).

5.2.3 Impact of the North-South CPA on the Crisis in Darfur

As noted above, Darfurians felt that successive Sudanese governments have marginalised them from both the country's economy and politics (Mbuen 2009; Cohen and O'Neill 2006). Narratives on the Darfur crisis, especially on issues of power-sharing and exclusion by the centre in Khartoum, equate its causes to a war between Sudan's North and South. This war, one of Africa's longest civil conflicts, has raged since Sudan's independence from Britain in 1955. This war finally came to an end with the signing of the Nairobi Comprehensive Peace Agreement (CPA) in 2005 (UN Security Council 2005), the precursor to the birth of a new sovereign state, South Sudan, in 2011.

The CPA seem to have 'resolved' the conflict between the North and the South, and its architects proposed a power-sharing deal between the Sudanese government-backed National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM). In terms of this arrangement, a Government of National Unity (GNU) was established on 25 September 2005 (Human Rights Watch 2006). Thus, the CPA acknowledged the legitimacy of the South's grievances, in stark contrast to Khartoum's handling of the crisis in Darfur. The latter's exclusion from the CPA arrangement intensified ethnic consciousness and violent protests in the Darfur region. Both JEM and the SLA/SLM felt that the GNU arrangement would intensify their marginalisation and that once power was dispersed along a North-South axis, Darfur would no longer feature on the national agenda (Kalu 2009). Indeed, the CPA acted as a catalyst for the rebel uprising in the Darfur region.

163

According to Agwai (2009: 4), the people of Darfur learnt a lesson from the CPA, namely that the South Sudanese had achieved their independence and recognition through fighting a war, hence fighting for the Darfurians appeared to be a means to an end.

5.3 An Holistic Human Security Perspective on the Crisis

The crisis in Darfur has been described as one of the worst humanitarian crises of the 21st Century (Prunier 2008; Flint and De Waal 2008). The severity of the crisis is evident from the fact that, between April 2004 and December 2006 alone, about 41 humanitarian agencies were engaged in trying to lessen the effects of the crisis (Dagne 2011). Statistics show that between March 2003 and January 2005, over 2 million people were internally displaced and an estimated 450 000 died as a result of the conflict, and from disease and malnutrition (Dagne 2011; Centre for Research on the Epidemiology of Disasters 2010). In a more recent assessment, US Special Envoy Princeton Lyman reported to the US House of Representatives Sub-Committee on Africa and Global Health that some 2 million Darfurians, mainly from Tobaya and East Jebel Marra, have been displaced in a mere six-month period between January and July 2011 (Lyman 2011).

The enormity of the crisis owes much to the instrumental role played by the government of Sudan. Despite the lack of exact figures on the number of casualties, various analysts obtained clear evidence that counter-insurgency operations by the Sudanese government and the *Janjaweed* against the rebel movements had serious human security ramifications for the people of Darfur. The official report by the 2005 UN-International Commission of Inquiry on Darfur revealed the brutality and inhuman conduct of the government of Sudan and its proxy militia, citing cases of "indiscriminate attacks on civilians, murder, torture, destruction of villages, and forced displacements" (ICI 2005: 3). In terms of the 1998 Rome Statute of the ICC such acts are considered crimes against humanity. Tellingly, the 2008 Report of the UN High Commissioner for Human Rights confirmed massive human rights and humanitarian law violations in Darfur, arguing that "the scale of the destruction suggests that the damage was a deliberate and integral part of [a] military strategy".

A joint 2005 mortality survey by the World Health Organisation (WHO) and Sudan's Federal Ministry of Health revealed that government-sanctioned scorched-earth policies resulted in a high incidence of conflict and disease-related deaths of internally displaced people (IDPs) in Darfur (WHO and Federal Ministry of Health-Sudan 2005). In fact, the scorched-earth strategy of burning villages and crops and driving people off their land, as well as denying people in *Janjaweed*-controlled camps access to aid relief and clean water --- what Daly (2010: 291) describes as "genocide by attrition" --- subjected millions of people to starvation (ICRtoP 2012; Sampson 2011). Since most Darfurians are farmers and depend on land for their survival, being driven off their land meant losing everything. The war disrupted agricultural production, and looting by *Janjaweed* militia (who had reportedly been promised access to land by the Sudanese government) further impoverished the farmers of Darfur. This explains why, by April 2007, most Darfurians largely depended on food aid for survival. It is further reported that the crisis in Darfur took a particularly heavy toll on women who were subjected to systematic sexual violence (Flint 2006; Amnesty International 2006).

The severity of the humanitarian crisis is also reflected in the overwhelming numbers of refugees and IDPs from Darfur in Chad and the Central African Republic. As of May 2004, there was an influx of over 500 000 refugees into these two neighbouring countries (ICRtoP 2012; Sampson 2011; Cohen 2006; Williams and Bellamy 2005). Eastern Chad became a safe haven for Darfur refugees and this resulted in a deterioration of relations between Sudan and Chad.

Forced displacements have been used by pressure groups and humanitarian organisations to sustain the genocidal depiction of the crisis as provided for under Articles I, II and III of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and Articles 7 and 8 of the 1998 Rome Statute of the ICC. Moreover, several analysts have ascribed not only an ethnic but also an explicit racial dimension to the conflict, claiming that the Sudanese government declared total war on black Sudanese since they were perceived as a threat to Bashir's power base (Quach 2004). Valentino (2004) posits that Khartoum's conviction was that by destroying their houses and property, black Darfurians would be permanently dissuaded from mobilising politically and militarily. Flint and De Waal (2005) are of the opinion that the actual intention of the Sudanese government was to radically change the demographic complexion of the region. It seems clear that

excessive use of force by the government in Khartoum resulted in massive human rights violations and war crimes, mainly on unarmed black Darfurians, and this led to the crisis being labelled as genocide (UN-International Commission of Inquiry Report on Darfur 2005).

Okolo (2003) and Prunier (2005) concur that the Sudanese government's refusal to disarm the *Janjaweed* demonstrated a well-calculated move to eliminate the black population of Darfur. O'Neill and Cassis (2005) refer to the discovery of a secret government document, instructing the *Janjaweed* and its security personnel to wipe out and kill all blacks in Darfur and to burn their villages, farms and property. Despite denying these allegations, everything that is detailed in the document actually happened, and the government in Khartoum did nothing to halt the *Janjaweed* from carrying out its genocidal attacks on black Darfurians.

The panic and violent response to the crisis by the Sudanese government in Khartoum is explained as fear for a domino effect (Quach 2004: 14), namely that other oppressed and marginalised communities might also rise and claim their rights. Mamdani (2009: 254) concludes that the intensity and scale of force used by the Sudanese government reflected its "cumulative failures" on how to address the Darfur issue, which resulted in an extremely serious and escalating humanitarian crisis. Benn (2004) described the crisis as one of the worst extant humanitarian crises, a fact that rendered Darfur of critical concern for the wider international community.

According to Mills (2009: 10), the Bashir regime sought to prevent any international attention focused on the crisis by dismissing its importance, referring to it as "just a local tribal conflict". Such utterances misled the international community and prevented any decisive action in addressing the crisis. The high numbers of deaths resulting from the crisis can also be attributed to the Sudanese government's thwarting of humanitarian aid distribution by harassing and expelling aid workers (Daly 2010; UN 2004). In several cases, permits for aid consignments and visas for official humanitarian personnel were deliberately delayed or refused (Slim 2004). A case in point is that of Jan Egeland, the UN Secretary-General's Representative for the Co-ordination of Humanitarian Affairs in Darfur, who was blocked from entering Darfur on 3 April 2006 (IRIN 2006). Going even further, and as retaliation for the ICC indictment of President al-Bashir on 14 July 2008, the government of Sudan expelled 13 humanitarian NGOs working in Darfur. These

actions exacerbated food insecurity, and left more than 1.5 million people without healthcare provision (ICRtoP 2012). The lack of access to food, humanitarian aid, and medical facilities took a heavy toll on the population, most seriously on children below the age of five.

In another form of subverting international efforts to provide assistance to the victims of the conflict, the Sudanese government failed to provide security for aid agencies, despite repeated claims to the contrary. Continued insecurity complicated the operations of aid agencies, and their resources not only became collateral conflict damage, but their personnel were explicitly targeted through *Janjaweed* attacks. The UNOCHA (2006: 2) cited numerous cases of the hijacking of NGO vehicles, some subsequently seen with "roofs cut off and machine guns mounted for combat". The report also attested to the fact that NGO personnel were targeted for attacks, and that some areas in the western parts of Darfur were declared 'no go' zones. The security situation in Darfur was so dire that Collins (2006: 1) described it as the "most violent, bloody, and sorrowful man-made disaster". A detailed account of the humanitarian ramifications of the crisis was provided by the 2004 report of UN Office for the Co-ordination of Humanitarian Affairs, as well as the 17 May 2004 report of the UN Security Council (UN 2004).

As most Darfurians at that stage were dependent on food aid for survival (Global Security Report 2012; Cilliers *et al*. 2009), the Sudanese government's actions, as outlined above, indicate that it deliberately and flagrantly disregarded its RtoP obligations (Grono 2006; De Waal 2005). Not only did the government in Khartoum mastermind the inter-ethnic violence in Darfur, but it also used the state security apparatuses against the very people it was supposed to protect. Central to the RtoP thesis is the message that regimes or governments that violate the fundamental rights of their people forfeit their rights to sovereignty, thus making it "morally imperative for the international community to intervene" (Wheeler 2000: 8).

Responses to the crisis by various members of the international community will be examined in the next part of the chapter.

5.4 The International Community's Response to the Darfur Crisis

Responses at the international, non-governmental level will be discussed against the backdrop of the fact that NGOs were the first to bring to the world's attention the humanitarian horror of what was going on in Darfur. Chad, the US, the UK, China, Russia and South Africa will be discussed in the context of their respective bilateral engagements with the Darfur crisis. At the regional, multilateral level, special attention will be given to the responses of the AU and the Union of the Arab League (UAL). Responses at the wider global, multilateral level will focus on the EU, the UN, and the ICC.

5.4.1 Responses at the International, Non-Governmental Level

During the initial phases of the crisis, civil society emerged as the lone voice in creating awareness of what was happening in Sudan's Darfur region. Organisations such as the Save Darfur Coalition (an alliance of more than 190 organisations, formed in 2004), Genocide Watch, Human Rights Watch, and Amnesty International, among other pressure groups, tried to document and bring to the world's attention the scale of the atrocities that were being committed in Darfur. Daly (2010) notes that the NGOs involved in Darfur were an amalgamation of faith-based, human rights, and humanitarian organisations. It was the intense pressure from these civil society movements that compelled the international community and world leaders to take some action on the worsening human security situation in Darfur.

The Chinese hosting of the 2008 Olympic Games in Beijing prompted various international organisations and individual celebrities to expose the Chinese government's military support for the government of Sudan. The point was made that the Chinese pursued this trade in military hardware in exchange for mineral and business concessions in Sudan, disregarding the nefarious purposes for which the arms were being used by the Sudanese government and, by extension, exacerbating the humanitarian crisis in Darfur (*The New York Times* 2008). A case in point is that of American actress and humanitarian activist Mia Farrow's March 2008 campaign for the US government to take China to task (Schoeman and Junbo 2012; Wadern 2008). In addition to that, prior to the Beijing Olympics, various civil society movements led by Jill Savitt (a humanitarian

168

activist and Executive Director for Dream for Darfur) campaigned for a boycott of the Olympics by labelling the latter the "Genocide Olympics" (Warden 20008).

International publicity given to the Darfur crisis has been of pivotal importance, and since the start of the conflict in 2003 the media emerged as one of the critical players in placing Darfur on the international agenda. Due to media coverage of the violence, destruction of property, and other atrocities being committed, the nature and extent of the crisis were revealed and this fuelled the debate around the international community's responsibility to protect Darfurians from harm. Bah (2010) argues that the international media's revelation of the crisis prompted the US, specifically President George W. Bush, to assume leadership in opposing the Sudanese government's human rights violations by labelling Darfur a genocide conflict .

5.4.2 Bilateral Responses to the Darfur Crisis

Notable bilateral actors in the Darfur crisis include Chad, the US, the UK, France, South Africa, China and Russia. It is, therefore, pertinent to examine how each of these countries responded to the crisis in Darfur, as well as to determine the motives behind their engagement with the issue. Since the Libyan and Central African Republic's responses to the crisis were in the context of multilateral diplomacy (that is, within the framework of the AU and of the UAL), they will not be discussed separately.

5.4.2.1 The Chadian-Brokered Mediation on Darfur

Chad presented the first individual state initiative in response to the Darfur crisis, and this may be attributed to the spill-over effects of the crisis. Chad had to bear a huge refugee burden as civilians fled over the border when the Sudanese government conducted continuous air raids, which it called 'counter-insurgence', against the Darfur rebels. This forced Chadian President Idriss Déby to initiate the first peace deal between the government of Sudan and the two rebel movements, JEM and the SLM/SLA, in N'Djamena on 8 April 2004 (Daly 2010). The N'Djamena peace talks were the first bilateral initiative since the start of the crisis in August 2003, bringing the conflicting parties to the negotiating table.

169

Unfortunately, the Humanitarian Ceasefire Agreement lasted for only 45 days, inter alia undermined by partiality on the side of the Chadian government and lack of political experience by the rebels (Williams and Bellamy2005). Confusion in rebel command structures stalled implementation, as factional divisions complicated the peace process. The most serious blow, however, was when Sudan's President al-Bashir accused Idriss Déby's government of supporting the rebel movements in Darfur (Williams and Bellamy 2005). In fact, President Déby had allowed the Zaghawa rebels from Darfur (with whom he shares ethnic identity) to use Chadian territory as their operational base from which they launched offensives against the Sudanese government. As a result, the government of Sudan retaliated in kind by allowing Chadian rebels to operate from Sudan. This cost Chad dearly when the government in N'Djamena was nearly toppled by Sudan-supported Chadian rebels in May 2004 (Mamdani 2009; Williams and Bellamy 2005). The two governments then proceeded to accuse each other of harbouring and sponsoring rebels, and friction between Khartoum and N'Djamena prompted the leadership in Chad to declare that it was in a state of war with Sudan (Amnesty International 2007a). Tensions were eased when the two governments signed an agreement on 26 July 2006, pledging not to give refuge to each other's rebels --- and this was followed by the 28 August 2006 normalisation framework of "friendship", promising to be "good neighbours" (Tubiana 2008: 29).

Nevertheless, despite the fractious nature of its mediation efforts, Chad was the first country to take such an initiative at the bilateral level, demonstrating to the international community that tangible action was needed in order to address the crisis in Darfur.

5.4.2.2 The US Response

In line with their global championing of human rights, democracy and good governance, successive US governments expressed concerns about political developments in Sudan, starting with the North-South conflict and, subsequently, also the crisis in Darfur. In addition to being the world's superpower, what made the US a critical actor in Darfur is the fact that it was the first to attach a 'genocide' label to the crisis. In its 2002 National Security Strategy, the US described as "rogue states" those that "brutalise" their own people and lambasted leaders who squander national

170

resources without considering the needs of their people (Dagne 2011; O'Neill and Cassis 2005; US National Security Strategy 2002). Moreover, in July 2004 a resolution was passed by the US House of Representatives declaring what was happening in Darfur an act of genocide; in fact, the resolution called on President Bush to intervene militarily (US 108th Congress, 2nd Session 2004; BBC News 2004). And in September 2004, Secretary of State Colin Powell, in his maiden presentation before the US Senate Committee on Foreign Relations, argued that "genocide has been committed in Darfur [and the] … government of Sudan and the *Janjaweed* [must] bear responsibility" (Powell 2004).

Unlike the House of Representatives, which called for military action in Darfur, and despite labelling the conflict as genocide, Powell did not support the call for military action (Powell 2004). Powell explained that "it is not a simple military solution that is at hand" (Lynch 2004). But it is quite possible that Powell objected to any suggestion of military intervention since the US was already overstretched by other military campaigns, most notably in Afghanistan and Iraq. Instead, according to Powell, the US was going to maintain a constant threat of sanctions against the government in Khartoum (Lynch 2004). The US description of the crisis as genocide was, however, dismissed by both the AU and the UAL, which held different viewpoints on the matter (AU 2010; UAL 2009). Also, the debate on the 'genocide' in Darfur in the US Congress prompted the UN Security Council to adopt Resolution 1564 on 18 September 2004, leading to the appointment of a Commission of Inquiry to investigate allegations of human rights abuses by the warring parties (UN/Sec.Res 1564: 2004).

In September 2006, following pressure from the US Congress, mounting advocacy over the humanitarian catastrophe in Darfur, and the threatened collapse of the DPA, President Bush appointed Andrew Natsios as the US Special Envoy to Darfur. Since his appointment, and in line with the resolve of Congress to keep up the pressure on the government of Sudan, the US has maintained the practice of appointing a Special Envoy to Darfur/Sudan (Ambassador Donald Booth occupying that position as of January 2015). Following his first meeting with newly appointed Special Envoy Natsios, the US President quite pointedly described the crisis in Darfur as "an act of genocide" (Loewentha 2006: 1). On 13 October 2006, the US Administration's conviction of the seriousness of the crisis prompted him to sign into law the Darfur Peace and

171

Accountability Act (DPAA), with its prime focus on imposing sanctions on "persons responsible for genocide, war crimes, and crimes against humanity" (US Executive Order 13412: 2006). The DPAA also called for protection of humanitarian personnel and those involved in peace-keeping initiatives.

In addition to its bilateral initiatives, continued allegations of state-sponsored violence in Darfur prompted President Bush to call for NATO-led military intervention in Sudan (Butterfield 2006). This position contrasted sharply with the previous non-intervention stance by Colin Powell. Despite the fact that Bush's statement remained at a rhetorical level, the Sudanese government reacted to these 'threats' by dismissing possible intervention as tantamount to neo-colonialism (Mbuen 2009). As a result, the provision of humanitarian aid through various US state agencies such as USAID, especially food and healthcare, became the central focus of the US response (De Waal 2005b).

Scholars and other analysts have floated various interpretations of the US foreign policy response to the Darfur crisis. Quach (2004: 17), for example, is of the opinion that the genocide label was only used for purposes of "electioneering" by both President Bush and John Kerry, his Democratic Party rival during the 2004 presidential elections. The Darfur crisis erupted concurrent to the US presidential elections, and from Quach's perspective it featured on the US foreign policy agenda because both presidential candidates had to "satisfy the public desire for American global leadership and … avoid public pressure on the government's actions" (Quach 2004: 17). In similar vein, Daly (2010) and De Waal (2005) assert that the US consciously avoided intervening militarily (as it did in Afghanistan in 2001 and in Iraq in 2003). This could have been as a result of Sudan's support for and co-operation with the US in the 'war against terror'. It is, therefore, reasonable to suggest that the national security imperatives of the US prevented it from confronting the government of Sudan in a more forceful or maximalist manner. Daly (2010) argues that the US's anti-terrorism campaign, manifested in its post-9/11 'coalition of the willing', played into the hands of the Bashir regime as the exigencies of the campaign deterred the US Administration from condemning the Sudanese government's so-called 'counter insurgence' policy in Darfur. Increased co-operation between the two meant that successive US administrations (from George Bush to Barack Obama) could only adopt a minimalist approach towards the government in

Khartoum. There is also a possible economic dimension to the US policy on Darfur, with analysts such as Daly (2010) observing that Washington has huge vested interests in Sudan's oil resources. Moreover, since China had already started to enter into oil deals with Sudan, the US had to contain Beijing's encroachment into what is perceived as a US sphere of influence.

Another observation is that the US involvement in Iraq and Afghanistan during the same period meant that a military campaign in Sudan would be too costly in terms of resources and manpower (Cohen 2006). More controversially, Prunier (2005) alleges that a military option was ruled out by both the US and the UK because, while they intended to facilitate a peace process in Darfur, they were actually at the forefront of 'committing crimes against humanity' in Iraq. Mamdani (2007: 2) has also commented that "crimes against humanity are not unique to Darfur alone, since the US was doing the same in Iraq". This implied that the Sudanese government and the US were technically 'on the same side' as far as immoral positions and policies were concerned. Arguably, the invasion of Iraq, in the same year that the Darfur crisis erupted, seriously diminished US credibility in terms of its motivation for humanitarian intervention. Also, in the wake of the 9/11 terror attacks, the US possibly feared becoming involved in a conflict with strong religious undertones; and entangling itself in the Darfur crisis could send the wrong message that it was leading the West in waging an anti-Muslim war (Dagne 2011).

Furthermore, the US position on the Darfur crisis was quite ambiguous because of its controversial relationship with the ICC. The US had not ratified the Rome Statute of the ICC and, therefore, when the UN Security Council referred the matter of Darfur to the ICC on 31 March 2005, it had to abstain from voting on Security Council Resolution 1593. Thus, the US did not exercise its veto power and did not block the Resolution, yet its abstention was interpreted as back-tracking on its earlier, and much-publicised, labelling of the crisis in Darfur as genocide.

The parallel involvement of the US in the signing of the CPA is of some concern. It seems the US was convinced that investing in the CPA would be the gateway to addressing the Darfur crisis. However, on the contrary, overemphasising the importance of the CPA caused the Darfurian rebel groups to feel marginalised, with the result that the crisis continued unabated (Daly 2010).

173

5.4.2.3 The UK Response

As in the case of Zimbabwe, there was great anticipation from the international community that Britain would take a leading role in addressing the crisis in Darfur, given the colonial ties between the UK and Sudan. Many of the policies pursued by the Sudanese government, especially the 'divide and rule' strategy, were inherited from the British colonial system and, to a certain degree, the crisis was an opportunity for Britain to rectify some of its historical mistakes. Successive British leaders, from Tony Blair to Gordon Brown, condemned the Bashir regime for failing to address, or for actively causing, the humanitarian catastrophe in Darfur. The way in which Britain responded to political developments in Darfur, however, cannot be divorced from that of its closest ally, the US. The post-9/11 political environment witnessed a close harmonisation of US and British defence policies. The UK emerged as the strongest US ally in the war against terror, and this explains the similarities in approach on the crisis in Darfur. As the former colonial master, Britain must have had greater leverage in addressing the crisis, but the main challenge was that since the 9/11 terrorist attacks on the US, the UK "settled into the role of junior partner in US overseas enterprises" (Daly 2010: 297). But in principle, like the US, Britain condemned Khartoum for its political conduct and demanded political reforms from the Bashir regime (Mbuen 2009).

Nevertheless, in September 2006 British Prime Minister Tony Blair called upon the EU to adopt a unified stance in addressing the crisis in Darfur (World without Genocide 2013). This was in line with Blair's assertion, five years earlier, that "if Rwanda happens again, we would not walk away as the outside world has done many times before". At the British Labour Party Conference in 2001, speaking in line with RtoP principles, Blair insisted that the international community had a "moral duty" to intervene militarily in the event that similar incidents occur (Blair 2001). His successor, Gordon Brown, vigorously supported the deployment of peace-keeping forces to Darfur, and in his speech before the UN General Assembly in 2007 labelled the conflict in Darfur, "the greatest humanitarian disaster the world faces" (Sullivan 2007). Britain was among many countries that appealed for the declaration of a no-fly zone in Darfur, as well as the ICC's indictment of Bashir, and in several forums Britain pressurised the Sudanese government to co-operate with the international community in its efforts to end the crisis in Darfur (Rodman 2008).

174

Just like the US, however, Britain focused its efforts on the Naivasha Peace Process, leading to the 2005 CPA in Sudan. As noted by Rodman (2008), Britain was well aware of the gross human rights violations in Darfur, but feared that a confrontation with Khartoum would frustrate efforts to end the North-South war, which had ravaged Sudan since independence in 1955. In essence, Britain concentrated on aid and other humanitarian support systems through its various donor agencies, like the British Disaster Relief Committee, Save the Children UK, and Care International, among others (Daly 2010).

5.4.2.4 China's Response

China emerged as one of the most critical players in the Darfur crisis. This owes much to Beijing's post-cold war expansionist policy, also into Africa. In addition, China is one of the permanent members of the UN Security Council, with vested interests in Sudan. Initially, and arguably, the Chinese government had an indifferent attitude towards the crisis in Darfur and interpreted political developments there as a domestic matter for the Sudanese government, which Khartoum had to resolve internally (Junbo 2012; Ahmed 2010). On 14 March 2004, however, a faction of the SLA rebel movement, led by Abdel Wahid al-Nur, kidnapped two Chinese workers while they were busy with a well-drilling project in western Sudan (Ahmed 2010). This was repeated in October 2008 when nine Chinese oil workers were kidnapped in southern Kordofan. The fact that the conflict in Darfur had a natural resource (oil) dimension might have triggered hatred towards the Chinese who, in this case, were granted exclusive drilling rights by the government of Sudan. As suggested by Ahmed (2010), this incident injected the Chinese government into the conflict, as it feared that the Darfurian rebels were now threatening its economic interests.

Since then, the Chinese government remained engaged with the conflict and emerged as one of the most prominent supporters of the Bashir regime. As in the Zimbabwean crisis, China used its permanent membership of the UN Security Council to shield the Bashir regime from any punitive action. In 2005, China abstained from voting on the Security Council Resolution that referred the crisis in Darfur to the ICC. The following year, it again abstained from Security Council Resolution 1706, which called for a UN peace-keeping deployment in Darfur (UNSC: 2006). Janbo (2012) emphasises that, unlike its Western counterparts, China's foreign policy engagement with the crisis

175

in Darfur was characterised by persuasion, co-operation, and political dialogue with the government of Sudan.

Continued human rights violations in Darfur, however, prompted the West to pressurise China to behave like a "responsible stakeholder" in the international system and to condemn the Sudanese government's political malpractices in Darfur (Ahmed 2010: 6). As a result of continued international pressure, and in line with its own rising leadership profile on the global stage, China had to make a shift in its policy position on Darfur. The Chinese government started to heed the calls for pressure on the government of Sudan, albeit in a rather tentative way. Thus, Chinese policy shifted from 'indifference' to 'co-operation' with the international community, compelling them to pressurise the Sudanese government into co-operation with the rest of the global community. In fact, two successive Chinese Ministers of Foreign Affairs, Li Zhaoxing and Yang Jiechi, took the government of Sudan to task over the deteriorating situation in Darfur (Ahmed 2010). But in 2007, although China condemned the gross human rights violations in Darfur, it opposed the imposition of fresh sanctions on Sudan (Pen 2007).

One major shift in Chinese foreign policy on Darfur occurred when China appointed Liu Guijin as China's Special Envoy to Darfur on 11 May 2007 (Ahmed 2010; NPCPRC 2008). Worth noting is that Liu Guijin was an extremely capable and experienced Ambassador --- he had, prior to his appointment on Darfur, served as China's Ambassador to Zimbabwe and, subsequently, to South Africa. He was, in fact, well versed on African politics and understood the controversy around China's amicable relations with dictators. Liu Guijin demanded that the Sudanese government must be pro-active in stopping human rights violations in Darfur (Junbo 2012). This explains why China did not veto the 2007 UN Security Council Resolution 1769, which authorised the establishment of the United Nations-African Union Mission in Darfur (UNAMID), contrary to the Sudanese government's objection.

China, however, continued to interpret political developments in Darfur as an internal issue, requiring a solution at the domestic level, and Liu Guijin argued that "imposing new sanctions only makes the problem more difficult to resolve" (Pen 2007). China's position on the crisis was that underdevelopment was the prime cause of the conflict. Thus, in 2008 the Chinese government

pledged financial assistance of some US$11.65 million towards the development of water-supply, electricity, agricultural and health projects in Darfur (Xinhua News Agency 2008). But, despite all these positive developments, reports show that state-orchestrated violence by the militant *Janjaweed* against Darfur's black population continued unabated.

It can be argued that China has maintained a minimalist approach to matters relating to Darfur, thereby allowing those directly involved to explore better options for resolving the crisis (Large 2009). There is a view that China's initial inaction on the crisis in Darfur was heavily influenced by its traditional and well-known insistence on the principles of state sovereignty and non-interference in the internal affairs of other states. However, Schoeman and Junbo (2012) note that the signing of the CPA in 2005 saw a shift in Chinese policy away from its initial passive stance, with increased and pro-active efforts at finding a diplomatic solution. Upon the appointment of Liu Guijin as Special Envoy to Sudan, China initiated several multilateral engagements with the AU, the Arab League, and Western countries in order to find some common ground in resolving the crisis in Darfur.

The Chinese, arguably, believed that Bashir should be persuaded to co-operate in addressing the Darfur crisis, rather than being subjected to punitive measures. Indeed, it was through Chinese persuasion that Bashir agreed to the replacement of the AU mission force in Sudan with a joint UN-AU hybrid force in Darfur (Schoeman and Junbo 2012). Large (2011) summed up this shift in Chinese policy towards Darfur as a sign of gradual departure from the rigid notion of state sovereignty to a more flexible approach in cases of large-scale humanitarian crises.

On the other hand, since the 1990s China's support for the Bashir regime was clearly, and in large measure, driven by economic interests, based on growing bilateral relations of an economic, political and military nature (Large 2011). According to Dagne (2011: 25), China invested billions of US dollars in Sudan's oil industry and China's National Petroleum Corporation is deemed the largest shareholder. There are also reports that, since February 2007, China secured business concessions to upgrade the railway line between Port Sudan and Khartoum (Dagne 2011; Large 2011). The realist explanation for humanitarian intervention is that states will only intervene after calculating the gains that might accrue associated with committing their military manpower and

resources to such an initiative. Thus, China resolved that it could not support any resolution that would threaten its investments in Sudan, and this is why it abstained from UN Security Council Resolutions 1556, 1593 and 1706 on Darfur.

As mentioned above, China has been accused by human rights groups, as well as state actors, of fuelling the crisis in Darfur by supplying weapons to the Sudanese government. In 2005 alone, China sold US$57 million worth of weaponry and spare parts for aircraft to the government of Sudan (BBC News 2008; Amnesty International 2007b). This could explain why China did not support the ICC indictment of President Bashir and, instead, abstained from the UN Security Council vote on the matter (Ahmed 2010).

5.4.2.5 Russia's Response

Russia and Sudan have been strategic allies, dating back to the cold war. During the era of US-Soviet tensions (1945 to 1989), Sudan maintained a position of neutrality in its dealings with the two superpowers. The relationship between Russia (successor to the USSR) and Sudan became more pronounced in the post-1990 era when they started to develop closer and stronger economic and political ties. Thus, Russia had the potential of being a critical actor in the crisis on Darfur based on its strategic partnership with the Sudanese government, as well as its position as a permanent member of the UN Security Council. Since the start of the conflict in Darfur, however, Russia maintained a low profile on the issue and, just like China, consciously opposed any confrontational stance towards the government in Khartoum. In 2006, in order to demonstrate its opposition to any form of intervention (and, arguably, signalling support for the government of Sudan), Russia abstained from UN Security Council Resolution 1706 calling for the deployment of a peace-keeping force in Darfur (UN/SC/88821: 2006).

Following the International Criminal Court's indictment of President Bashir, Deputy Speaker of the Russian Parliament, Viladiskar Girofiski, announced that Russia's bid to have the ICC decision rescinded proved abortive, and warned that the arrest warrant for Bashir was "ill-timed" (Coalition for the International Criminal Court 2009). Russia, it should be pointed out, had signed but not ratified the Rome Statute of the ICC, and just as its fellow permanent members on the UN Security

178

Council, the US and China, could not in good faith support the referral of Bashir to the Court. Moreover, there is a view that since the Russian Federation had a similar domestic problem with Chechnya (amongst others) and is accused of using scorched-earth polices against the people of that restive region, it feared that any endorsement of UN Security Council or ICC action on Darfur would set a precedent and could, possibly, be replicated in its own backyard (Cohen 2006; De Waal 2005). This explains why Russia has, on several occasions, opposed diplomatic efforts to pressurise the Bashir regime into political reforms.

5.4.2.6 South Africa's Response

Though geographically far removed from the region, South Africa emerged as one of the critical players in political developments in Darfur, something that can be attributed to the country's status as the economic and political hegemon on the African continent. By the same token, South Africa was intimately involved in the processes leading up to the signing of the CPA, which ended the protracted hostilities between North and South Sudan. The conflict in Darfur, as mentioned earlier, erupted just as the call for an 'African Renaissance', spearheaded by the South African government, was beginning to take root. As a norm-entrepreneur and middle power, it can be argued that South Africa saw a golden opportunity to operationalise the notion of 'African solutions for African problems' by participating in resolving the Darfur crisis. Significantly, the crisis erupted immediately preceding South Africa's first-ever term as a non-permanent member of the UN Security Council (2007-2008), adding further impetus to its involvement in resolving the issue.

Though it was a late-comer in responding to political developments in Darfur, South Africa was one of the African countries entrusted by both the AU and the UN with the duty of resolving the crisis (Nathan 2009, UN 2006). South Africa's position on Darfur, however, resembles much of its attitude towards the Zimbabwean crisis. Unlike the majority of Western countries that insisted on a confrontational approach, South Africa resorted to a non-aggressive, politico-diplomatic approach in resolving the crisis in Darfur (Nathan 2009). This model was also utilised in response to similar crises in Burundi, the DRC, Rwanda and Zimbabwe, amongst others. It seemed that the Mbeki Administration was convinced that horizontal South-South co-operation, rather than the

179

hierarchical North-South paradigm, would produce more tangible results in the African context (Nathan 2005). However, South Africa's position frustrated the international community's efforts to pressurise Bashir into introducing democratic political reforms when it opted to engage the Sudanese government constructively (Department of Foreign Affairs (DFA) 2005). This manifested itself when South Africa staunchly objected to the ICC indictment of Bashir and UN Security Council Resolutions calling for the imposition of sanctions on Sudan (Nathan 2009). The anti-imperialist rhetoric that, during Mbeki's presidency, constituted a central tenet in South Africa's foreign policy, explains Mbeki's defiance of Western pressure on the issue of Darfur (as he did in the case of Zimbabwe), insisting that African conflicts can only be resolved by Africans.

Thus, South Africa's strategic position as a non-permanent member of the UN Security Council (from 2007 to 2008) enhanced its credentials in the eyes of those who sought a solution to the crisis in Darfur. At the time, observers were optimistic that South Africa's empathy with the humanitarian crisis in a fellow African state would prompt it to guide the UN Security Council towards operationalising the RtoP. However, as in Mbeki's approach to the Zimbabwean crisis, it would appear that economic interests played a determining role in the handling of the Darfur crisis. A 'commercial' explanation to Mbeki's 'crisis denial syndrome' is provided by Nathan (2009: 83), who describes Mbeki's appeasement policy towards Bashir as "commerce and peace-keeping". During 2004, at the height of the crisis, the South African and Sudanese governments signed a memorandum of understanding in which they "agreed to co-operate on oil exploration" (De2005). This trend is amplified by the fact that South Africa's exports to Sudan rose from R50 million in 2004 to R460 million in 2006. According to the South African government, PetroSA (South Africa's oil company) signed for oil concession rights, and the Global Railway Engineering Consortium of South Africa signed a US$21 million contract with the Sudanese Railways Corporation for the rehabilitation of its rail network (DFA 2005).

Thus far, it has emerged that bilateral engagements with the Bashir regime did not result in any meaningful change in the complexion of the Darfur crisis. However, multilateral engagements, through institutions like the AU, the Union of the Arab League, the EU, the UN and the ICC, also impacted on the crisis in Darfur. These efforts will now be considered.

5.4.3 Responses to the Crisis in Darfur at the Regional (African), Multilateral Level

Proponents of the RtoP, emphasise the role of regional, multilateral institutions in the operationalisation of the norm. In the context of Darfur, notable regional, multilateral responses came from the AU and the Union of the Arab League (UAL). It is, therefore, necessary to examine each response separately and discuss how these reacted to the declining human security conditions in Sudan's Darfur region.

5.4.3.1 The AU Response

The AU pledged in Article 4 (h) of its Constitutive Act to end the culture of impunity and indifference that has led to massive loss of life in African countries (AU Constitutive Act 2002). Thus, developments in Darfur presented the AU with its first real test and called for putting words into action. Initially, the delayed response of the AU seemed to imply the conviction (as shared by various other international actors) that this was a domestic issue, and that the Sudanese government would act rationally and quell what it had termed "an act of banditry by rebels" (Williams and Bellamy 2005). In due course, however, the AU came to realise the severity of the crisis and the dangers of entrusting its resolution to the government of Sudan.

The AU's first engagement with the Darfur crisis was in 2003 when it welcomed efforts by Chadian President Idriss Déby to bring the contending parties together to negotiate for a peaceful resolution to the conflict. As discussed earlier, the Chadian initiative did not produce a positive result, and pressure mounted on the AU to assume a leading role. On 8 April 2004, the AU brokered the N'Djamena Humanitarian Ceasefire Agreement between Sudanese government, SLA and JEM (AU 2004). Following the signing of the ceasefire agreement, the AU met in Addis Ababa on 28 May 2004 and a decision was taken to deploy the first AU Mission in Sudan (AMIS), which became operational on 8 September 2004 (Mills 2009; De Waal 2005b). According to the decision taken in Addis Ababa, the AU was to deploy 80 monitors and a protection force of 300 troops in order to 'police' the humanitarian ceasefire agreement through confidence-building measures and humanitarian operations (Human Rights Watch 2006). However, the AU's first deployment failed, inter alia, due to a lack of commitment on the part of the government of Sudan, leading to violations

181

of the agreement. The initiative, to a certain extent, succeeded in bringing relative stability to Darfur, because the levels of violence decreased noticeably after the establishment of AMIS (Daly 2010; Bah 2010; O'Neill and Cassis 2005). The fact that by 2005 AMIS had deployed a total of 7 000 personnel in Darfur, and that its mandate was extended until 2006 in accordance with UN Security Council Resolution 1590, suggests that something positive was achieved by AU involvement.

Since the Chad-initiated peace negotiations in 2003, the AU has maintained a strategy of facilitating diplomatic negotiations between the warring parties in Darfur. Notably, on 5 May 2006, the AU met in Abuja, Nigeria and hosted the signing of the Darfur Peace Agreement (DPA) between the government of Sudan and the SLA faction of Mini Minnawi (DPA 2006), brokered by veteran Tanzanian diplomat and former Secretary-General of the OAU, Salim Ahmed Salim. Key to the DPA were power-sharing, the equitable distribution of wealth, integration of SLA-Minnawi fighters into the Sudan Armed Forces (SAF), demobilisation of the *Janjaweed*, provision for the reconstruction of Darfur, and restoration of peace and security in the region (Dagne 2011; Nathan 2009). The GNU saw an important structural development when SLA leader, Mini Minnawi, was appointed Senior Assistant to President Bashir, in line with Article 8 of the DPA, serving as Principal Advisor to the President (DPA 2006). This move was interpreted by many as a major diplomatic breakthrough in addressing the issue of involvement and participation, which was core to the cause of the Darfur crisis.

There were shortcomings in the DPA, however, most crucially its lack of inclusivity, since the other SLA faction, led by Abdoul Wahid, and JEM did not sign the agreement (Daly 2010). Furthermore, the architects of the DPA demanded disarmament of the *Janjaweed* militia, who were alleged to have been responsible for various war crimes, yet they were not represented during the negotiations. By excluding the *Janjaweed*, it was quite obvious that they were going to be peace-spoilers as they were a critical factor in the Darfur equation. This, in what seemed to be a 'divide and rule' approach where only one rebel faction agreed to be part of the GNU with the Sudanese government, resulted in a further escalation of the conflict. In addition, threats alone, without a mechanism for enforcement, undermined adherence to the DPA. Nathan (2007: 254) also criticises the process for the rushed way in which it was done, calling it "deadline diplomacy", and laments

© University of Pretoria

the "lack of commitment from the parties" involved. From a sustainable peace perspective, proponents of the DPA failed to come up with a framework that comprehensively addressed the root causes of the conflict (Nathan 2007). Despite having the services of experienced peace negotiators, compared to those of the rebel movements, the Sudanese government displayed a lack of commitment by not taking the rebels seriously. This is demonstrated by Khartoum's claim that the rebels were not representing the people of Darfur; hence, there was no need to engage them in negotiations (Nathan 2006). It is further noted by Adar (2010) that the DPA was negotiated concurrent to the authorisation of the ICC by the UN Security Council to conduct investigations into war crimes. Under the threat of ICC indictment, Bashir found a useful pretext to backtrack from the DPA. Thus, the contestation between justice and a 'political' solution to the Darfur crisis resulted in the frustration of AU initiatives.

A very important development in the AU engagement with Darfur was its partnership with the UN. In March 2006, realising that the AU could not go it alone, the UN partnered with the regional organisation and established a hybrid United Nations-African Union Mission in Darfur (UNAMID), which eventually became operational in 2008 (AU Commission Chairperson Report PSC/MIN/2 (LI) 2006). The AU was to take a leading role in the operations of UNAMID and, symbolically very important, the arrangement promoted African ownership of the process.

In 2007, the AU-UN brokered peace negotiations on Darfur in Sirte, Libya (Prunier 2008). Just like the DPA negotiations, the Sirte negotiations did not involve all the rebel groups and, as a result, ended in a stalemate. In July 2008, the AUPSC established a High-Level Implementation Panel on Darfur (AU-HLP) under the leadership of South African President Thabo Mbeki (AU Communiqué PSC/MIN/COMM (CXLII) 2008), which was mandated to pursue peace, reconciliation and justice in Darfur. In line with the South African approach to the conflict, as discussed earlier, the AU decided to adopt a bottom-up approach; the belief was that African ownership of the crisis, as envisioned by the philosophy of 'African solutions for African problems', would produce a lasting solution (Schoeman and Junbo 2012: 14). Subsequently, the mandate of the AU-HLP was extended to 2009, and it also became involved in negotiations leading to the independence of South Sudan (Schoeman and Junbo 2012).

183

The AU, through the AU Commission Chairman, Alpha Oumar Konare, is on record for having conducted several meetings with the Sudanese government, voicing its concern over the worsening humanitarian crisis in Darfur (Human Rights Watch 2006). Underlining the AU's commitment, Rwandan President Paul Kagame, citing the horrific experiences of the 1994 Rwandan genocide, vowed that the organisation would not stand by and let civilians be massacred (Cohen 2006).

The signing of the 2004 Ceasefire Agreement, the DPA, the preventive deployment of AMIS, and the establishment of UNAMID can all be considered RtoP-guided initiatives by the AU. Although the AU demonstrated commitment to deliver on its 'protection mandate' by deploying AMIS, a lack of financial and technical resources, in addition to logistical impediments, militated against safeguarding the civilian population of Darfur. Cohen (2006) notes that in light of the geographical vastness of the Darfur region, over 50 000 monitors would have been required, but the AU managed to come up with only 2 300 monitors, policemen, and soldiers. Prunier (2005: 146) laments that the AU embarked on a "mission impossible" by getting involved before calculating the logistical requirements of the mission.

In the end, the agreement was violated barely a month after its signing. Igri and Lyman (2004) allege that the Sudanese government launched offensive attacks on Chad and the rebels groups to callously demonstrate its disregard for the DPA and its lack of remorse for the perpetration of atrocities in Darfur. In this case, the challenge confronting the AU was that it lacked tough enforcement measures in the event of non-compliance, and the government of Sudan simply capitalised on this deficit. Daly (2010: 303) laments that the DPA sounded more like a "constitution" than a peace settlement. The agreement was hastily reached without addressing the root causes of the crisis, and its fragility was displayed early on when major rebel groups refused to participate in the process. Instead of going back to the drawing board and restrategising, the AU stubbornly pressed on with the negotiations. Notably, both the Abuja 2006 and the Sirte 2007 negotiations failed to address the root causes of the crisis, since the mediators paid little, if any, attention to the concerns of the rebels (Prunier 2008). Political and economic marginalisation is a central concern in the Darfur crisis, and this was hardly mentioned or addressed in all the AU prevention strategies.

The establishment of AMIS complies with the preventive deployment framework of the RtoP norm, but it falls dismally short in terms of its deployment mandate. AMIS's mandate was to protect civilian and humanitarian operations in Darfur, but it was not allowed to use force in the event of any threatening situation (Prunier 2008). The decision by the AU to deploy 'observers' was quite incongruous; this is because observers could only witness killings, without taking any measures to prevent them. This raises questions about the AU's commitment to ending the crisis in Darfur, and might explain why AMIS was targeted by the *Janjaweed* --- for example, on 29 September 2007 the AMIS military group in Haskanita, South Darfur was attacked by *Janjaweed* militia, leaving 10 people dead (Polgreen 2007). Preventive initiatives were sanctioned by the Sudanese government, yet people were victims of both the state security forces and the *Janjaweed*. Cohen and O'Neill (2006) stress that, although the AU can be commended for carrying out investigations into war crimes and other related human rights abuses in Darfur, these efforts were counter-productive because Darfurians trusted neither the government of Sudan nor the *Janjaweed*, and thus feared victimisation from these 'partners' of AMIS.

A challenge that has weakened the peace process in Darfur is the international community's hesitation in pushing the Sudanese government more forcefully towards reform, fearing that the introduction of tough measures might frustrate peace efforts throughout the country. This strategy of "engage and evade", as described by Ismail *et al*. (2011: 2), failed to address the root causes of the conflict. It can be argued that the AMIS and UNAMID RtoP operations failed to put the people of Darfur first and, in the end, it would seem that sovereign rights prevailed over human rights.

In August 2011, a coalition of the main rebel factions in Darfur (the SPLM-N, the SLA-AW, and the SLA-MM) formed the Sudanese Revolutionary Front (SRF) in the hope of "liberating the people of Sudan from injustice, oppression and hatred … achieve the values of freedom [and] democracy, [and] … overcome the failures of the National Congress Party". Ismail *et al.* (2011) points out that this shows a high level of solidarity among the people of Darfur, who share similar concerns that need to be addressed by the international community.

Other matters that weakened the operationalisation of the international community's RtoP mandate in Darfur were a crisis in leadership and conflicts of interest. Despite Djibril Bassole being

appointed as the AU-UN Chief Mediator in Darfur in 2008, the AU proceeded to appoint South African President Mbeki to lead the AU High-Level Panel on Darfur in the same year (Ismail *et al*. 2011). The Darfur crisis was thus reduced to an arena of contestation for leadership, power, and influence. A case in point is when Mbeki, in reaction to Bassole's inclusive strategy of involving civil society in the Darfur peace process, accused him of empowering the rebel movements to act as spoilers (Mbeki 2011). Mbeki, with his vision of 'African solutions for African problems', constructively engaged Bashir, causing suspicion as it appeared as though the role of the AU-HLP was to protect Bashir (*Sudan Tribune* 2010). Commenting on Mbeki's appointment, Fabricius (2009: 9) argued that the strategy was meant to "let Bashir off the ICC hook". Arguably, as in the case of his Zimbabwean mediation where he denied that there was a crisis, his support for the government in Khartoum promoted impunity and the escalation of violence. Such political cleavages resulted not only in loss of credibility for South Africa, but impacted negatively on the AU as a regional aegis or protector of the peace process.

Another problem is that the crisis erupted at a time when AU structures and institutions were still at their embryonic stages, which meant that the organisation was not yet geared to face the challenges that presented themselves. Despite its purported departure from the previous institutional culture of indifference, the AU's handling of the Darfur crisis illustrated that the organisation was still struggling to balance the issue of civilian protection and the prioritisation of the principle of state sovereignty (Bergholm 2008). The general consensus among AU member states was that what was happening in Darfur was a domestic matter; hence, the need to respect Sudan's sovereign rights. As a result, Sudan enjoyed widespread support from the AU at the expense of the protection of human lives in Darfur.

5.4.3.2 The UAL's Response

Sudan joined the Union of the Arab League (UAL) in 1956 which, since its establishment in 1945, had emphasised the peaceful resolutions of conflicts among member states by "strengthening Arab unity against the outside world" (The Charter Arab League, Article V, 1945). This commitment was further strengthened by the establishment of the League's Peace and Security Council (PSC) in 2005. Since the eruption of the Darfur crisis, the UAL's position has been that it is a domestic

matter which has been blown up out of all proportion by the Western media (Weber 2010). In addition, guided by the principle of preventing the League from being infiltrated by outsiders, it maintained a cautious approach by not condemning the Bashir regime. It seemed what mattered most for the UAL was unity within its own ranks.

In all the peace agreements mediated by the AU, the UAL supported the AU in principle and did not pressurise the Sudanese government into the introduction of political reforms. In May 2004, the UAL dispatched a fact-finding mission to Darfur, but the outcome of the mission was never made public. In its August 2004 Cairo Summit, the UAL agreed to the AMIS deployment, but this was on condition that only Sudanese government forces should be charged with the maintenance of peace and security (Weber 2010). This was based on the UAL's perception that what was happening in Darfur was strictly an internal issue. With regard to the UN Security Council's imposition of a 30-day ultimatum for the government of Sudan to disarm the *Janjaweed*, the UAL opposed the motion, again displaying its support for the Bashir regime despite overwhelming evidence of human rights violations. Furthermore, the UAL, at its 18th Ordinary Summit in Khartoum in March 2006, unanimously agreed to block the imposition of sanctions and the deployment of UN peace-keepers in Darfur. Instead, it opted for the deployment of an incapacitated AMIS (UAL Communiqué, 18th Ordinary Summit, 28 and 29 March 2006). In fact, the UAL's support for the Sudanese government seriously undermined international efforts to resolve the crisis and hold the Bashir government accountable for its human rights abuses in Darfur.

Spencer (2009) contends that the UAL has not shown any interest in the crisis in Darfur and that it was only after the indictment of Bashir by the ICC that it stood firm in support of the Sudanese government. It complained that the arrest warrant would "threaten Sudan's internal security", and instead called for deferment of the ICC's decision, thereby requesting the UN to give the government of Sudan more time to resolve the conflict (Weber 2010: 16). At its 2009 Doha Summit, the UAL called for the ICC to investigate war crimes and crimes against humanity committed by Israel against Palestinians, rather than look into the Darfur crisis (Official Communiqué, UAL 2009 Doha Summit). Despite its adherence to unity of purpose as stipulated by the preamble of the UAL, Weber (2010) attributes the League's inaction on the crisis in Darfur

to the absence of a human rights discourse in its institutional culture. It is further noted that not even in a single summit or resolution did the Arab League make reference to "human rights, good governance, and the need to mediate conflicts within sovereign member states" (Weber 2010: 7).

In addition, since the promulgation of the RtoP norm in 2001 the UAL has not debated the RtoP at any of its summits, unlike the AU. Thus, for one to suddenly expect the League to uphold the values of the RtoP norm would be unrealistic. The UAL's indifference was also shown when it failed to support AMIS logistically and financially, neither did it make manpower available or provide humanitarian assistance to victims of violence in Darfur. Bah (2010) explains the indifference of the UAL in the context of the ethnic dimension of the crisis. It is argued that since the inhabitants of Darfur are predominantly black, it follows that the plight of its people would not attract the sympathy of UAL members. Former Libyan President Muammar Gaddafi was quoted by the BBC as describing the conflict in Darfur as merely a "quarrel over a camel" (BBC NewsOnline 2012). The arrogance displayed by Gaddafi's utterance, given his influential position in the UAL, meant that Darfur would not feature on the agenda of the League's summits. This may validate Bah's (2010) ethnic explanation of the position of the UAL on Darfur.

5.4.4 Responses at the Wider Multilateral Level

As alluded to in the discussion so far, civil society and bilateral governmental responses to the crisis in Darfur did not meaningfully alter the complexion of the humanitarian situation in that region. The protection mandate of these organisations and institutions had been limited to aid provision. It is, therefore, important to examine how the EU, the UN, and the ICC responded to the crisis in Darfur. NAM will not form part of this discussion, as was the case in the previous chapter on Zimbabwe, because the organisation had only expressed concern about the situation in Darfur without any substantive debate on the issue.

5.4.4.1 The EU's Response

The humanitarian crisis in Darfur compelled the EU to join the rest of the Western world in condemning the violation of human rights by the Bashir regime. The EU's security strategy indicated a commitment to "share in the responsibility for global security", and the need for the

Union to propagate "a culture that fosters early, rapid and, when necessary, robust intervention" (European Council Security Strategy 2003). EU High Representative for Foreign Affairs and Security Policy Javier Solana urged member states to broaden their "zone of peace" beyond European frontiers, and to "answer the call to act" for purposes of "protecting the vulnerable" (Solana 2003). In the light of such policy pronouncements, it became imperative for the EU to respond to the humanitarian catastrophe in Darfur, since the crisis falls under the ambit of the national security strategy (Toje 2008). The EU Parliament also passed a number of resolutions, consistent with the RtoP norm, in which it condemned the alleged gross human rights violations by the Bashir regime. On 6 April 2006 and, again, on 15 February 2007, the EU Parliament pressurised the government of Sudan to agree to the UN Security Council Resolution calling for the referral of the crisis in Darfur to the ICC, as well as accept Resolution 1706 calling for the deployment of a UN peace-keeping force (European Parliament 2007, 2006). Moreover, the EU was very vocal in condemning the Sudanese government for failing to co-operate with the ICC and for expelling NGOs responsible for distributing aid relief in Darfur (European Parliament 2006). The EU Parliament also urged the EU Council and the UN Security Council to impose targeted sanctions on the government of Sudan in order to force the Bashir regime to introduce political reforms (ICRtoP 2012; European Parliament 2006).

Between 2005 and 2007, NATO entered into trans-regional ties with the AU in the area of peace and security (Segell 2009). Notable EU-NATO contributions included technical assistance, such as the training of AU troops and civilian police, logistical support, strategic transportation and airlifting of AU peace-keepers, diplomatic support during the Abuja peace talks leading to the signing of the DPA, and provision of military observers (Mbuen 2009; Segell 2009; NATO 2008; EU 2006; De Waal 2005b). In 2008, a major and significant step by the EU was the deployment of a European Force (EUFOR) in Darfur, in line with UN Security Council Resolution 1778 (EU 2007). EUFOR was comprised of a force of 3 700 troops from EU member states, a significant EU operation in an African conflict. EUFOR's main function, however, was to protect civilians, refugees, and IDPs, as well as facilitate aid delivery from Chad and the Central African Republic (ICRtoP 2012; EU 2007). Despite lack of co-operation from the AU, the UAL and the Sudanese government, to some extent the EU demonstrated its willingness to invoke the RtoP in grave circumstances where human security is being threatened. In light of the worsening humanitarian

situation in Darfur, the EU also intervened financially by providing funds for humanitarian aid to IDPs and refugees in Chad and the Central African Republic.

In July 2005, the EU appointed Pekka Haavisto as its Special Representative to Sudan in order to ensure co-ordination of and coherence in the EU's contribution to AMIS. The EU's engagement in Sudan was not merely limited to activities in support of the Darfur region, since it was one of the drivers behind the signing of the Comprehensive Peace Agreement (CPA) in 2005. The EU also established the European Development Fund as an incentive for the parties to honour their agreement. According to the 2008 EU Factsheet, the Union pledged over EURO 300 million towards the humanitarian needs and support systems for AMIS (EU-Factsheet 2008).

The idea that the EU was a protagonist in the promotion and globalisation of human rights raised too many expectations, and objections, for any decisive action to be taken on Darfur. Following the killings in the Balkans (in Bosnia-Herzegovina, Croatia, and Kosovo) in 1998, the EU "committed itself to preventing human rights violations, and to intervene" in matters that warrant invoking the RtoP (Kubicek and Parke 2011: 60).

EU foreign policy towards Darfur is approached from different angles by different scholars. Some scholars suggest that the EU feared, just like the US, that a confrontational approach towards the Bashir regime would scupper implementation of the CPA (Kubicek and Parke 2011). Also, a religious dimension to the EU's lack of any robust approach to the Darfur crisis could be that, again just like the US, the EU feared that engaging the Sudanese government militarily would seem like a Christian crusade against Muslims. This could explain the EU's decision to relegate anything approaching concerted action against the government in Khartoum to the ill-equipped and ill-capacitated AU (Daly 2010).

There is some kind of policy coherence in the manner in which the US and the EU responded to the Darfur crisis, especially as far as the provision of humanitarian aid and the politico-diplomatic condemnation of the Bashir regime are concerned. Furthermore, Daly (2010) is of the opinion that, given the EU-US partnership in both economic and security matters, the EU did not want to undermine the US interests in Sudan. The EU adopted a minimalist approach, limited to supplying

190

humanitarian aid and health facilities, which were meant to reduce any direct risks associated with foreign engagements (Bailes 2008). Kiglour (2005: 11), however, poses a quite pointed and morally-charged question: "Are Darfurians less human than Europeans?" This question was triggered by the irony that the EU sent 60 000 peace-keepers to Bosnia, yet in Darfur its intervention remained limited to the rendering of humanitarian aid. What can therefore be deduced from EU foreign policy options when it comes to intervention for human protection purposes is the element of selectivity. While the provision of aid eased the humanitarian plight of those caught up in the conflict, the escalation of the crisis demonstrated that aid alone could never be a panacea. Without the political will to act decisively, aid could not stop the Sudanese state from carrying out the targeted killing of civilians.

5.4.4.2 The UN Response and Its Mission in Darfur

It is a global imperative that matters of peace and security are only referred to the UN Security Council if local and regional initiatives have failed. As discussed above, efforts to find a lasting solution for the crisis in Darfur was made both at bilateral and regional multilateral levels, but these all failed. This, therefore, calls for the examination of global multilateral engagements at the highest level, namely through the UN Security Council. The latter's involvement in Sudan dates back to the period of the North-South civil war, evident in both peace-keeping and conflict mediation. This led to the January 2005 signing of the CPA, which ended the protracted civil war. In the context of the worsening humanitarian situation in Darfur, however, the UN initially allowed African leadership to take the lead in resolving the crisis. The first time Darfur was officially brought before the UN Security Council was in December 2003 during an open debate on the protection of civilians in armed conflict. UN Emergency Relief Co-ordinator, Jan Egeland, briefed the Security Council on the seriousness of the crisis in Darfur, citing the displacement of over 600 000 people. He described Darfur as the "world's worst humanitarian crisis" (UN 2004). Subsequently, UN High Commissioner for Refugees Ruud Lubbers, in an April 2004 report, singled out the *Janjaweed* and the government of Sudan as responsible for human rights violations in Darfur, and further appealed for humanitarian aid for the IDPs and refugees in Chad. UN Secretary-General Kofi Annan, during his famous 2004 address to commemorate the 10th anniversary of the Rwandan genocide, also challenged the international community to take action

191

on Darfur and intimated that "whatever terms used to describe the situation in Darfur, the international community cannot stand idly [by] … [but] must be prepared to take swift action on Darfur" (Annan 2004).

Following pressure from NGOs and human rights groups, the UN, through the office of the High Commissioner for Human Rights (HCHR), sent a fact-finding team to determine the human rights situation in Darfur. The resulting report released to the Security Council on 7 May 2004 singled out horrific attacks on civilians between April 2003 and May 2004 (UN- International Commission of Inquiry Report on Darfur 2005). It cited excessive use of force by the Sudanese government, which resulted in human rights violations and war crimes, mainly on unarmed Darfurians. The 25 January 2005 Report of the International Commission of Inquiry on Darfur to the UN Secretary-General also implicated the government of Sudan in war crimes and crimes against humanity. The report prompted the UN Security Council to condemn the attacks on civilians and to pledge support for the AU in its mediation efforts. Earlier, in 2004, the Security Council was compelled to pass three very important and key resolutions on Darfur, namely Resolution 1547, Resolution 1556, and Resolution 1564 (UNSC/Res 1547: 2004; UNSC/Res 1556: 2004; UNSC/Res 1564: 2004). Resolution 1547 was dated 11 June 2004, Paragraph 6 calling upon parties to the conflict "to bring an immediate halt to fighting in Darfur" and for concerned parties to "conclude … [a] political agreement without delay". Resolution 1556 was invoked in line with Chapter VII of the UN Charter, based on the conclusion that Darfur constituted a threat to international peace and security; hence, the imposition of an arms embargo and a demand that the government of Sudan disarm the *Janjaweed* or face further sanctions. Resolution 1564 of 18 September 2004 called for the establishment of the International Commission of Inquiry (ICI) on Darfur, tasked to investigate cases of atrocities in the region and to bring perpetrators to justice. The resolution is significant in that it championed the legal route by referring Darfur to the ICC for possible prosecution and trial of the perpetrators.

Resolution 1556 gave the Sudanese government a 30-day ultimatum to disarm the *Janjaweed* and forbade the government in Khartoum to interfere with the distribution of relief aid by humanitarian agencies. In Resolution 1564, the UN Security Council demanded "an immediate end to violence in Darfur" (UNSC/Res 1564: 2004). The message that was communicated was that the Bashir

192

regime had reneged on its RtoP obligation insofar as the safeguarding of its people is concerned. The Security Council also threatened the imposition of sanctions in order to force the government of Sudan to comply with its "security [and] disarmament obligations in Darfur" (UNSC/Res 1564: 2004). Unfortunately, the Security Council demand for the immediate termination of violence was not backed up by any clear threat of punitive action in the event of non-compliance by fellow UN members, who in this case seem to have supported the Sudanese government.

As alluded to above, in October 2004 the genocide claims that had featured in several reports on Darfur prompted the UN Security Council to establish an International Commission of Inquiry to investigate these allegations. The report released on 25 January 2005 stated that "the government of Sudan had not pursued a policy of genocide directly", but that the widespread and systematic attacks on civilians could well be regarded as "crimes against humanity" (International Commission of Enquiry on Darfur 2005). Another pro-active engagement by the UN Security Council was the visit to Darfur by Special Representative for the Prevention of Genocide, Francis Deng, in September 2005. According to Daly (2010: 300), Deng denounced the existing "culture of impunity" and called for the Bashir regime to honour its RtoP obligation.

In addition to Deng's lamentation about the Bashir regime's failures, claims of war crimes and crimes against humanity prompted the UN Security Council to adopt Resolution 1593 which referred the Darfur crisis to the ICC, thereby opting for the legal route (UNSC/Res 1593: 2005). Also consistent with RtoP principles was the establishment of a Sanctions Committee and a Panel of Experts, charged with investigating violations of arms embargos, human rights abuses, and other obstacles to the attainment of peace in Darfur (UNSC/Res 1591: 2005).

A report by the UN Human Rights Council revealed that the initiatives taken by the UN Security Council since 2004 had not meaningfully changed the human security conditions in Darfur and inside the camps for IDPs, and that various human rights and humanitarian laws were being flagrantly violated (UNHRC 2004). In response, at its meeting of 31 June 2007 the Security Council adopted Resolution 1769. This resolution authorised the merging of the 26 000-strong AU and UN peace-keeping contingents to form a new hybrid operation in Darfur, the United Nations-African Union Mission in Darfur (UNAMID). UNAMID was established after wider consultations

193

in Addis Ababa, Ethiopia among the UN Secretary-General, the UN Security Council, the AU, Sudanese government representatives, and delegates from contributing countries to the AMIS troop deployment. By August 2010, UNAMID had deployed a total of 22 007 peace-keeping personnel (Dagne 2011). But a major blow to the UNAMID initiative was its delayed implementation; a peace-keeping force was only deployed in January 2008 and of the required number of 26 000 peace-keepers, only 9 000 were made available (Bergholm 2008). Other obstacles were the Sudanese government's objection to the deployment of UN forces and its reported interference with peace-keeping procedures.

Apparently, since June 2007 the UN-AU partnership on Darfur charted a new road map of "aligning regional initiatives, uniting the rebel [groups], and holding new talks" (Sudan Human Security Baseline Survey 2010: 1). Consequently, on 30 June 2008 co-operation between the UN and the AU saw the establishment a High-Level Panel on Darfur under the leadership of Djibril Bassole of Burkina Faso. But, on 21 July 2008 the AUPSC established its own High-Level Implementation Panel for Sudan (AU-HLP), tasked to address matters of peace, reconciliation and justice. This can be interpreted as a lack of co-ordination in goal-setting and the aspirational objectives of the UN-AU partnership. Nevertheless, negotiations were jointly headed by former Tanzanian Foreign Minister Salim Ahmed Salim (AU Special Envoy for Darfur) and former Swedish Foreign Minister Jan Eliasson (UN Secretary-General's Special Envoy for Darfur). However, the UNAMID-brokered negotiations on Darfur were further undermined by a lack of co-operation from the rebel movements who scuppered the proposal to unify them (Bah 2010).

Since the Darfur situation was referred to the ICC, rebel movements allegedly interpreted continuing negotiations as a delaying tactic to assist the Bashir regime in escaping justice (Bah 2010). The UN Security Council introduced a seemingly more nuanced and inclusive approach when it adopted Resolution 1935 in April 2011. The resolution called for the engagement of all conflicting parties, as well as for the participation of all Darfurians (civil society organisations, tribal leaders, and women movements) in the peace process. Again, the AU-UN partnership was to spearhead the process (UNSC/Res 252: 2011). With UNAMID's assistance, the international community managed to renew peace talks on 14 July 2011, leading to the signing of the Doha Document for Peace in Darfur (DDPD) between the Sudanese government and the Liberation

Justice Movement, LJM (DDPD 2011). Parties to the negotiations agreed on power-sharing, compensation for victims of the conflict, and justice for crimes committed during the war (Sudan Human Security Baseline Assessment 2010). The fact that negotiations excluded other parties, however, led to a dead-end, just like previous peace initiatives. The DDPD was flawed from the beginning, because key rebel groups, the JEM, the Sudanese Liberation Army of Abdul Wahid (SLA-AW) and the Sudanese Liberation Army of Mini Minnawi (SLA-M), did not buy into it. Only the faction of Eltigani Seisi of the Liberation and Justice Movement signed on to the DDPD. This, then, also culminated in his appointment as the Chair of the Darfur Regional Authority (UN Security Council 2012).

The UN, through its respective agencies (the WHO, WFP and UNICEF), was pro-active in the provision of humanitarian aid to both IDPs and refugees. For example, by September 2004 the UN had raised US$166 million through its Office for the Co-ordination of Humanitarian Affairs, OCHA (Daly 2010). Just like NATO and the EU, the UN helped in the training of AMIS and other civilian personnel deployed in Darfur (Bergholm 2008). But aid relief was not without its own challenges: there were many reports of hijacking and attacks on humanitarian aid workers by the *Janjaweed*. Former UN Secretary-General Kofi Annan, in his monthly report to the UN Security Council, lamented that actions by both the Sudanese government and the *Janjaweed* were "a clear violation of the neutral status of … humanitarian operations" and that aid organisations were being subjected to "great danger" (UN Office for the Coordination of Humanitarian Affairs (OCHA) 2006: 2).

The UN Security Council's limitations in Darfur initially stemmed from its rather late response to the conflict: it responded only 16 months after the scale of the crisis became evident. Moreover, its ineffectiveness was exposed when it literally begged for compliance from the Sudanese government, UN Secretary-General Kofi Annan admitting that the organisation could not deploy a peace-keeping force in Darfur without the consent of the government of Sudan (Badescu 2009; UN 2008; Pantuliano and O'Callaghan 2006). A typical case in point was when the Bashir regime demanded HIV/AIDS tests for peace-keepers before deployment (Daley 2010; Badescu 2009; Abass 2007). The lack of coercive means of forcing the Sudanese government to comply with its requests, raised questions about the UN Security Council's seriousness in addressing the crisis in

Darfur. By seeking consent from the government of Sudan, it can further be argued that the application of RtoP principles in Darfur was misconstrued. On several occasions, the UN position was found to be inconsistent as it tried to negotiate for peace, while simultaneously threatening the government in Khartoum with sanctions and embargoes. In fact, the threatened sanctions were just symbolic, since they failed to halt the persecution of civilians by the Sudanese government and the *Janjaweed*. Another controversial position was the referral of Darfur to the ICC, while at the same time calling on parties to the conflict to respect and implement the outcome of the DPA. The UN Security Council's policy confusion worked to the advantage of the government of Sudan, which constantly demanded that the Security Council should be relieved of its duties in Darfur. With too many players with conflicting mandates and too many pathways to resolving the conflict, the Sudanese government maintained a firm grip on Darfur, leading to the worsening of the crisis. Also, despite the hybrid nature of UNAMID, the bulk of its personnel came from Africa and, crucially, they lacked expertise and resources.

In line with the preventive deployment stipulation of the RtoP, the UN attempted to engage the Darfur crisis at the diplomatic level. Thus, with Resolution 1769, the UN Security Council took a conscious decision to merge AU and UN forces to form the first UN-AU partnership in Darfur. UNAMID's mandate in Darfur was peace-keeping (Bah 2010). However, UNAMID, just like AMIS, suffered from a lack of co-operation from the government in Khartoum, which constantly violated ceasefire agreements. Bergholm (2008) notes that the AU and UN preventive deployment mandates fell far short of the RtoP's prevention and protection obligations. The combined UNAMID mandate did not make the protection of civilians its primary concern and, to the contrary, prioritised protection of equipment and humanitarian relief personnel (Mansaray 2009). Civilian protection was mandated only if civilians were within UNAMID's immediate vicinity (Bergholm 2008). This defeated the principal rationale for UNAMID's deployment in Darfur, namely the protection of civilians who were threatened by the rebels, Sudanese government security forces, and the *Janjaweed* (Woodside 2004).

Thus, the UNAMID mandate was vague and unclear, for it expected UNAMID (just like AMIS) to protect civilians only within its immediate vicinity, and simultaneously charged the government of Sudan with the duty to protect civilians, despite the fact that it was, in effect, the main culprit

in the worsening conflict (Pantuliano and O'Callaghan 2006). One is, therefore, tempted to argue that AU and UN personnel in Darfur were only spectators rather than protectors. General Martin Luther Agwai, the UNAMID Force Commander, lamented that UNAMID was tasked with 'keeping a peace that did not exist' (Agwai 2009). The protection crisis in Darfur was also a result of belated responses by the AU and the UN Security Council, both of which got involved when the crisis was already out of control with hundreds of thousands of Darfurians having been killed or displaced (Pantuliano and O'Callaghan 2006).

It can be concluded that the UN Security Council was involved in several diplomatic and political engagements that managed to ease, but not end the crisis in Darfur. It seemed that the Security Council's contention was still that the crisis could only be resolved through a legal process. This explains the decision to delegate the issue of the humanitarian situation in Darfur to the ICC.

5.4.4.3 The International Criminal Court and the Crisis in Darfur

The debate on genocide in Darfur is fundamental to addressing the ICC's involvement as an international player, and it is necessary at this juncture to juxtapose and examine the claims of genocide. As discussed earlier, a genocide label was attached to the ethnic killings in Darfur, initially by US Secretary of State Colin Powell and, later, by the EU (Daley 2010). However, the International Commission of Inquiry on Darfur differed in its assessment of the crisis when it reported that the heinous killings in Darfur had not reached a stage where they could be regarded as genocide. But the commission agreed that the Sudanese government had violated human rights and fundamental international humanitarian conventions (UN Report of the International Commission of Inquiry 2005).

There are a number of reasons that explain why the international community, through the UN Security Council, referred the crisis in Darfur to the ICC. According to Fabricius (2009), the conduct of the Sudanese government, which failed to try any perpetrator on allegations of crimes against humanity, was seen as evidence of the Bashir regime's unwillingness to co-operate with the rest of the international community. The perpetuation of impunity left the Security Council with no option but to refer the matter for international criminal investigation. It is important to

197

mention that the Sudanese government had signed but not ratified the Rome Statute of the ICC. This, therefore, means that the ICC has no jurisdiction over Sudan. However, the UN Security Council, acting in terms of Chapter VII of the UN Charter, was entitled to refer the case to the ICC in line with Article 13 (b) of the Rome Statute (Ellis and Goldstone 2008). As discussed earlier, the Security Council realised that the government of Sudan was unwilling to hold the perpetrators of violence accountable for their actions and to end the systematic killings in the region. In addition, the National Commission of Inquiry on Darfur, appointed in May 2004 by President Bashir to investigate war crimes in the region, was dismissive of the claims. According to the commission's report, what was happening in Darfur was a result of "tribal conflicts and rebel activities", and this served as the basis for dismissing widespread and systematic human rights violations (National Commission Inquiry 2004). Since 2004, the Security Council had also pressurised the Sudanese government to bring the *Janjaweed* to justice and end the violence in Darfur (UNSC/Res 1556: 2004). Also, acting in terms of Chapter VII of the UN Charter, the Security Council adopted Resolution 1556, which determined that the situation in Darfur "constitutes a threat to international peace and security and to [the] stability of the region". It demanded that the government of Sudan "disarm the *Janjaweed* militias and bring those responsible for atrocities to justice" (UN 2004). But the challenge was that the Bashir regime did not co-operate and, instead, insisted that its national court system was competent enough to handle matters regarding Darfur. Thus, the Sudanese government's unwillingness to co-operate with the UN in ending the mass killings in Darfur prompted the Security Council to refer the matter to the ICC.

In March 2005, acting on the basis of the International Commission of Inquiry's Report, the UN Security Council referred the matter of Darfur to ICC Prosecutor Luis Moreno-Ocampo. However, the Security Council did not specify the nature of the alleged crimes (UN Press Release SC/1851: 2005). This was followed in April 2007 with the issuing of a warrant of arrest for the former Minister of State Interior, Ahmed Haroun, and *Janjaweed* leader Ali Kushayb. Despite the International Commission of Inquiry's findings that there was no evidence of crimes against humanity in Darfur, these two individuals were charged with war crimes and crimes against humanity (UN 2005). This move was refuted by the Sudanese government, which argued that the ICC has no jurisdiction over Sudan. Moreover, the Bashir regime refused to co-operate with the

ICC by not handing the two indicted figures over into ICC custody (Derbal 2008). Also, the Sudanese government attempted to block ICC proceedings by establishing a Special Court for Darfur (Mbuen 2009; Kisiangani 2008; Human Rights Watch 2006).

It is moot whether the Sudanese government could really carry out an investigation when state security forces were singled out as the culprits. It was obvious that the Special Court would be a moribund institution without any power to bring the perpetrators of violence to book. The Bashir regime solicited diplomatic support from both the UAL and the AU and, at home, it mobilised support through propaganda and televised images of people rallying behind Bashir (Kisiangani 2008). The strategy was to create the impression that the Sudanese people were in solidarity with the President. The 2008 Human Rights Watch Report argues that Bashir's defiance was demonstrated when he refused to prosecute war criminals and, in fact, promoted one of them to a ministerial position in his cabinet (HRW 2008). This did not only signal indifference, but communicated to the world and the international community that the government of Sudan was not willing to address the situation in Darfur.

Bashir's defiance earned him notoriety and, as a result, on 4 July 2008 ICC prosecutors charged the Sudanese President with war crimes, crimes against humanity, and the crime of genocide (Coalition for the International Criminal court 2008). Despite the failure to substantiate genocide claims, as found by the Appeals Tribunal of the ICC, the Court's Pre-Trial Tribunal finally charged Bashir with orchestrating a policy of genocide (ICC 2010). The ICC also charged Bashir with masterminding the attacks on civilians and claimed that these "attacks had followed a consistent and repetitive pattern" (ICC 2010). The involvement of state security forces in attacks on civilians in Darfur, and the fact that the *Janjaweed* were not held accountable for their actions, implied that the Bashir regime took command responsibility for these attacks. On 4 March 2009, the ICC issued a warrant of arrest for Bashir. He was charged with five counts of crimes against humanity (murder, torture, rape, extermination, and the forcible transfer of people against their will) and two counts of war crimes, based on deliberate acts of violence against civilians, as well as acts with the intent to pillage (International Criminal Court 2009). The decision to issue an arrest warrant for Bashir spawned serious debate on the issue of "justice versus peace" (Chandra and Suren 2010: 387). Pressure groups and human rights organisations hailed the move as signalling an end to impunity,

but the UAL and the AU interpreted the move as 'an assault on peace' in Darfur (Chandra and Suren 2010).

From an RtoP point of view, the indictment of President Bashir signified that he was thought to be acting contrary to his sovereign responsibility of protecting the people of Darfur. The legal route followed by the ICC resulted in Bashir being the first sitting head of state to be charged with war crimes in terms of the Rome Statute. However, since the indictment of Bashir, no real effort has been made to apprehend him so that he could stand trial in The Hague. This has rendered the legal route rather toothless in as far as addressing the Darfur crisis is concerned. Over 103 countries are signatories to the Rome Statute of the ICC, and the general expectation was that any one of them should arrest Bashir upon visiting or transiting their territory, but this has not happened (Norman 2008).

While the ICC can be commended for invoking the RtoP norm by issuing a warrant of arrest for Bashir, this action failed to win support from the AU and UAL leadership who found "common ground in refuting the ICC decision" (Bah 2010: 15). Both the AU and the UAL still believe that what is happening in Darfur is a domestic issue and, as such, the ICC is accused of violating Sudan's sovereignty. Also, it seemed that the AU and the UAL did not want Africa to be the first continent to face the wrath of the ICC by having Bashir, even more so as a sitting head of state, charged for human rights violations. Furthermore, to demonstrate their solidarity with Bashir, AU member states simply ignored the ICC's indictment, while the organisation called upon its member countries to withdraw from the Rome Statute (Dulessis 2013; Murithi 2013). President Bashir visited Chad in July 2010 and Malawi in October 2011, and no arrest was made (Bah 2010). The fact that both Chad and Malawi are signatories to the Rome Statute of the ICC implies that the Court is still faced with the challenge of non-compliance by state actors. Soon after the referral of Darfur to the ICC, AU-UN mediators found it increasingly difficult to engage with the rebel groups as the Bashir indictment created the impression that the matter was now in the hands of the Court --- hence, there was no need to negotiate (Bah 2010). Former Senegalese President Abdoulaye Wade commented on the implications of the ICC's indictment when he argued that the rebels could well say: "How can we now negotiate with a President who is going to go to prison?" (BBC NewsOnline 2009).

200

Kisiangani (2008) contends that the AU leadership feared that the indictment of Bashir would plunge Sudan into a Somalia-type situation. All this suggests lack of a harmonised position between the UN and the AU in their handling of the Darfur crisis. However, exceptions to the rule were when the Sudanese President could not visit South Africa on two occasions: first, he could not attend President Jacob Zuma's inauguration in 2009, and then he had to cancel his 2010 FIFA World Cup visit when he was threatened with arrest. President Zuma pledged to commit to international law when he reiterated that "… South Africa is a signatory to the Court's statute … [and] all signatory states have to arrest … [any] wanted individuals if they visit their countries" (*Sudan Tribune* 2010). In 2012, the AU Summit had to be moved from Malawi to Ethiopia after Malawi threatened to arrest Bashir for crimes against humanity in Darfur. Also, contrary to the bulk of the AU membership who sympathised with Bashir, in 2009 Botswana Foreign Affairs Minister Phandu Skelemani threatened that his government "… will hand Bashir over to the ICC if ever he came to our shores" (Lamony, 2013). In July 2013, despite having been allowed to attend the AU Health Summit by the Nigerian government, Bashir had to leave abruptly when civil society organisations and other pressure groups called for his arrest over the outstanding CIC 2009 and 2010 warrants of arrest (*Sudan Tribune* 2013). Thus, a small minority of African countries demonstrated their solidarity with the suffering people of Darfur by complying with the dictates of the ICC.

5.5 Conclusion

This chapter discussed the crisis in Darfur by situating it within the broader context of the North-South civil war in Sudan which erupted in 1955 and which only came to an end with the founding of the independent state of South Sudan in 2011. North-South tribal divisions lead to an understanding of the political dimensions of the crisis in Darfur, because (just like in the South) Darfur suffered from crippling neglect by the central government in Khartoum. The South's liberation struggle, therefore, inspired Darfurians in their quest for similar recognition by the Sudanese government.

The conflict in Darfur has its origins in historical grievances about power-sharing and the distribution of resources (wealth) between the central government in Khartoum and the periphery in Darfur. It has been argued that the Sudanese government, based in Khartoum, followed the colonial praxis of concentrating power in the North, thus perpetuating the underdevelopment of the periphery, Darfur included. The conflict in Darfur has also been explained as a struggle for recognition and an attempt to avoid being marginalised and sinking into oblivion. The fusion of harsh climatic conditions in the region, together with intentional neglect, spawned endemic tribal and ethnic conflict, with strong religious overtones. Moreover, the escalation of the crisis was complicated by the militarisation of the conflict, particularly the violent reprisals launched by the Sudanese government and its proxies against the people of Darfur. Thus, fighting between the Sudanese Army and rebel groups has subjected innocent civilians to untold suffering, attracting the attention of the wider international community.

The chapter further revealed that the escalation of the conflict was amplified by the Sudanese government's strategy of fuelling ethnic and religious tensions within Darfur. It emerged that the Bashir regime exploited ethnic divisions when it armed Arabs in Darfur in order to fight black African Darfurians. From the discussion it emerged that the government of Sudan had been violating fundamental human rights and freedoms from as early as 2003, as witnessed by its recruitment of *Janjaweed* militia to commit heinous crimes against the people of Darfur. Initiatives like the establishment of a National Commission of Enquiry (NCE) in May 2004 were mere cosmetic exercises as the findings were not released into the public domain. In fact, the government of Sudan did nothing to address the crisis or bring the perpetrators of violence to justice. This and the worsening humanitarian conditions in Darfur, as well as the fact that the Bashir regime supported the *Janjaweed* in committing crimes against humanity, put the crisis in Darfur into the ambit of the RtoP. Significantly, it has been argued that the deteriorating humanitarian situation in Darfur attracted the bilateral and multilateral involvement of the international community, notably that of Chad, the Central African Republic, the US, the UK, China, Russia, South Africa, and France. Multilaterally, the AU, the EU, the UN, the UAL and the ICC became engaged at different levels of the conflict. Notable initiatives to address the crisis were the 2003 N'Djamena Humanitarian Ceasefire Agreement, the Abuja 2006 negotiations leading to the signing of the DPA, the Addis Ababa negotiations leading to the deployment of the first AMIS contingent, and

the 2007 Sirte negotiations, but they all failed to achieve peace in Darfur. The Humanitarian Ceasefire Agreement temporarily opened a window of opportunity for humanitarian operations, but this could not last because of a lack of commitment by the belligerents. Instead of co-operating, the Sudanese government was in the forefront of those violating these agreements.

The discussion on the scope and nature of the conflict in Darfur has illustrated that the Bashir regime was largely to blame for the humanitarian crisis in the region. To begin with, it can be argued that deliberate government policies, leading to the underdevelopment of Darfur, laid the foundation for the crisis. As the crisis unfolded, various media reports, academic contributions, policy documents, and reports by fact-finding missions to Darfur exposed the Bashir regime's breach of RtoP principles. The 2004 Human Rights Watch and Amnesty International reports, for example, revealed horrifying and deliberate attacks by Sudanese government forces and the *Janjaweed* militia on black African Darfurians.

What started as a local conflict in Darfur, and later became national, was internationalised by exposés from the media and by the advocacy of civil society organisations. The inevitability of the international community's involvement was assured when events in Darfur were beginning to be labelled as 'war crimes' and 'genocide'. An examination of the international response to the plight of the people of Darfur reveals that the conflicting parties were engaged through the use of multi-pronged approaches, more specifically the employment of diplomatic, political and legal strategies.

The purpose of this chapter was also to illustrate the extent to which the RtoP norm has been invoked and operationalised by different stakeholders in the international community, in response to the Darfur crisis. The research has shown that, despite clear indications that the humanitarian crisis in Darfur warranted intervention for human protection purposes, the international community was able or willing to only partially invoke the RtoP norm. The Sudanese government's pursuit and employment of structural violence against its own people shows total neglect and an attitude of indifference, as well as a failure to deliver on its civilian protection obligations.

The escalation of human rights violations in Darfur compelled the international community, through the UN Security Council, to seek a legal remedy by involving the ICC. The ICC's indictment of Bashir, despite the lack of co-operation from certain governments, sent a clear message to the international community that tyrannical leaders will be held accountable for their human rights abuses. However, a contradiction was revealed between the political and legal routes in efforts to resolve the crisis. This was amplified by different interpretations of and viewpoints on the crisis, especially the 'politics of naming'. The conflict in Darfur received different labels; for example, the UN Security Council, the EU and the INGO community (inter alia, Amnesty International, Human Rights Watch, and the ICG) described it as a "crime against humanity and ethnic cleansing", while Physicians for Human Rights, in line with the US position, viewed it as "an act of genocide" (Williams and Bellamy 2005: 31). Arguably, the naming and labelling of the crisis diverted the international community from adopting a unified position on Darfur. The study demonstrated that, despite discordant voices on genocide claims, numerous actions by the Sudanese government were in clear contravention of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, as well as the 1998 Rome Statute of the ICC.

At face value it seemed that the AU and UN Security Council approaches were compatible, but later it emerged that their understanding of the conflict was totally different. As alluded to by the ICG, "bureaucratic, diplomatic and political hurdles" impeded the international community from taking any robust action on Darfur (ICG 2005). From the onset, the AU advocated a political approach to resolve the crisis, but soon after the release of the report of the International Commission of Inquiry on Darfur, the UN Security Council referred the matter to the ICC. However, the legal route followed by the Security Council was vigorously resisted by most AU and UAL member states, which saw the move as counter-productive.

The UN Security Council's involvement in Darfur demonstrated that the regional initiatives to prevent and address the conflict had failed dismally. Robust approaches were, therefore, needed to halt the worsening humanitarian situation in Darfur. The only notable component of RtoP application (the 'responsibility to react') was the imposition of limited sanctions against Khartoum following the adoption of UN Security Council Resolution 1556 on 30 July 2004. The Security Council imposed an arms embargo, applicable to NGOs and individuals operating in Darfur, as

well as to the *Janjaweed* and the government of Sudan. In 2005, the Security Council adopted Resolution 1591, which expanded the arms embargo and imposed travel bans and the freezing of assets, targeting rebel leaders, the *Janjaweed* leader, and the Sudanese Air Force Chief. A Sanctions Committee and a Panel of Experts were established in order to investigate violations of arms embargoes and human rights abuses (Amnesty International 2008; UN-International Commission of Inquiry Report on Darfur 2005; UN 2004; Human Rights Watch 2004). All these measures were, however, fatally undermined by lack of co-operation from the AU and the UAL.

In their response to the crisis in Darfur, military intervention for human protection purposes was staunchly avoided by the international community. Instead, the UN Security Council opted for capacity-building in civil society organisations, and the provision of material support and equipment for humanitarian relief operations. Also, the Sudanese government initially rejected the deployment of UN peace-keepers into the Darfur region, arguing that it violated the territorial integrity of Sudan. Moreover, instead of intervening in the event of violence, UN peace-keepers had to wait for consent from the government in Khartoum for peace-keeping measures to be employed and enforced. Sanctions were proposed at various UN forums, but China, Russia and the AU predictably and invariably objected to its imposition. It can be argued that instead of isolating the Bashir regime, both the AU and UAL adopted a non-confrontational stance. This, however, diluted the impact of arms embargoes, travel bans, and the freezing of assets. The UN Security Council also failed to articulate the consequences in the event of non-compliance by member states.

The UN Security Council's referral of the Darfur crisis to the ICC is consistent with the 'reaction' element in the RtoP norm. However, the ICC's involvement failed to address the crisis in Darfur. Adar (2010) notes that the indictment of Bashir had both domestic implications inside Sudan, as well as international consequences, and these affected efforts to achieve peace in Darfur. The decision to indict Bashir was greeted with an unco-operative attitude from the bulk of AU and UAL members, who condemned the ICC for undermining AU-UN efforts to address the crisis (Sampson 2011; Weschler 2010). Moreover, since the indictment of Bashir, relations between the ICC and AU have soured, with many AU heads of state and government vowing not to co-operate with the ICC (Sampson 2011). In fact, the action against Bashir led to the worsening of the crisis

when he responded by expelling humanitarian aid workers. Since most of the IDPs were surviving on humanitarian aid rations, this meant that the number of conflict casualties increased twofold. The legal route was also undermined by the UAL, which joined the AU in campaigning for the rescinding of Bashir's indictment. Between 2008 and 2009, Libya 'represented' the UAL in the UN Security Council and demanded that the ICC should withdraw the case against Sudan (Weschler 2010). Worth mentioning is that there were reasonable chances of success in the event of military intervention in Darfur, but the international community lacked the requisite political will to intervene militarily.

It is of importance to analyse the extent to which the 'responsibility to rebuild' has been implemented (or not implemented) in Darfur. It is fair to say that following the signing of the DPA in 2006, a comprehensive peace agreement should have taken into account the disarmament and demobilisation of the *Janjaweed* militia as major steps towards sustainable peace-building in Darfur (which the Sudanese government committed to, at least on paper). Although the establishment, in July 2008, of a High-Level Panel on Darfur by the AUPSC was a commendable regional initiative towards peace-building, it focused on efforts to harmonise peace, reconciliation and justice. However, it did not pay much, if any, attention to the issues of political marginalisation, which have always been core to the Darfur conflict (Bellamy and Williams 2013; Human Rights Watch 2010).

It may be argued that peace-building in Darfur was overtaken by events when the international community channelled its efforts towards the birth of the new state of South Sudan. According to a 2011 Human Rights Watch report, the focus on South Sudan provided a window of opportunity for renewed fighting between the Sudanese government and the rebels in Darfur. Also, talking about peace-building without addressing the real issues at stake in Darfur was essentially counter-productive. Although the international community has not yet addressed the root causes of the crisis, the signing of the October 2011 Doha Document for Peace in Darfur (DDPD) may, at least, be hailed as a positive initiative towards peace-building, receiving support from both civil society and the local leadership. Moreover, the UN Secretary-General produced a road map, which recommended engaging the rebels and consulting the Sudanese government, as well as the people

of Darfur, in order to facilitate the process towards peace (AU 2011). The major challenge, however, is the lack of commitment by both the government of Sudan and the rebel groups.

Ceasefire and security arrangements are core to the DDPD, but these had not taken effect as late as January 2015 because of continued violence. Since 2003, several peace agreements have been signed, but no meaningful peace-building has been achieved. Despite the fact that the international community adopted piecemeal solutions to the crisis in Darfur, Ismail and his co-authors (2011: 1) argue that Khartoum's "divide and conquer strategy" is largely to blame for the escalation of the crisis and failure to achieve sustainable peace. It is further argued that the humanitarian situation on the ground is in stark contrast to the efforts that have been made by the international community in trying to resolve the crisis (Ismail *et al.*, 2011). Moreover, the international community has, so far, not succeeded in rebuilding peace in Darfur. Addressing the root causes of the crisis seems to be the only route towards sustainable peace.

The next chapter of this study will provide a summative evaluation of the RtoP prevention, reaction and rebuilding tools as they were applied in the crises in Zimbabwe and Darfur.

CHAPTER SIX

SUMMATIVE EVALUATION OF THE RtoP 'PREVENTION', 'REACTION' AND 'REBUILDING' TOOLS USED IN THE CASES OF ZIMBABWE AND DARFUR

6.1 Introduction

This chapter synthesises the dual focus reviews done on humanitarian crises in Zimbabwe and Darfur, and proffers a summative evaluation of how (or, if indeed) the available RtoP tools were used in its responses by the international community. The evaluation, based on the evidence gathered in the two case studies, will be structured along the lines of the RtoP 'Toolbox', originally developed by Gareth Evans in 2008, and since expanded on, amongst others, by the ICRtoP in 2013. As illustrated in Chapter Three, the 'Toolbox' provides both direct and structural frameworks upon which the 'prevention', 'reaction' and 'rebuilding' elements of the RtoP can be operationalised.

Therefore, the objective of this chapter is not primarily to do a comparative analysis of the two cases, but rather (based on the inventory of international responses) to make deductions and inferences on the methodology and stage-specific operationalisation of RtoP principles, and to extract lessons that can be learnt from the efficacy of the various tools utilised. The fact that both the Zimbabwe and Darfur cases, as early 21st Century humanitarian crises, occurred concurrent with the global promotion of the RtoP concept, render them useful in testing the practical application of this evolving norm.

Against this background, the chapter proceeds with a thematic and holistic critique of the measures that were invoked by the international community in its responses to the humanitarian crises in Zimbabwe and Sudan's Darfur region, variously as part of the 'responsibility to prevent', the 'responsibility to react' and the 'responsibility to rebuild'. Whereas the previous two, case-study

chapters were organised according to the specific responses of individual actors, a cross-cutting, thematic approach is employed in this chapter.

6.2 The 'Responsibility to Prevent'

As discussed in Chapter Three above, RtoP proponents concur that prevention is the most important component of the norm, taking into account the cumulative human security costs of conflict, the costs of reacting to a conflict, and the costs of post-crisis rebuilding. The general consensus is that prevention should carry the most weight in the need for delivery of the international community's RtoP (ICRtoP 2013; The White House 2012; Ban 2009; Evans 2008; Thakur 2007; World Summit Outcome Document 2005; ICISS 2001; Carnegie Commission on Preventing Deadly Conflict 1998). More importantly, the RtoP prevention framework implies that the state must conduct itself (Pillar One of the RtoP), or be assisted to do so (Pillar Two of the RtoP) in a manner that does not compromise human security. To attain this, government institutions, regional, sub-regional and civil society organisations, as well as the international community through the UN, must prioritise capacity-building and development, especially in states where human security is under threat (ICRtoP 2013; Evans 2008; ICISS 2001).

Within the framework of prevention, Evans (2008) identifies direct measures such as preventive diplomacy, the threat of political and economic sanctions, an arms embargo or an end to military co-operation, legal dispute resolution, and the threat of international prosecution that address factors which contribute to the eruption of violent conflicts or exhibit the potential for imminent violence. Complementing direct measures are structural prevention initiatives aimed at addressing the root causes of a crisis: promoting good governance, human rights, and the rule of law; supporting security-sector and economic reforms; and assisting with education that promotes tolerance levels (Evans 2008). In an elaboration on the Toolbox, the ICRtoP (2013) developed an RtoP 'Toolkit' model which emphasises up-stream and down-stream preventive measures. Though not essentially different from the Toolbox, the ICRtoP model identifies measures such as reducing deprivation, poverty and inequalities; supporting community development and local ownership; protecting women and children's rights; strengthening support for civil society; preventing and punishing hate speech; and supporting diffusion or sharing of power as some of the up-stream

preventive measures (ICRtoP 2013). The Toolkit further proposes down-stream preventive measures such as fact-finding missions, deployment of envoys for mediation purposes, support for indigenous conflict resolution efforts, and the use of the good-offices of the UN Secretary-General as additional prevention tools.

Evidence thus far demonstrates that prevention, in its various manifestations as provided for by the 'Toolbox' and 'Toolkit', was found wanting in both the Zimbabwe and Darfur crises. In the context of Zimbabwe, the humanitarian crisis was at its most severe between 2008 and 2009 when state-sponsored violence destabilised the entire country (Mazarire 2013; Adolfo 2009; Gevisser 2009; Carver 2008; Masunungure 2008; Coltert 2007). In the case of Darfur, the humanitarian crisis reached its peak between 2003 and 2004 when an estimated 300 000 people were killed and 2.5 million people were displaced, largely as a result of government-sponsored attacks on civilians (Ismail 2012; Loeb 2013; Sarkin 2009; Mamdani 2008; Bellamy 2006). In both case studies, the period during which a 'Responsibility to Prevent' could be exercised, lapsed when the crisis became full-blown.

The next section discusses political and diplomatic tools such as preventive diplomacy, political sanctions, travel restrictions or bans, fact-finding missions and several mediations that were utilised.

6.2.1 Political and Diplomatic Tools

The political and diplomatic tools to deliver on the prevention element of the RtoP may include strategies such as preventive diplomacy, the threat of political sanctions, travel bans, fact-finding missions, and mediation efforts (Evans 2008). Such strategies can only be implemented when information about a potential crisis is available. Analysts, therefore, agree that early-warning and risk analysis are integral to addressing a conflict at its embryonic stage. This envisions the collection, analysis and communication of information about developments in situations that could potentially lead to genocide, crimes against humanity, or serious war crimes, so that the UN or other regional institutions can timely, and effectively, prevent such crises from escalating any further (Woocher 2006). This also presupposes that all inter-governmental organisations with a peace and security mandate will prioritise the development of an early-warning capability.

In the case of the AU, the Protocol relating to the establishment of the African Union Peace and Security Council (AUPSC), recommended the creation of a Continental Early-Warning System, CEWS (AU 2003). The logic behind this was that the CEWS would provide timely advice and take effective action in order to prevent potential conflicts and address crisis situations on the continent (AU 2006). It is clear that the Protocol, which came into force in December 2003, could not facilitate early warning in the case of Darfur, because it was promulgates only after the outbreak of the crisis. In Zimbabwe's case, an operational CEWS could have assisted with an assessment of the worsening conditions in the country. However, as of April 2015 the AU had still not operationalised the system. This severely inhibits the organisation's institutional capacity to diagnose political conflict before it degenerates into humanitarian catastrophe.

But even without the AU's institutional capacity for early warning, there were many compelling warning signals prior to the humanitarian crises that erupted in Zimbabwe and Darfur. The signs of a looming crisis in Zimbabwe were conspicuous even in the 1990s, when violent land seizures and government-directed military crackdowns on popular protests started (Chitiyo 2009). Based on the analysis of both short and long-term causes of the humanitarian crisis, the post-2000 socio-economic and political developments in Zimbabwe were clear pointers to a nascent humanitarian catastrophe (Raftopoulos 2013; Murithi and Mawadza 2011; Raftopoulos and Mlambo 2009; Physicians for Human Rights 2009; Human Rights Watch 2008; Masunungure 2008). The long timeline of an obviously deteriorating situation underlines the fact that preventive measures should have been instituted well in advance of the eventual crisis erupting, during and after the June 2008 'harmonised' elections when government actions, directly and indirectly, caused unprecedented humanitarian suffering. At the regional multilateral level, both the SADC and the OAU/AU consistently supported Mugabe's anti-Western rhetoric, thus shielding him from being held accountable for his domestic transgressions and casting doubt on the validity of the early warnings issued by various organisations and individuals (Adolfo 2009; Gevisser 2009; Carver 2008; Coltert 2007). This political obstacle was compounded by the fact that the SADC had no institutional facility for early warning: the system that was proposed in 2004 only came into being in July 2010, and has yet to be tested.

At the domestic and regional levels, early warning was provided almost exclusively by civil society organisations, the media, academics, NGOs, and pressure groups inside Zimbabwe, amongst others, the Zimbabwe NGO Forum, the ZLHR, REDRESS, Amnesty International, the Crisis Coalition, Human Rights Watch, Solidarity Peace Trust, the NCA, Physicians for Human Rights, and the CCJP. As part of their early-warning initiatives, these groups exposed gross human rights violations and helped to underline the worsening democratic deficit in the country which portended serious and escalating political conflict and, crucially, the possibility of ultimate humanitarian disaster. They lobbied and pressurised regional and international governmental institutions to act on the looming crisis, but were effectively side-lined and vilified as Western agents. The Mugabe regime's political rhetoric ensured that the many early-warning signs were obscured by political controversy (Masunungure 2011; Muzondidya 2009; Masunungure 2008).

At the international level, the government-induced food crisis, which reached its peak in 2008, was forecasted by the Food and Agriculture Organisation (FAO) back in 2002. At that time, the World Food Programme (WFP), the world's largest humanitarian agency fighting hunger, warned that nearly 6.7 million people in Zimbabwe would face famine and loss of life unless international assistance were provided urgently (BBC News Online 2002; FAO 2002). In January 2005, further warning was also given by the US-based Famine Early-Warning Systems Network (FEWSN), noting that 8.2 million people were at risk from hunger (*Mail&Guardian Online* 2005). These unambiguous warnings were ignored by the SADC, which continued to support the government of Zimbabwe's disastrous FTLRP. On the contrary, the FTLRP, which seriously impeded the food security of the country, was defended by the SADC as the only way towards addressing the colonial imbalances that were created in Zimbabwe (Sachikonye 2005b).

The humanitarian tragedy of the 2005 Operation *Murambatsvina* was another clarion call for preventive action. However, the implied early warning of greater human rights abuses was played down. As revealed in the wording of her July 2005 report, the UN Special Envoy on Human Settlements Issues in Zimbabwe declined to label the crisis a crime against humanity. The UN involvement, therefore, was limited to providing only temporary aid for shelter, and thus failed to appreciate the fact that the continuing destruction of dwellings would result in an escalation of the humanitarian crisis.

In the case of Darfur, given the history of instability in Sudan since independence in 1955, the OAU had ample time to institute preventive measures. This was, however, not the case. Thus, the AU inherited from its predecessor a situation that had been grossly neglected, and had been ripened to rapidly evolve into a very serious crisis. Up until the outbreak of the crisis in 2003, the UN concentrated all its efforts on the North-South conflict and, seemingly, underestimated the extent to which Darfur was (as it remains today) inextricably linked to the broader politics of contestation in Sudan. As in the case of South Sudan, the violation of political, economic and social minority rights induced feelings of alienation and fostered a separate group identity. As Azar (1990) and Porto (2002) both point out, deprivation and marginalisation resulted in the politicisation and mobilisation of a group identity as deprived sectors of society sought to change the existing social order. But the aspect of minority rights received very little, if any, attention from the government of Sudan and the wider international community (Srinivasan 2006). Darfur required structural conflict-prevention measures in order to address a myriad of socio-economic and political problems --- notably, the inequalities, underdevelopment, and general marginalisation experienced by the people of that region (Baldwin *et al*. 2007).

The international community's belated response to the Darfur crisis demonstrates that early-warning signals received from several human rights groups, amongst others, the Sudanese Organisation against Torture, the Cairo Centre for Human Rights, the Sudanese Development Organisation, Representatives of the Masalit Community in Exile, as well as the Darfur Monitoring Group were not heeded (Srinivasan 2006). For example, already in 2001, two years prior to the outbreak of the conflict, the Special Rapporteur for Sudan of the UN Commissioner for Human Rights issued a warning on the deteriorating situation in Darfur (Srinivasan 2006; Paragraphs 75-78: 2002). However, this early warning was compromised in 2003 when the UN Commission on Human Rights removed Sudan from its watch list and terminated the mandate of the Rapporteur (Allen 2006; Srinivasan 2006). The result was that the international community concentrated on the resolution of the North-South where the Sudanese government could present itself as a committed party to negotiations. This development lowered the profile of the crisis in Darfur on the UN agenda*.*

Evidence from Zimbabwe suggests that lack of urgency by the international community in its response to early indicators of a worsening situation, resulted in the escalation and widening of the crisis. For example, civil society groups (NGOs and other pressure groups) sent numerous early-warning signals to the international community that could have prompted preventive action in Zimbabwe, but were not seriously taken. An examination of the case of Darfur revealed a similar pattern.

A state-centric approach to humanitarian intervention at the global and regional levels reinforces the primacy of state actors which possess the political clout to prevent crises. It also accounts for early-warning failures in many instances --- or, more precisely, the failure to act on early-warning signals. It would seem that hydra-headed, national interest calculations determine to a large extent the positions states take in regard to their responsibility to prevent humanitarian catastrophe. Thus, the fear of spill-over effects on neighbouring countries, rather than the imperative to serve the interests of populations at risks determine whether early warnings are heeded or not --- in other words, whether the RoP should be invoked or not.

The management of disputes and the resolution of conflicts through peaceful means constitute the essence of preventive diplomacy in terms of the political and diplomatic tools of the RtoP (Evans 2008; Rupesinghe 2007; Lundi 1996; Boutros Boutros-Ghali 1992). Integral to the notion of preventive diplomacy is that peaceful pro-active steps, rather than delaying action to the point of mere reaction, is highly preferable, not only in managing conflicts but also in resolving them before they degenerate into humanitarian tragedies. Empirical evidence supporting this approach includes the 2001 Nelson Mandela mediation role in the Burundian conflict, which de-escalated the crisis and paved the way for the eventual resolution of the conflict (Boshoff *et al*. 2010; Shillinger 2009).

While the Mandela-led preventive diplomacy in Burundi could be regarded as a success story, the same cannot be said of the Zimbabwe and Darfur cases. In the Zimbabwe crisis, for example, despite a nominal multi-track preventive diplomatic effort led by the AU, a humanitarian crisis could not be averted. Similarly, in the case of Darfur, the international community could not prevent an escalation of the humanitarian crisis. The failure of regional responses to the humanitarian crises in these two cases, undermine the RtoP principle that regional and sub-regional

214

institutions are the first port of call in delivering on Pillar Two and Pillar Three of the RtoP: namely, the obligation to capacitate states that are unable to fulfil their RtoP duties and, ultimately, the responsibility to take control on behalf of states that cannot fulfil those duties (Thakur 2011; Bellamy 2011; Evans 2008).

An example is attempts made by the SADC leadership to prevent escalation of the crisis in Zimbabwe, following government-sanctioned land invasions in that country in 2000. The diplomatic effort involved the delegation of former presidents Mbeki of South Africa, Chissano of Mozambique, and Nujoma of Namibia to mediate between the Zimbabwe government and the UK government (Mhanadara and Pooe 2013). Despite the desire to prevent the deterioration of relations between the two governments, it would seem that the SADC mediation was mainly national interest-driven as the respective leaders appeared to be more worried about the contagion effect of the crisis on neighbouring (their own) states, rather than the human security impact of the crisis on Zimbabwe (Mhanadara and Pooe 2013).

While it may be argued that there were some regional preventive measures aimed at mitigating the humanitarian crisis in Zimbabwe, to a large extent these were not effective based on evidence emanating from the study. The preventive efforts of the wider international community were not effective either. For example, pressure from the Commonwealth, led by the UK, prompted Zimbabwe to pre-empt its own suspension by withdrawing from the organisation. Furthermore, sustained condemnation of Zimbabwe's controversial land policy and state-sponsored human rights violations resulted in the diplomatic isolation of Zimbabwean government officials, and also led to the EU's decision to suspend Zimbabwe from the Cotonou Agreement, among some other steps (Mlambo 2006; Mashingaidze 2006). Similarly, the UN engaged in preventive action through its fact-finding missions to Zimbabwe in 2001 and, again, in 2005. The first mission reviewed the human security situation in Zimbabwe after the land invasions, while the second mission investigated the impact of Operation *Murambatsvina* on urban habitation (Tibaijuka 2005; UNDP 2002). The findings of these missions, which pointed to an evolving humanitarian crisis in the country, strongly influenced the decision of Western countries to impose sanctions on the Mugabe regime.

215

Evidence from Darfur demonstrates that there were no regional initiatives by the AU or the UAL in sending fact-finding missions, or engaging in preventive diplomacy by way of diplomatic missions, before the outbreak of the crisis. This observation reveals a significant regional RtoP failure in the case of Darfur.

From analyses presented in Chapters Four and Five, it can be seen that long-existing issues of political and economic marginalisation, in addition to mounting human rights violations, were catalysts in the Zimbabwean and Darfur crises. It stands to reason, then, that structural preventive measures, such as the promotion of democracy and good governance, were required as part of the 'Responsibility to Prevent' (ICRtoP 2013; Evans 2008). However, normative prescription, even capacity-building by the international community (Pillar Two of the RtoP), is to a very large extent dependent on the co-operation of legitimate sovereign states. Similarly, in the context of African solutions in resolving crises on the continent, the APRM is another capacity-building mechanism that could have been invoked in Darfur or Zimbabwe. Evidence gathered show that the APRM was not a welcome idea in Zimbabwe, with President Mugabe criticising it as a measure aimed at pleasing the West (Gruzd 2009; Ndlovu-Gatsheni 2007). Also, in the context of Darfur, the absence of an enforcement mechanism meant that the Sudanese government would not open up to scrutiny, or to assistance from the international community.

Similarly, findings from the study indicate that preventive measures by the major powers were equally ineffective. For example, despite the US's condemnation of the situation in Darfur, its foreign policy position remained passive, premised on wider notions of US national security interests at the height of the US 'War on Terror' (Daly 2010). Clearly, a more forceful approach by a superpower could have galvanised international support for a preventive response to the crisis. Sudan's strategic co-operation with the US, therefore, out-weighed the need for the responsibility to prevent a looming humanitarian crisis in Darfur.

Evidence thus far show that several diplomatic boycotts were invoked by the international community over the deteriorating human security conditions in Zimbabwe. Instances of these include, but are not limited to, the 2000 boycott of the EU-Africa Summit in Cairo by British Prime

Minister Tony Blair, as well as the 2007 EU-Africa Summit boycott by his successor, Gordon Brown.

The conclusion that can be drawn from the foregoing discussion on the political and diplomatic prevention tools of the RtoP is that prevention is generally ineffective, unless there is the necessary political will, both from the side of the erring government and the international actors that engage with it, to heed the warning signs and to follow through with preventive measures.

6.2.2 Economic and Social Tools

Economic and social preventive tools prescribed by the RtoP 'Toolbox' include measures such as aid conditionality, the threat of economic sanctions, and the freezing of assets (Evans 2008). Complementing these direct preventive measures are structural economic and social measures, namely programmes for supporting economic development, reducing poverty and deprivation, improving terms of trade and openness in trade, teaching greater levels of tolerance and punishing incitement to hate speech, as well as promoting freedom of the press (ICRtoP 2013; Evans 2008).

Applying this to the case of Zimbabwe, for example, elements of bad governance (such as unconstitutional land grabs, human rights violations, and vote-rigging in the 2002 presidential elections) were met with restrictive (but limited) financial sanctions by the US, the UK, the IMF, and the EU. These measures were complemented by the imposition of travelling bans on selected Zimbabwean government officials by the US and the EU (Jacobs and Stultz 2009; House of Commons 2006; Chigora 2006; Taylor and Williams 2002). Other forms of economic and social preventive measures were instituted against the Mugabe regime, intended to dissuade it from pursuing further acts of violence against its civilian population, including the suspension of economic ties (in terms of the 2001 Zimbabwe Democracy and Economic Recovery Act, ZIDERA) by a country such as the US. Australian and New Zealand cricket teams also boycotted Zimbabwe on the grounds of human rights violations and the democratic deficit in the country. These diplomatic measures were acknowledged with symbolic actions by high-profile Zimbabweans. For example, during 2003 Zimbabwean cricketers Henry Olonga and Andy Flower denounced what they regarded as the "democratic death" in Zimbabwe by quitting the country's

217

national cricket team (BBC News 2003). These acts are in line with the framework of the RtoP Toolbox, which emphasises economic and social boycotts as effective preventive tools capable of forcing repressive regimes to institute democratic reforms and the restoration of the rule of law (Evans 2008).

Sanctions against Zimbabwe served a dual purpose. While sanctions imposed on the country from 2001 to around 2007 were mainly for preventive purposes, those imposed after this period was in reaction to the humanitarian crisis. Arguably, the escalation of the crisis, which reached its apex during 2008, indicates that prevention measures were largely ineffective. Their ineffectiveness can be attributed, amongst others, to the reality that many states in the non-Western world provided economic support to the Zimbabwean government and, thereby, mitigated the effects of Western sanctions. The fact that Britain (the former colonial ruler in Zimbabwe) led the Western bloc into adopting restrictive measures, played into the hands of the Mugabe regime and its allegation that this was all part of a Western neo-colonial agenda (Ankomah 2007; NAM 2003). It also provoked the notorious 'politics of solidarity' among African leaders, which often results in the protection of peers, regardless of what they do to their own citizens. Solidarity politics also resonates in the wider global South, where many leaders sympathise with what they perceive to be the victims of Western hegemony (Adolfo 2009; Gevisser 2009; Carver 2008). This again reinforces the observation previously made that regional support is necessary for the operationalisation of the RtoP.

Other prevention tools that were explored by the international community include support for economic development and the teaching of tolerance (ICRtoP 2013; Evans 2008). The mitigating measures employed mostly by INGOs, such as the provision of food aid and development assistance, were rendered insufficient as a result of the Mugabe regime's portrayal of these organisations as Western agents for regime change (Human Rights Watch 2004). The politicisation of humanitarian efforts, as exemplified by the introduction of the NGO Bill of 2004, further undermined humanitarian initiatives in the country.

Concerning the humanitarian crisis in Darfur, there are no social or economic preventive tools that were adopted before the actual outbreak of the crisis. In this regard, Daly (2010) contend that the

218

continued vacillation in US policy towards Sudan, as previously alluded to, impeded any efforts in preventing the Darfur crisis.

6.2.3 Constitutional and Legal Tools

Constitutional tools prescribed in the RtoP Toolbox include structural measures, such as promoting human rights and the rule of law, and combating corruption. The legal component involves direct measures, such as dispute resolution, the threat of international prosecution through the ICC or the ICJ, the ending of impunity, and the use of local judicial mechanisms (ICRtoP 2013; Evans 2008).

Evidence gleaned from the study, shows that preventive constitutional and legal tools, such as international prosecution and legal mediation, were not invoked by state actors prior to the outbreak of the humanitarian crises in the countries which were used as case studies. Whereas in the case of Darfur, no legal measures whatsoever were adopted prior to 2003, in the case of Zimbabwe certain actions were indeed taken by non-state entities. The Zimbabwe Lawyers for Human Rights (ZLHR), for example, provided legal representation: between 2003 and 2007, the ZLHR rendered legal services to more than 1 000 people facing political prosecution, as well as those illegally arrested, tortured and detained, either under POSA and APIPA, or in terms of ordinary criminal law (ZLHR 2010, 2007). The *Mike Campbell (Pvt) Ltd and Others vs the Republic of Zimbabwe* case, which was referred to the SADC Tribunal, exemplified a legal attempt by non-state actors to dissuade the government of Zimbabwe from illegally dispossessing land. However, the Mugabe regime demonstrated its blatant contempt for the Tribunal and simply ignored the body's ruling, without encountering any political consequences in the region. This particular event, and the eventual dissolution of the SADC Tribunal in 2011, has revealed the political dynamics within the region, and the SADC's inherent impotency, which caused it to fail in its responsibility to prevent (Nathan 2013; 2011).

The Zimbabwean case demonstrates that the region's legal-constitutional frameworks, such as the 'African Charter on Democracy, Elections and Good Governance' and the SADC's 'Principles and Guidelines Governing Democratic Elections' (2004), which are derived from the AU Constitutive Act (Articles 3 and 4), are relegated to the level of mere rhetoric if member states are not held accountable for their non-adherence. The APRM, which is aimed at assisting states to

conduct themselves responsibly, is a commendable initiative, but it can only become the norm once it is embraced by the majority of African states.

In the case of Darfur, longstanding ethnic tensions required local dispute resolution mechanisms, as envisioned in the RtoP Toolbox. However, the non-application of dispute resolution measures, demonstrates the need for prevention through the entrenchment of democracy.

6.2.4 Security-Sector Tools

RtoP pundits propose measures such as mobilisation of forces for preventive deployment, the non-territorial show of force, and the threat of arms embargoes or ending of military co-operation as best possible options for preventing fragile situations from degenerating into large-scale humanitarian crises (ICRtoP 2013; Evans 2008; ICISS 2001). The preventive deployment of UN forces to the borders of Kosovo, Macedonia and Albania between 1992 and 1999, upon the request of the Macedonian government, constitutes an empirical example of this proposition. Arguably, the UN deployment was instrumental in the final resolution of the ethnic conflict between Albanians and Macedonians (Evans 2008). The rapid deployment of SADC forces (comprised mainly of forces from South Africa and Botswana) to Lesotho in 1998, which resulted in a de-escalation of the crisis and its eventual resolution (notwithstanding political controversy about the manner in which the deployment was done), provides another example of this RtoP tool (Aboagye 2012).

As discussed in the previous chapters, the governments of Sudan and Zimbabwe defaulted on their RtoP obligations by repeatedly using state security forces against their civilian populations. Actions such as these justify the preventive deployment of international forces for the purpose of protecting targeted civilian populations. In the case of Zimbabwe, neither regional nor international forces were deployed, despite the Mugabe regime's historical propensity for the use of excessive force against its civilian population (the *Gukurahundi* massacre is a poignant example). In Darfur, the deployment of a combined AU-UN hybrid force was not preventive *per se*, as it was done only after the outbreak of the conflict and its escalation into an humanitarian crisis in 2003 (Sampson 2011; Daly 2010; Mbuen 2009; Murithi 2008).

The non-operationalisation of the African Standby Force Brigade (ASFB), as envisaged by the AUPSC in 2003, means that the organisation continues to lack the ability to deploy forces in a preventive capacity. In the case of Zimbabwe, the Organ on Politics, Defence and Security (OPDS), which was established in 1996 with the objective of "promoting peace and security" across the SADC region, at no stage considered the preventive deployment of forces in Zimbabwe --- despite demonstrating its willingness and ability to intervene in Lesotho in 1998 (SADC 2001; SADC 1996).

In the case of Darfur, the UAL at no stage invoked Article 6 of the Arab Collective Security Pact (ACSP) in fulfilment of its responsibility to prevent, despite Sudan's membership of the UAL and the country being a signatory to the Treaty of Joint Defence and Economic Co-operation since 1950. The UAL's lack of preventive security measures to address the growing crisis in Darfur is most likely a result of the external security-threat orientation of the organisation, which prioritises state security over human security. The Darfur case further demonstrates the dilemma that the multiple memberships of regional organisations pose, because of the growth in 'new regionalism'. Conflicting interests as a result of overlapping membership fuels discord and leads to a lack of harmony among member states (Saurombe 2009).

Notable preventive security-sector measures, as provided for in the RtoP Toolbox, involve the imposition of arms embargoes and the suspension of military ties. Since 2002, such measures were liberally employed by the EU, the UN and the UK *vis-à-vis* Zimbabwe. In the case of the EU, these measures also involved the suspension of technical co-operation (EU Common Position 2004/161/CFSP; EU Common Position 2002/145/CFSP).

In the context of Darfur, except for the EU's imposition of an arms embargo on Sudan in March 1994 (EU Council Decision 94/165/CFSP: 1994), in response to the Second Civil War in Sudan, there are no clearly identifiable preventive security measures prior to the outbreak of the conflict in Darfur in 2003. Moreover, the international community's overwhelming concentration on the North-South conflict in Sudan, to the point of grossly neglecting the situation in Darfur, had as its

221

unintended consequences the spill-over effects of a proliferation of illegal arms and the escalation of the humanitarian crisis in the western region of the country.

6.3 The 'Responsibility to React'

The reaction element of the RtoP is the second facet of the norm and becomes imperative when prevention modalities have not been implemented at all, or have been exhausted and/or failed (Evans 2008; WSOD 2005; ICISS 2001). Unlike prevention, which can manifest itself through both direct and structural measures, reaction is by necessity a direct response, since it occurs when an evolving humanitarian crisis is already evident. Measures can, amongst others, take the form of peace-keeping, political and economic sanctions, criminal prosecution, the threat of military force, intervention for civilian protection, or the creation of safe havens or no-fly-zones (Evans 2008). Although some of these elements also feature under prevention, the difference is that under reaction these very same measures assume a more urgent and robust character. It needs to be underlined that, unlike Evans's (2008) 'Toolbox' that prescribes reaction measures, the ICRtoP's (2013) 'Toolkit' does not prescribe reaction measures, possibly because its architects intended to give primacy to prevention over reaction, and in order to downplay the military dimension of the RtoP that dominated the discourse ever since the Libyan intervention of 2011. Consequently, the analysis in the sections that follow draw only on the reaction measures as outlined in Evans's Toolbox.

6.3.1 Political and Diplomatic Tools

The humanitarian crisis in Zimbabwe reached its peak directly prior to and after the 2008 presidential election run-off. Observable escalatory elements of the crisis included state-induced food insecurity, the militarisation of all state organs, massive displacement of people, deterioration in health conditions, and an increased refugee flow into neighbouring countries, amongst others, all factors that induced human insecurity (Human Rights Watch 2009; Physicians for Human Rights 2008). Masunungure (2008) confirms this, and singles out the state security crackdown on the opposition leadership and its supporters. Regardless of whether the international community labelled the situation an RtoP basket case, the humanitarian implications were so dire, and the

222

Mugabe regime so clearly complicit, that an emergency response by the international community was imperative.

In the Darfur context, the escalation of the crisis and deterioration of the situation were characterised by the militarisation of the conflict, indiscriminate attacks on the civilian population, obstruction of aid delivery, and the implementation of scorched-earth policies by the Sudanese government. The deliberate actions of the government of Sudan implicated it in the violation of international human rights and humanitarian laws, and also demanded a robust reaction by the international community.

The RtoP-guided reaction by the international community varied considerably from case to case. In the Zimbabwean context, international and regional attempts to find a political solution to the crisis were determined by the episodic nature of the crisis. In this regard, increased violence prior to the elections of 2008 necessitated the Special AU-SADC Summit of 27 March 2007 in Tanzania, and the subsequent appointment of Thabo Mbeki as Chief Mediator. (While it could be argued that these actions were of a 'preventive' nature, it should be clear from the discussion in Chapter Four that the situation in Zimbabwe, by that stage, had already become a drawn-out humanitarian crisis.) Similarly, increased violence following the delayed release of results of the March 2008 presidential election prompted the convening of the SADC's Extraordinary Summit in April 2008. Earlier, Zambia's demand for tougher measures against Zimbabwe, as well as Botswana's lobby for Zimbabwe's suspension from the SADC, was part of the international community's political response to the crisis. Their calls, to a certain extent, delegitimised the Zimbabwean government but, despite being significant, political reactions of this kind tended to be mostly symbolic. Thus, regional political reactions championed by some member states of the SADC, to some extent, paved the way for relatively peaceful, 'harmonised' elections in March 2008 (Murithi and Mawadza 2011; Masunungure 2008).

As significant as these identified international and regional political reactions to the Zimbabwean crisis were, they were unable to provide a lasting solution. A major reason for this could be the lack of a unified position on the crisis by member states of the SADC. While Botswana and Zambia, as mentioned above, proposed tougher measures against the Mugabe regime, regional

hegemon South Africa opted for "quiet diplomacy". By insisting on low-key and opaque diplomacy, South Africa signalled that the Zimbabwean crisis was not an existential threat to regional peace and security, and therefore it downplayed the need for urgent reaction of any kind. Moreover, Mbeki's April 2008 "there-is-no-crisis" comment on the situation in Zimbabwe amounted to a categorical denial that what was happening in that country warranted an RtoP reaction. Thus, South Africa's politico-economic dominance of the region and Mbeki's pivotal position as Chief Mediator obstructed, rather than facilitated, a unified SADC response to the humanitarian crisis in Zimbabwe, and this, in turn, weakened the response from the broader international community. As Rossouw and Moyo (2008), as well as Murithi and Mawadza (2011) conclude, South Africa's quiet diplomacy and Mbeki's "no-crisis" pronouncement largely undermined efforts to resolve the Zimbabwean crisis in line with RtoP precepts. Although the AU mandated the SADC to intervene in the Zimbabwean crisis, the regional RtoP-led resolution of the crisis was diluted when the SADC, in turn, delegated the role to South Africa. The South African government's historical, revolutionary, geo-political and ideological ties with a ZANU-PF-led Zimbabwe are well known, compromising its position as an honest-broker and mediator.

NAM, to which Zimbabwe belongs and which draws its membership from the non-Western, developing world, appeared largely indifferent and apathetic to the political and humanitarian crisis in Zimbabwe. NAM specifically supported the Mugabe regime's policy of land invasions, which the organisation insisted was a purely internal political matter, residing within the authority and sovereign control of the government of Zimbabwe (NAM 2012). It, therefore, appears as though NAM has not yet internalised the guiding principles of the RtoP, as the organisation continues to propagate the sacrosanct status of the traditional state-centric principles of non-interference and unconditional sovereignty.

NAM's failure to embrace the RtoP concept and its hoped-for application in the case of Zimbabwe was in sharp contrast to that of UN Secretary-General Ban Ki-moon, who publicly condemned the gross political misconduct of the Mugabe regime and reminded the government of Zimbabwe of its RtoP obligations (Ban-Ki-moon 2008). Ban's reaction was an example of the RtoP tool that involves the use of the good offices of the UN Secretary-General (ICRtoP 2013). However, and notwithstanding its symbolic and practical relevance, it is important to point out that the UN

Secretary-General's personal opinion on international issues does not necessarily represent the wider UN position, as expressed within the UN General Assembly or the UN Security Council. Whereas Western countries, such as the UK and the US, called for sanctions and the severing of diplomatic ties with the government of Zimbabwe, other permanent members of the UN Security Council, such as China and Russia, had a quite different approach to the matter. Russia and China were not interested in the international isolation of Zimbabwe by way of sanctions and the severing of diplomatic ties. They argued that these measures would mostly affect the civilian population, the very people they were supposed to protect. They also took the position that the crisis in Zimbabwe did not have the capacity to fundamentally threaten international peace and security. Thus, these contradictory positions within the Council undermined its ability to react meaningfully to the Zimbabwean crisis. This was demonstrated by the diplomatic deadlock during the UN Security Council meeting in July 2008, when a proposed punitive resolution on Zimbabwe, sponsored by the US and the UK, was defeated (UNSC/9396: 2008). What can be deduced from the aforementioned is that one of the major drawbacks to the operationalisation of the RtoP, specifically in terms of its reaction component, is the diametrically opposed views on and interpretations of the norm held by the permanent members of the UN Security Council.

Besides these international and regional political reactions to the humanitarian crisis by state actors there was significant reaction by non-state actors, predominantly led by faith-based organisations (FBOs). These organisations provided not only sustained criticism and condemnation of the gross human rights violations in the country, but also attempted to play a strong mediatory role in the crisis. In this regard, during 2006 the Zimbabwe Catholic Bishops Conference (ZCBC), the Zimbabwe Council of Churches (ZCC), and the CCJP mediated in the crisis by encouraging political tolerance between the MDC and ZANU-PF (Chitando 2011; Kaulemu 2010). FBOs articulated their vision of Zimbabwe in a book *The Zimbabwe We Want: Towards a National Vision --- A Discussion Document*. In articulating the significance of the involvement of non-state actors in conflict mediation and resolution, based on the principles of the RtoP, Rupesinghe (1997: 7), with specific reference to Zimbabwe, describes this as "ecumenical diplomacy". While the role of the FBOs cannot be regarded as a complete success story because it did not prevent escalation of the humanitarian crisis, their mediatory role was not in vain, as it set an important normative and practical example to state actors (arguably, the most important actors in the operationalisation

225

of RtoP principles). The actions of the FBOs also reinvigorated the academic RtoP discourse around the situation in Zimbabwe.

In the case of Darfur, Bashua (2012: 2) has pointed out that the crisis drew the highest number of international special missions and special envoys. On the part of the AU, international political reaction to the humanitarian crisis include the 2004 N'Djamena Humanitarian Ceasefire Agreement, brokered by Chad and the AU, and the 2006 Abuja negotiations leading to the signing of the DPA. The AU's political reactions also involved the Sirte negotiations in Libya and a process of negotiations in Doha (hosted by the Qatari government) between 2008 and 2010, which resulted in the signing of the DDPA in 2011. Strong condemnation and depiction of the crisis as "genocide" (Powell 2004) and "genocide by intent", "ethnic cleansing", "war crimes", and "crimes against humanity" (International Commission of Inquiry 2005), as well as "the world's worst humanitarian crisis" (Annan 2006) characterised sustained international political reaction to the crisis. Furthermore, a general perception of the crisis as "an appendage" of Sudan's North-South conflict, equally contributed to sustained political reactions to the crisis (Bashua 2012: 2). In light of this labelling of Darfur as a crisis, the UK House of Commons made reference to the RtoP, arguing that "if the 'Responsibility to Protect' means anything, it ought to mean something in Darfur" (Bellamy 2011a: 52; House of Commons International Development Committee 2005).

Beside the political reaction by international and regional bodies and individual state actors, civil society organisations (CSOs), INGOs, and FBOs also sustained their political condemnation of the Sudanese government's role in the escalation of the crisis and ensured that there was widespread prioritisation of reaction to the humanitarian crisis (Ismail 2013; Martyns 2009; Amnesty International 2006).

From the foregoing discussion it is evident that the international actualisation of the RtoP produced mixed results, especially at the bilateral level. A single-state type reaction, even with the approval of a regional community, tended to be national interest-driven rather than having as its goal the humanitarian protection of people in a foreign country. In this regard, Chad's reaction to the Darfur crisis was prompted by fears of spill-over effects into its territory and not primarily to end the conflict in Darfur for altruistic reasons (Loeb 2013). In the same vein, South Africa's quiet

diplomacy in the Zimbabwean crisis was also informed by fears of spill-over effects that might have resulted from an escalation or the possible degeneration of the situation into civil war.

Mixed results can also be discerned in the case of multilateral international reactions. By pushing for the signing of the DPA, the international community aimed to achieve a negotiated settlement and the protection of the civilian population in Darfur. However, as Duursma (2011: 4) has noted, "mediation is no guarantee of a successful resolution". To this end, findings from the study indicate a number of challenges that confronted the mediators in the resolution of the Darfur crisis. One of these was how to operationalise the RtoP in a conflict involving several armed rebel groups with little or no political or negotiating experience. Consequently, negotiations with only one rebel group resulted in a piecemeal, arbitrary approach which departed from the RtoP's emphasis on a holistic, inclusive (of all parties) and exhaustive engagement. Daly (2010) and Duursma (2011) have identified another major weakness in the Darfur negotiations in that the negotiations failed to address the root causes of the conflict.

The multilateral approach to RtoP reaction (as with conflict resolution, in general) has also been criticised for favouring a top-down rather than a bottom-up approach. When grass-roots stakeholders are excluded, the critical voices of civil society and traditional leadership are side-lined, and any resolution of the crisis does not secure the ownership of direct stakeholders (Duursma 2011). Brickhill (2007: 2-3) sees such an approach as a mere "quick-fix", and suggested that it was not nearly compatible with the situation on the ground in Darfur. Relatedly, the approach was susceptible to the imposition of unrealistic deadlines with no checks and balances, as well as a lack of commitment on the part of parties to the conflict (Human Rights Watch 2007). The boycotting of negotiations by various rebel groups on the grounds of partiality and unrepresentativeness, the failure of the Abuja, N'Djamena and Sirte peace negotiations, and the disappointing outcome of the protracted Doha negotiations support this assertion (Prunier 2008).

These challenges notwithstanding, political and diplomatic reactions such as fact-finding missions by the UN through the Office of the High Commissioner for Human Rights (OHCHR) in 2004, and the International Commission of Enquiry on Darfur, significantly contributed to holding the

227

Sudanese government to account for the humanitarian crisis in Darfur (UN-International Commission of Inquiry Report on Darfur 2005).

However, bilateral and multilateral responses to Darfur also exposed the challenge of involving too many players with conflicting interests --- and not all of them sharing the same agenda of protecting people at risk. The joint AU-UN appointment of Djibril Bassole as Chief Mediator in the on-going conflict in July 2008, for example, led to the implication of the Sudanese government in the commission of crimes against humanity in Darfur. But this, and the referral of Darfur to the ICC leading to the indictment of President Al-Bashir, contradicted the AU's position and its interests in the Darfur crisis. Thus, it is argued that the AU's appointment of Thabo Mbeki to lead the AU High-Level Panel on Darfur (AUHPD) was aimed at neutralising the findings of Djibril Bassole, and blocking the appearance of President Al-Bashir before the ICC. The 2011 Report of the Africa Mediators' Retreat made similar observations.

The simultaneous manifestation of competing, in fact divergent, diplomatic reactions to the crisis in Darfur, undermined the operationalisation of the RtoP norm and damaged the fledgling AU-UN partnership in matters of protecting humanity at risk (Flint 2010) --- thus, the US's roadmap to RtoP operationalisation in Darfur (Africa Mediators' Retreat 2011; Flint 2010). Mamdani (2008) explains how the "politics of naming" encapsulated these competing interests through the various depictions of the crisis as "genocide", "crimes against humanity", and "war crimes". Each label was directed at mobilising specific support and resources. However, as the evidence from Darfur shows, there was scant correlation between the naming of the crisis and reacting to it through the deployment of adequate or needed resources for its resolution.

6.3.2 Economic and Social Tools

Before consideration is given to any military reaction (the last resort), RtoP proponents recommend the imposition of sanctions (ICRtoP 2013; Evans 2008; WSOD 2005; ICISS 2001). For a long time sanctions have been regarded as an effective means of crisis resolution, provided they are well co-ordinated and implemented. More recently, Evans (2008) and Sidiropoulos (2004) argued that the corrosive impact of sanctions on apartheid South Africa's political economy

demonstrated the potency of comprehensively applied sanctions under UN Security Council auspices under Articles 39 to 42 of the UN Charter, as opposed to *ad hoc* sanctions that are not instituted under the Council's aegis. In the context of Zimbabwe, findings from the study show that the renewal of "smart sanctions" by the EU, the IMF, the World Bank, as well as the US, in reaction to the deteriorating human security conditions prior to and after the 2008 run-off elections, were less effective (EU Council Common Position 2009/68/CFSP; Obama 2008; EU Council Decision 2008/135/CFSP). The ineffectiveness of these sanctions can be attributed to the fact that they were imposed outside the UN framework. As a result, they were not universally binding and failed to compel the Mugabe regime to make meaningful political reforms.

Sims, Masamvu and Mirell (2010) also observed that smart sanctions imposed on Zimbabwe did not achieve their intended objective of economically suffocating the Mugabe regime. Their failure can be attributed to the regime's adoption of a "Look East Policy" (resorting to trade with China, other Asian countries, and Russia) and the discovery of diamonds in the Marange region of the country. These new developments appear to have neutralised EU-US sanctions and helped to prolong ZANU-PF's grip on power in the light of its direct control over vast mineral resources (Raftopoulos 2010; Jacobs and Stultz 2009). Indeed, the ripple effect of sanctions on Zimbabwe were that they promoted a culture of accumulation, enabling the political elite to survive, even thrive, on illegal diamond deals, while transferring the pain of economic sanctions to the poor and less-privileged in society.

In the case of Darfur, excessive human rights violations prompted the UN Security Council, by means of Resolution 1591, to establish a sanctions committee in 2005 and adopt a decision to freeze foreign assets, impose travel restrictions, and ban financial dealings with those individuals implicated in humanitarian atrocities in Darfur (UNSC Resolution 1591: 2005). Through these actions, the Council demonstrated its commitment to protecting civilian populations at risk. However, these sanctions seem to have totally missed their intended targets as can be discerned from the Sudanese government's non-compliance with the terms of the Resolution. Lynch (2014) has also attributed the failure of sanctions to the US's lacklustre backing of international efforts on Darfur. But not all aspects of international political reaction to Darfur can be considered a failure. In this regard, it is posited that the provision of significant financial support by the EU and

229

the UN helped in mitigating the humanitarian crisis in Darfur. At the height of the crisis in 2003 and 2004, the EU pledged over €325 million towards humanitarian activities, while the UN contributed more than US$166 million through its Office for the Co-ordination of Humanitarian Affairs, OCHA (EU Fact Sheet 2012; Daly 2010; OCHA 2006). These contributions demonstrate that the international community's engagement with Darfur was not only limited to diplomatic and military support, but also to the provision of social and economic aid.

6.3.3 Constitutional and Legal Tools

Constitutional and legal RtoP reaction tools mainly relate to criminal prosecution, making use of international, regional, and domestic juridical instruments. These measures are often resorted to in a bid to stop worsening human security conditions and to hold perpetrators of violence accountable. Thus, in the Zimbabwean case, attempts to invoke the legal instruments of the RtoP were championed by civil society groups following the April 2008 discovery of the Chinese ship, *An Yue Jiang*, carrying arms destined for the Zimbabwean government. Application to the Durban High Court by South African civil society groups, SATAWU and the SALC, effectively helped to halt the offloading of the cargo of weapons at the Durban port and preventing their eventual use by the Mugabe regime to harm the civilian population (Raftopoulos 2010; Solidarity Peace Trust 2010; Badza 2008; Du Plessis 2008).

Another significant legal and constitutional reaction to the humanitarian crisis in Zimbabwe was the institutionalisation of the GPA in 2008, which led to the formation of the GNU in 2009. The SADC-led mediation in the Zimbabwean crisis, as well as sustained pressure on ZANU-PF, resulted in the formation of a coalition government with the two MDC factions. Murithi and Mawadza (2011) stated that this initiative initially worked well in protecting people against state-orchestrated political persecution and human rights violations. Mazarire (2013) and Raftopoulos (2013) concur that, without factoring in any coercive measures, political and diplomatic pressure was adequate in creating relative social and political stability in Zimbabwe between 2008 and 2013. Based on these and other observations, it is instructive to observe that the coalition-government approach applied to the Zimbabwean crisis was largely modelled on that of Kenya following the latter's post-election crisis of 2008. This would also seem to suggest that

230

constitutional and legal RtoP measures in addressing crisis resolution are increasingly being manifested in the form of negotiated governments of national unity.

Despite measured success, the SADC's legal reaction to the crisis in Zimbabwe suffered from a number of identifiable flaws. First, the formation of the GNU followed a top-down approach, or "an elitist pact" as Ncube (2013) refers to it. Thus, it marginalised civil society, traditional leadership, and ordinary Zimbabweans in attempts to achieve reconciliation. Second, architects of the GNU lacked coercive or enforcement measures needed in the event of non-compliance by parties to the agreement. As Mhandara and Pooe (2013) note, President Mugabe's continued defiance of the negotiated stipulations and his unilateral appointment of key government officials, such as the Central Reserve Bank Governor, Attorney-General, and Foreign Minister, clearly showed that the SADC-brokered resolution lacked legitimacy.

At the continental and international levels, the African Court on Human and People's Rights (ACHPR) and the ICC are some of the major legal reaction channels that were not explored by the international community in its response to the humanitarian crisis in Zimbabwe. The ACHPR, as a continental court, was established to ensure the protection of human rights in Africa (ACHPR 2004). However, with no enforcement mechanism and no properly defined jurisdiction over sovereign states, the Court was rendered impotent. This is possibly why it was side-lined as a potential RtoP tool (Sarkin 2012; Zimmermann and Baumler 2010). Non-referral of the Zimbabwean crisis to the ICC (notwithstanding several suggestions that Mugabe should be held personally accountable) implies that the crisis was perceived as not having reached levels warranting international legal action against specific individuals. Another observation is that there was no consensus within the UN community (neither, for that matter, within the AU or the SADC) that Zimbabwe constituted an active conflict warranting invocation of the RtoP. In this regard, it is instructive to note that the Stockholm International Peace Research Institute (SIPRI) in 2010 identified Somalia, Sudan, the DRC, and Uganda as the only African countries with active conflicts (Africa Mediators' Retreat 2011).

This assumption could have prompted the conclusion reached by Howard (2010) when she argued that, despite the absence of an armed conflict, the principle of universal jurisdiction could have

231

been used as the basis for referring the case of Zimbabwe to the ICC. This position is sustained by the observation that elements of 'war crimes' and 'crimes against humanity' were identified in the Zimbabwean crisis. This scholar's submission is premised on the ICC's Preamble, which clearly states that "… the most serious crimes of international concern must not go unpunished and … their effective prosecution must be ensured by taking measures at the national level and enhancing international co-operation" (ICC 2002). But this option was not explored, yet could have guided international prosecution in line with the legal reaction tools of the RtoP.

The humanitarian crisis in Darfur presented an unprecedented experience with the international legal and judicial approach in line with RtoP precepts. More importantly, the Darfur crisis was unique in the sense that it was the first case in Africa to be referred to the ICC by the UN Security Council. The study revealed that the scope and nature of the humanitarian crisis in Darfur, characterised by armed conflict, resulted in serious breaches of IHRs and IHL. These violations prompted the invocation of legal RtoP tools in terms of Chapter VII of the UN Charter. UN Security Council Resolutions 1547, 1556 and 1564, all adopted during 2004, became legal instruments legitimising subsequent military intervention.

However, the UN Security Council resolutions on Darfur were weakened by a number of factors. For example, Resolution 1547 of 11 June 2004, which primarily championed a ceasefire and peace-making measures, could not change the complexion of the situation in Darfur. Resolution 1556, which prescribed the imposition of sanctions and the disarming of armed groups such as the *Janjaweed*, lacked the means to enforce its objectives --- it remained highly prescriptive and without any form of operationalisation. But Resolution 1564 of 18 September 2004 was a more nuanced reaction by calling for the establishment of the International Commission of Inquiry (ICI) to investigate cases of atrocities committed in Darfur, with the intention of bringing perpetrators to justice.

Serious human rights violations, including breaches of international humanitarian laws (as revealed by the June 2005 Report of the ICI), compelled the UN Security Council to use its global multilateral leverage to pursue the judicial option of referring Darfur to the ICC (UN Security Council 2005). However, the desire to hold perpetrators accountable for the deeds by instituting

investigations and seeking adjudication (on alleged 'war crimes', 'crimes against humanity' and the contested 'crime of genocide') did not guarantee success for this legal RtoP tool (Loeb 2013; Bashua 2012). In fact, the ICC route proved to be counter-productive in the pursuit of peace in Darfur. The fact that Bashir's indictment was the first case of a sitting head of state being issued with a warrant of arrest, caused a political rift between Africa and the West, centred on perceptions about the global 'demographic' of peace and justice (McNamee 2014; Murithi 2013; Odero 2011). Although the importance of the ICC as part of the legal reaction options of the RtoP cannot be denied, the decision by key inter-governmental actors (like NAM, the AU, and the UAL) not to co-operate with the ICC in the indictment of Bashir, demonstrates the significance of geo-political ties when calculating reactions in matters of human protection (Kersten 2011; Odero 2011; Webber 2010; Bah 2010).

To a certain extent, proponents of the ICC remedy might have underestimated the importance of political will in delivering on global justice. In this regard, non-compliance with the ICC's ruling on Sudan by a critical mass of African states (even countries that have ratified the Rome Statute) reveals that international criminal prosecution still bows to the dictates of global politics (Odero 2011). As McNamee (2014) argues, developing countries project themselves as victims of global justice dictated by the West, because most cases referred to the ICC emanate from conflicts in the poorer countries. In the context of the AU it is easy to understand why so many state leaders fear that they themselves will become the targets of the ICC (Cilliers 2009; Mamdani 2008). The predominant indictment and referral of Africans (amongst them, former and sitting presidents) to the ICC since 2004 seems to support this fear. This impression is also reinforced by the non-referral of cases that originate in the rest of the world --- the non-indictment of international political criminals in cases such as Georgia, Palestine, Iraq, and Afghanistan.

Notwithstanding the AU's decision to reject the ICC's jurisdiction in the case of the Bashir indictment, the apprehension of African leaders can be comprehended from a conflict resolution perspective. Thus, whereas the indictment and referral of Bashir to the ICC in The Hague vilified him and sought to remove him, the AU heads of state considered him instrumental to the political resolution of the crisis. This assumption concurs with the observation by Odero (2011: 156) that,

in a conflict situation, sustainable peace is achievable through the diplomatic engagement of opposition forces rather than through their outright elimination.

Although the ICC is an integral institution to the operationalisation of the RtoP, so far it has proved, according to Cilliers *et al*. (2009: 60), to be "a stray organ of the RtoP". This reflects the challenge of the referral process, where the ICC seems to have become the preserve of the powerful. It is also ironic that several of the powerful states that use their permanent membership of the UN Security Council to refer cases to the ICC are themselves not signatories to the Rome Statute. They could, therefore, through their veto powers in the Security Council, block similar referrals of their own leaders. An interesting dimension, discussed by McNamee (2014: 6), concerns the "interaction between geopolitics and international justice", where the proliferation of African cases at the ICC resulted in some arguing that it amounts to "neo-colonial rule under the guise of international justice". This position appears to be supported by emerging power blocs such as BRICS (Brazil, Russia, India, China, South Africa). Both China and Russia concur with the African view that the crisis in Darfur is an internal matter requiring home-grown solutions. However, there could be another dimension to the Chinese and Russian insistence on "constructive engagement" in the Darfur crisis. Russia, for example, is confronted with a similar case in its Chechnya region and fears that endorsing ICC actions *vis-à-vis* Darfur will set a strong precedent that could later be invoked against it (Cohen 2006; De Waal 2005a). The lack of co-operation in pursuit of Bashir's arrest, and the imposition of really effective sanctions by the US despite the signing of the DPAA into law by President Obama in October 2006, can also be explained along these lines.

6.3.4 Security-Sector Tools

Based on the continuum of RtoP options, when the reaction tools (as discussed in previous sections) fail, direct military action, such as peace-keeping for "civilian protection, safe havens and no-fly zones, arms embargoes, jamming of radio frequencies, and [the] threat or use of military force as … [a] last resort", become inevitable (ICRtoP 2013; Evans 2008; ICISS 2001). The operationalisation of military measures to ensure international peace and security is provided for

in Chapter VII of the UN Charter; hence, the necessity for the UN Security Council to sanction this specific RtoP reaction tool (WSOD 2005; ICISS 2001).

In the Zimbabwean context, despite state-instigated violence in 2008 prior to and after the presidential run-off elections, international military deployment to protect populations at risk was not invoked as a reaction measure. Chitiyo (2009) and Masunungure (2008) argue that the use of state security structures to conduct Operation *Makavhotera Papi* (Whom Did You Vote For) against opposition party supporters presented a situation of the Zimbabwean government being at war with its own people and, therefore, it demanded an international military response. It is also posited that the militarisation of Zimbabwean politics and the ever-increasing humanitarian crisis since 2002 demanded the deployment of peace-keeping forces by the international community to protect the civilian population (Human Rights Watch 2009; Physicians for Human Rights 2009).

Provisions under Article 4 (h) of the Constitutive Act of the AU also authorise the use of force when other attempts to resolve a crisis have failed. However, since 2003 the AU has been dithering on the operationalisation of the ASFB and, therefore, at no stage could even consider its deployment to address the crisis in Zimbabwe (Aboagye 2012; Mwanasali 2008; Alghali and Mbaye 2008).

At the SADC sub-regional level, the OPDS (established in 1996) has the objective of "… [promoting] peace and security across Southern Africa, protecting the region's people from instability due to the breakdown of law and order, developing a common foreign policy throughout the region, and co-operating on matters related to security and defence (SADC 2001; SADC 1996). In line with the OPDS mandate, the SADC has carried out military deployments in the sub-region, such as the 1998 interventions in the DRC and Lesotho crises. Its unwillingness to intervene in the case of Zimbabwe can be attributed to a lack of consensus within the SADC that intervention was indeed warranted, and the prominent role Mugabe plays as a "father figure" in the organisation.

Again, the inconsistent and even contradictory framing (labelling) of the crisis in debate at the international level prevented the mobilisation of a large enough corpus of international public opinion in favour of military intervention. The geographical proximity of Zimbabwe to countries

such as Botswana and South Africa with relatively stable economies made it possible for the refugee problem to be easily diffused. Non-diffusion of the problem could have compounded the humanitarian crisis and attracted sufficient international attention to build momentum for some kind of military intervention. In the context of Darfur, the influx of displaced people into Chad and the CAR, where economic conditions were and still are unstable, attracted a military response in the form of the preventive deployment of AMIS and UNAMID.

One military RtoP reaction tool that was operationalised by the international community in the case of Zimbabwe was an arms embargo. The EU, the UN and the UK maintained policy consistence with regard to the suspension of military ties and ending the exchange of expertise and sale of arms to the government of Zimbabwe (EU Council Decision 2012/97/CFSP; EU Council Decision 2011/1/101/CFSP; EU Council Common Position 2009/68/CFSP).

If the rationale behind the imposition of an arms embargo was to weaken the Mugabe regime's military capability and prevent or limit its orchestration of political violence, the objective was not realised. As Jeuck (2011) has observed, the measure was grossly ineffective as interested parties in the Zimbabwean crisis, such as China, saw the crisis as a trade opportunity. Thus, an alignment of military interests between China and the Zimbabwean government and the willingness of China to undermine Western sanctions were largely responsible for the failure of this RtoP tool. While China might have used the crisis as a simple opportunity to dispose of excess or out-dated military supplies, the Mugabe regime needed the weapons to restock its armoury in preparation for a possible escalation of the conflict and to brace itself against any possible military intervention by the international community.

The Darfur experience revealed some significant RtoP-informed military reaction from the AU, the UN, and the EU. Though it came too late, the deployment of AMIS has been singled out as the first regional military reaction to the crisis in Darfur (Bellamy 2011a; De Waal 2005a). Ismail (2013) observes that the effective framing (labelling) of the crisis by the international media and civil society as a 'crime against humanity', ensured the mobilisation of public opinion that is so important in legitimising military deployment. The practical reality, however, was that the AMIS deployment was largely symbolic, as it lacked the enforcement capability to deliver on its mandate.

Initially, it was merely a ceasefire monitoring and observer force. It was only transformed into a peace-keeping force after merging with the UN mission in 2007 (Leob 2013; Ismail 2013). However, its peace-keeping role in Darfur was equally eroded by the weak mandate and lack of capacity of AMIS. This was demonstrated by the severe logistical impediments faced by AMIS in Darfur: a contingent of a mere 5 000 police and civilian personnel were expected to protect a population of about 6 million (Adar 2010; Refugees International 2005). Again, the mission of AMIS was found wanting when its mandate was restricted to observation and monitoring only, without having the option of reacting militarily to situations threatening civilian lives (Bellamy 2011a; Daly 2010; Bah 2010; Polgreen 2007; De Waal 2005b). The AU was rather hesitant to authorise the use of force in Darfur and this demonstrated that there was no political will to exploit the full spectrum of RtoP options (Bellamy 2011a; De Waal 2007). It would seem that the wrong RtoP security-sector tools were prioritised. International actors concentrated on military deployment, yet resolving the crisis required structural tools to address the root causes.

The UNAMID deployment, following the adoption of Security Council Resolution 1796 of 31 June 2007, represented the most significant military reaction to the crisis in Darfur. The mandate of this AU-UN hybrid operation was "to bring stability to the war-torn Darfur region of Sudan, while peace talks on a final settlement continue" (UNSC/Res 1769: 2007). An important deduction from an analysis of the UNAMID deployment is the notion of multilateralism in matters of human protection, which is central to the RtoP principles. This AU-UN initiative negated the unilateral approaches that marked the conventional praxis of humanitarian intervention (Dagne 2011). To some extent, this unprecedented partnership also signified a new multilateral approach to the management of global peace and security. However, in addition to its belated deployment, the most serious shortcomings of UNAMID were its lack of civilian focus and the caveat that its operations were subject to authorisation by the Sudanese government (Lynch 2014; Bergholm 2008).

In its mission statement, the mandate of UNAMID was delineated as the facilitation of humanitarian access, civilian protection, and assisting with the implementation of the Humanitarian Ceasefire Agreement and the DPA (UNSC/Res 1769: 2007). Emphasis on the monitoring of the DPA and the humanitarian ceasefire agreement, however, exposed the UN

237

Security Council's reluctance to operationalise the more robust military tools of the RtoP in Darfur. In terms of 'legality' and 'right authority', Chapter VII of the UN Charter authorises the use of force for the purposes of restoring peace and security. Contrary to these provisions, UNAMID was reduced to the role of a subordinate actor as it had to seek deployment authorisation from the Sudanese government, something that De Waal (2007: 1040) described as "operational paralysis". As Thakur (2009) observes, the UN Security Council tends to negotiate with tyrannical regimes instead of reacting swiftly and decisively to deteriorating crises.

A serious practical challenge to the RtoP, as revealed by the study, concerns UNAMID's confused mandate in Darfur, which suggested that its military deployment was for the maintenance of peace yet, in reality, there was not even a semblance of peace (Birikorang 2009; Appiah-Mensah 2005). As Birikorang (2009) has noted, the international community's expectations and the reality on the ground undermined UNAMID's goals in Darfur. The general assumption was that the signing of the DPA would automatically yield peace, while the agreement was doomed from the outset by the fact that not all parties to the conflict had ratified its provisions. The JEM and the SLA-M, as splinter rebel groups, had their own unmet goals, which compromised the credibility of the DPA.

A lack of consensus on the operationalisation of military reaction has exposed weaknesses in the institutional status of the RtoP norm. In the context of Africa, the RtoP precepts, as implied by Article 4 (h) of the AU's Constitutive Act, are not as straightforward as envisioned by that article's proponents. There was an expectation among observers that the newly established AU, with its strengthened mandate to preside over peace and security on the continent, would be quick to operationalise security-sector RtoP tools to address the humanitarian disaster in Darfur. However, exactly the inverse happened. Several reasons have been suggested for the AU's reluctance to resort to military intervention. First, it would seem that the matter of norm localisation had not been contended with. As Acharya (2004: 245) has explained, norm localisation implies that new norms cannot be operationalised (in states or regions) without taking into account existing social, cultural and political systems or practices. Second, the interests of leading global political actors (especially powerful states and, in a regional context, the hegemons) largely determine whether the military dimension of the RtoP will be operationalised (or not). This was demonstrated in the case of the 2011 military intervention in Libya, where for the first time the UN Security Council,

by way of Resolution 1973, authorised the use of force for purposes of civilian protection (Williams and Bellamy 2012; Welsh 2011).

The identified operational weaknesses of both AMIS and UNAMID most probably prompted the EU to join efforts to end the humanitarian crisis in Darfur. The EU's deployment of EUFOR in 2008 marked the first EU military expedition in Africa (Council of the European Union External Relations Council Meeting 2824th: 2007). Despite a lack of co-operation from the Sudanese government, the EU's preparedness to deliver on the RtoP was demonstrated by EUFOR's mandate, which prioritised civilian protection and the securing and distribution of humanitarian assistance in Darfur (EU 2007). Furthermore, as part of its peace-keeping role, EUFOR offered technical assistance and logistical support to AMIS (Mbuen 2009; Segell 2009; European Union Council Secretariat Fact Sheet 2006). However, just like in the case of AMIS and UNAMID, EUFOR was inhibited by the lack of a clear mandate on how to react when civilian security was being threatened.

In line with the reaction element of the RtoP, UN Security Council Resolutions 1556 of 2004, 1591 of 2005 and 1945 of 2010, recommended imposition of arms embargoes on all non-governmental entities operating in Darfur. The imposition of arms embargoes was consistently complemented by similar EU actions between 2004 and 2011 (Council Common Position 2005/411/CFSP; Council Regulation (EC) No 838/2005; Council Regulation (EC) No 1184/2005; Council Common Position 2004/31/CFSP; Council Regulation (EC) No 131/2004). Resort to this RtoP tool had a dual purpose, namely to support the CPA and to prevent the widening and escalation of the crisis in Darfur.

The arms embargo against the Sudanese government was, like so many other RtoP tools, undermined by the conflicting national interests of major actors. China, for example, prioritised its extensive economic interests in Sudan to the point of supplying arms to the government of Sudan in violation of UN Security Council resolutions. China's support to the Sudanese regime could also be explained from a solidarity point of view, given the international pressure on China to address its own domestic human rights violations. As Ahmed (2010) contends, this could

explain why China abstained from UN Security Council resolutions calling for military reaction measures in Darfur.

Dunne (2013) points out that the burden of sharing the costs of humanitarian intervention needs to be compatible with the strategic interests of major players, otherwise (as was the case in Darfur) the intervention will not be prioritised. As Lynch (2014) has noted, Darfur seemingly held absolutely no strategic interest for most Western states and this explains why UNAMID remained largely a force composed of contingents from Third World countries. This sharply contrasts with interventions in places such as Libya, where NATO forces were at the forefront of combat operations. Darfur does not have the vast strategic resources of Libya -- thus, it could not attract a similar kind of commitment.

In Côte d'Ivoire, another African case where state-induced political violence during 2010 and 2011 caused a humanitarian crisis, the importance of strategic interests behind the mobilisation of political will to operationalise the RtoP concept was quite evident (ICRtoP 2013). France's extensive military, economic and political interests in Côte d'Ivoire and the wider West African sub-region prompted it to lobby for military intervention at the UN Security Council where it holds permanent membership, and to agree to implement the measures authorised by the Council. The success of the Ivorian operation depended to a large extent on France's leadership, and was aided significantly by the fact that France has had a military presence in Côte d'Ivoire since the 1960s. Therefore, it can be argued that the significance of the strategic interest that a major power has in an affected state determines the amount of political will that can be mobilised to operationalise the RtoP. (One could argue that, if Britain had maintained a military presence in its former colony, Zimbabwe, the situation could have played out differently.)

As the cases of Darfur, Côte d'Ivoire, and Libya show, RtoP military reaction measures by the international community seem to occur in cases where armed conflicts involve a regime and a non-state domestic actor or actors. The assumption appears to be that such armed confrontations eventually degenerate into civil war, with the capacity to cause humanitarian crises with serious contagious effects on regional and international peace and security. Therefore, a lack of direct

240

military intervention in Zimbabwe in the operationalisation of the RtoP can possibly be explained along the line that the Zimbabwean crisis did not involve armed conflict or an insurgency.

In the cases of both Darfur and Zimbabwe, the international community's attempt to protect civilians through peace agreements could not succeed, largely because of a persistent failure to capture the nexus between security-sector reform (SSR) and peace agreements (Brickhill 2007). Evidence from this study shows that unaddressed SSR undermined peace agreements in both Darfur and Zimbabwe.

6.4 The 'Responsibility to Rebuild'

The 2001 ICISS Report attests to the fact that the RtoP's aim of rebuilding is primarily focused on post-conflict reconstruction and development in order to prevent a recurrence of conflict and, thus, a repetition of the humanitarian crisis. Discussions and analyses in Chapter Three showed that the objective of rebuilding is the achievement of sustainable peace through reconciliation and addressing the root causes of a particular conflict. More importantly, rebuilding also aims at addressing the unintended consequences, the collateral damage of military intervention (Ban 2009).

Rebuilding, according to the RtoP Toolbox, should not be a mere 'quick-fix' project, but should comprise structural measures such as supporting a transitional justice system, disarmament and demobilisation, security-sector reform, rebuilding of governance structures, reforming the criminal justice system, and supporting social and economic programmes for sustainable peace (Evans 2008; ICISS 2001).

It needs to be underscored that the 'responsibility to rebuild' presents a seamless RtoP continuum, in the sense that it, in full circle, links up again with the 'responsibility to prevent', since the belief is that by rebuilding fragile societies future conflicts can be prevented (Evans 2008). The fact that international responses to both case-study crises did not involve direct military operations, does not rule out the need to apply rebuilding measures. This is because the humanitarian crises in

241

Zimbabwe and Darfur involved the displacement of people, psychological and physical destruction of lives and property, as well as the contamination of social relations among civilian populations.

6.4.1 Political and Diplomatic Tools

From discussions and analyses in previous chapters, it is quite evident that the crises in Zimbabwe and Darfur were caused by weak democratic consolidation or its complete absence. This manifests itself in various forms: ethnic politicisation, economic and political marginalisation, and the militarisation of government structures, the latter typically resulting in 'militarised' or disputed elections. Against this background, democratic consolidation is considered an integral part to the rebuilding process.

With reference to Zimbabwe, the establishment of the GNU provided parties to the conflict a ready platform to negotiate and introduce reforms which could have facilitated the strengthening of political institutions necessary for democratic consolidation. However, the most dominant party to the conflict, ZANU-PF, proved reluctant to introduce the recommended reforms. This meant that the party favoured continued adherence to coercive nation-building strategies, characterised by the culture of impunity and political entitlement, especially for political actors with liberation struggle credentials (Mazarire 2013; Raftopoulos 2013; Mbeki 2010)

In the context of Darfur, the rebuilding process proved extremely difficult because there was no generally accepted peace agreement binding all parties to the conflict. As a result, initiatives by the international community, such as the UN-AU road map, were aimed at uniting the different rebel forces and reviving negotiations rather than focusing on the rebuilding process (Sudan Human Security Baseline Survey 2010: 1). This should have been achieved before the introduction of the road map, which placed the proverbial 'cart before the horses'.

6.4.2 Economic and Social Tools

According to the RtoP Toolbox, structural measures such as support for economic growth, development, and sustainable peace are integral to rebuilding a state or region after a humanitarian

242

crisis (Evans 2008). In the Zimbabwe context, in 2009 parties to the GNU made some efforts towards economic resuscitation by instituting a 'Short-Term Emergency Recovery Programme: Getting Zimbabwe Moving Again' (Allen 2009). Given the fact that Zimbabwe's economy is agro-driven, the plan prioritised the stabilisation of the agricultural sector by conducting a land audit and stopping land invasions (Allen 2009). However, evidence shows that the ambitious plan could not be implemented, and agricultural lands are still largely concentrated in the hands of the beneficiaries of ZANU-PF's nepotism.

Based on the RtoP Toolbox, the early phases of the GNU era (2008-2011) required huge financial and technical support from the international community in order for socio-economic programmes to be implemented. Parties to the conflict anticipated that as a necessary first step, the EU, the US and the IMF could have relaxed the sanctions imposed on Zimbabwe. Ironically, however, the EU considered easing travel restrictions on some ZANU-PF political elite figures as opposed to lifting economic sanctions (EU Commission Press Release 2011). For its part, the US remained highly suspicious of the Mugabe regime's commitment to the restoration of the rule of law. This observation concurs with that of Sims, Masamvu and Mirell (2010) who postulate that the GNU was an idea welcomed by the AU and the SADC, but not by the West, and that it was, therefore, not adequately supported by the major Western powers.

In the context of Darfur, the perpetuation of economic marginalisation and under-development, as previously mentioned, were pivotal to the eruption of the conflict (Prunier 2008; Mamdani 2008). Therefore, upon the signing of the DPA, a proposal was made to start a programme of reconstruction under the auspices of the Darfur Reconstruction and Development Fund (DRDF) for the purpose of habilitating refugees and IDPs (De Waal 2006).

Articles 11 and 12 of the DPA proposed a Fiscal and Financial Allocation Monitoring Commission (FFAMC) in order to track the transfer of funds from Khartoum (the central government) to Darfur as a peripheral region (DPA 2006). Two identifiable challenges, evidently, led to the failure of the proposed rebuilding measures. Firstly, the Sudanese government reneged on its commitment to the DPA by refusing to transfer the necessary funds for reconstruction and development to Darfur. Secondly, unrealistic demands by the rebel forces, such as a full sharing in Sudan's wealth (Ismail

and LaRocco 2012; De Waal 2006), provided ample reason for the government of Sudan to renege on its commitment. What can de deduced from the Darfur experience is that a piecemeal approach to conflict resolution, rather than a more strategic and long-term approach, makes post-crisis economic rebuilding and reconstruction highly unlikely, almost unattainable.

6.4.3 Constitutional and Legal Tools

RtoP proponents posit that constitutional and legal tools for rebuilding should consider measures, such as a transitional justice system, reparations or restorative justice to compensate the victims of conflict, resource redistribution to address socio-economic inequalities, amongst other measures and, crucially, the realisation of human rights and human freedoms by ensuring that underlying insecurities are adequately addressed (Evans 2008; ICISS 2001).

An important aspect of rebuilding that is strongly emphasised in the RtoP Toolbox, as well as in the UN Secretary-General's 2009 Report, is the introduction of a transitional justice system (Ban Ki-Moon 2009; Evans 2008). Transitional justice requires the establishment of institutions like a truth and reconciliation commission as an integral part of a national healing process. This process cannot effectively work on its own without the introduction of supporting measures, such as reparations programmes and institutional political reforms that discourage the 'politics of exclusion' (Evans 2008). Transitional justice serves a dual purpose: first, it aims at helping victims of violent conflict to come to terms with their past; and second, it facilitates a process whereby perpetrators can recognise and atone for their violent past (Tietel 2000).

In Zimbabwe, Article 7 of the GPA provided for national healing and reconciliation, as well as addressing the fall-out from a legacy of social and political hostility. This can be regarded as compliance with a transitional justice system as provided for under the rebuilding tool of the RtoP. The actualisation of this process was the establishment of the Organ on National Healing, Reconciliation and Integration (ONHRI) in March 2009.

Arguably, post-crisis rebuilding in Zimbabwe through the ONHRI has remained largely unattainable. This is partly because of differing approaches on the departure point for discussions

on national healing and reconciliation, given the history of violent conduct by ZANU-PF. While some, particularly ZANU-PF supporters, favoured focusing on events between 2008 and 2009, others argued in favour of going deeper into Zimbabwean history. Proponents of a longer-term view of history posited that focusing on recent events only, as a departure point for national healing and reconciliation, would be tantamount to trivialising factual historical events such as the *Gukurahundi*, the massacre of Ndebeles in Matabeleland and the Midlands in the 1980s (Machakanja 2010).

Equally notable as a contributing factor to the failure of the process was the appointment of Truth Commissioners by Presidential Decree. These arbitrary appointments compromised the transparency of the process and rendered it susceptible to political manipulation (Eppel and Raftopoulos 2009). Again, whereas a process of national healing and reconciliation requires a bottom-up approach, the Zimbabwean process was crippled from the outset by a government-directed top-down approach. This has provoked much criticism from commentators. Carey *et al*. (2010) summarise the problem by pointing out that justice is hard to attain in transitional societies, because the perpetrators of crime are often in positions of authority. This compromises the justice system, resulting in a partisan delivery of justice in countries in transition. This observation resonates with the Zimbabwe situation where most of those who took command responsibilities in political violence are ZANU-PF officials who report directly to the President. Against this background, Machakanja (2010) reasons that effective national healing in a socially and politically fragmented country such as Zimbabwe requires giving primacy to legislative reforms, transformative and restorative justice, as well as community intervention programmes. Therefore, by implication the Zimbabwean truth and reconciliation commission (TRC) required the appointment of independent and credible commissioners for it to be effective and legitimate.

Within the context of appointing truth commissioners by Presidential Decree, it became extremely difficult for the TRC to address repressive pieces of legislation such as POSA and AIPAA. Similarly, with no guarantees for the safety and security of individuals who testified, it was naïve to expect honest and comprehensive depositions (of testimonies) to be offered. As Du Plessis and Ford (2008) have observed, truth-telling is integral to justice --- there is no justice without truth, and no truth without justice.

Although with major disagreement from certain quarters, the international community's legal reaction to the crisis in Darfur, notably its referral of the situation to the ICC and, more specifically, its issuing of a warrant of arrest for President Bashir and others, remains a prime example of an international effort to bring to justice those who were allegedly behind the commission of war crimes (Amann, Eisa and Varma 2011).

From the foregoing, it is evident that constitutional reform is a key component of the RtoP, although yet to be realised in both the cases of Darfur and Zimbabwe.

6.4.4 Security-Sector Tools

Structural SSR measures for rebuilding post-crisis societies, as prescribed by the RtoP Toolbox, include measures such as peace-keeping in support of nation-building, and disarmament, demobilisation and the reintegration (DDR) of combatants (Evans 2008). A recent empirical example of the utility of SSR as a post-conflict rebuilding mechanism would be the 2009 Kenyan experience. Thus, it has been observed that police reforms carried out in Kenya after the 2008 electoral violence largely contributed to the reduction of state-sponsored violence, as the relatively peaceful elections of March 2013 indicates. Another significant development includes incumbent President Uhuru Kenyatta who was also indicted by the ICC, but against whom charges were dropped on 3 December 2014, amongst others, because of his extensive efforts to bring peace and security to Kenya (BBC News Online 2014; The Guardian Online 2014).

In the Zimbabwean context, notable SSR is yet to take place. The centralisation of the command functions of state security forces in the Zimbabwean Presidency remains one of the major obstacles to reforming the sector. Masunungure (2011) and Chitiyo (2009) have further observed that this accounts for the domination of the sector by ZANU-PF supporters and the subsequent politicisation of the Army and the Police. The emergence of non-statutory security structures, such as Youth Militias and War Veterans, has also been attributed to the unchecked politicisation of security forces in Zimbabwe (Masunungure 2011).

246

In the context of Darfur, the overt nature of the conflict necessitated that all SSR measures had to be instituted. Reports reveal that, since 2003, the Sudanese Air Force (SAF) and the *Janjaweed* have continued to conduct numerous indiscriminate attacks on civilians, including raping women and destroying crops and property (Report of the International Commission of Enquiry 2005; De Waal 2005a; UNHCHR 2005; Williams and Bellamy 2005; Power 2004). These acts alone emphasise the need to professionalise the Sudanese Army. More importantly, the SAF deviated from its mandate of protecting civilians and violated international humanitarian laws by interfering in the provision of aid, as well as indiscriminately attacking unarmed civilians through bombing raids.

Evidence from this study has shown that abortive attempts at peace-making in Darfur were a result of interference by the security sector in Sudan (DDPD 2011; Dagne 2011; Prunier 2008). Equally important is the observation that with no generally accepted peace agreement in Darfur, SSR remain most unlikely, if not unachievable.

6.5 Conclusion

This chapter has provided a critique on RtoP 'tools', as recommended by its proponents, by examining empirical evidence from the case studies of Zimbabwe and Darfur. Certain broad conclusions were drawn about tools implemented as part of each of the three dimensions of the RtoP: prevention, reaction, and rebuilding. It emerged that the escalation of the humanitarian crises in Zimbabwe and Darfur was due, amongst others, to the lack of robust prevention measures by the international community. Even with early-warning mechanisms, arguably the most fundamental of all prevention tools, it has been proven that such warnings can only be effective if they are heeded --- in other words, if the political will exists to act on them. Political will, even in the context of organisations such as the UN, the AU, and the SADC, is vested most crucially in the major world powers, or in the pivotal states (hegemons) of the afflicted regions. These states are key actors who are in a position to mobilise and lead remedial RtoP initiatives. With regard to reaction, an inventory of RtoP tools that were operationalised in the case of both Darfur and Zimbabwe showed that where the international community was divided on a measure (such as sanctions) its effect was largely neutralised. For the most part, divisions on RtoP measures within

247

the international community can be attributed to the competing national interests of key state actors. Moreover, where RtoP tools were applied, they were mostly 'quick-fix' attempts to halt the crisis, and failed to address the root causes of the particular conflict. Their effectiveness was further undermined by a lack of international consensus on the operational parameters of rebuilding, the third and final dimension of the RtoP. Taking into account that rebuilding is required even when a military intervention did not take place, the lingering low-intensity conflicts that remain in both Darfur and Zimbabwe is evidence of the fact that the aims of a rebuilding process were not realised in either of these cases. Political interference in the context of Zimbabwe and the lack of a universally accepted peace agreement in Darfur were identified as the main factors that undermined the responsibility to rebuild.

CHAPTER SEVEN

CONCLUSION

7.1 INTRODUCTION

The protection of populations at risk under the 'guise' of humanitarian intervention has been globally contentious, and invariably so --- when it did occur, regardless of the circumstances or the consequences, and also when this option was not taken. The lack of consensus on what ought to be done to protect people in situations of humanitarian disaster, and the almost total emphasis on the military component in traditional humanitarian intervention doctrine, gave rise to the evolution of a new norm, known as the 'Responsibility to Protect'.

The pioneering 2001 report on the RtoP by the 'International Commission on Intervention and State Sovereignty' (ICISS) and the endorsement of its main principles by the 2005 World Summit, seemed to indicate that the RtoP had bridged the polemic divide between matters of human protection and the settled norm of state sovereignty. This study set out to investigate the abovementioned nascent optimism about the value of the RtoP norm in protecting humanity at risk, and used a case-based approach to test the extent to which the new normative framework has guided international responses to two humanitarian crises in Zimbabwe and Sudan's Darfur region, respectively.

This final chapter is intended as a summative conclusion to this research. It will do so by synthesising the key findings and conclusions of each of the substantive chapters; providing a summative reflection on the original research questions, and revisiting the initial research propositions of the study; offering a critique on gaps in available research material, and explaining the challenges experienced in the course of the study; and recommending focus areas for complementary and follow-up academic research into the primary and secondary themes of the study. The intention is to add value to the discourse on the RtoP, in particular the area where consensus seems to be manifestly absent, namely its operationalisation.

249

7.2 OVERVIEW OF THE RESEARCH AND KEY FINDINGS

In order to accomplish the purpose of this research endeavour, namely to examine the extent to which the RtoP norm has guided the international community in responding to the humanitarian crises in Zimbabwe and Sudan's Darfur region, this study was divided into seven chapters: an introduction, five substantive chapters, and a concluding chapter.

Chapter One provided the backbone to the thesis by outlining the thematic background to the study, demarcating and formulating the research problem by means of specific research questions, proffering the initial research hypotheses, and explaining the research methodology and structure of the thesis. A preliminary literature overview introduced both primary and secondary sources germane to the key thematic issues broadly related to the subsequent substantive chapters. These included the debate on humanitarian intervention, the conceptual development of the RtoP, the humanitarian crises in Zimbabwe and Darfur, and a thematic discussion of the specific RtoP 'tools' that were employed by the international community in both these cases. This introductory chapter also clarified the conceptual parameters of the study, situating it within the broader confines of the human security paradigm, and limiting the case-study analysis to events that occurred during the first decade-and-a-half of the 21st Century. This chronological demarcation allowed for consideration of the ICISS's landmark report on the RtoP, published in 2001, the World Summit's endorsement of the RtoP in 2005, and the climax to the humanitarian crises in both Darfur (circa 2003) and Zimbabwe (circa 2008), as well as their immediate aftermath.

Chapter Two examined the historical progression and evolution of the humanitarian intervention regime. Humanitarian intervention implies forcible action taken by states or concerned parties to put an end to man-made catastrophes that amount to gross human rights abuses, such as rape, murder, torture, and the deliberate starvation of people, among other acts of miscarriage of justice committed by repressive governments. However, even in its terminology the concept of 'humanitarian intervention' contains the seeds of practical and theoretical challenges. 'Humanitarian' has an altruistic and positive normative subtext, while 'intervention' denotes quite the opposite: coercive military or enforcement-related measures without the approval of the relevant authorities --- in other words, the most extreme breach of

the concept of sovereignty. The juxtaposition of these two concepts in the name 'humanitarian intervention' captures the essence of its controversial nature.

Furthermore, the chapter traced the roots of humanitarian intervention in pre-20th Century thinking, but focused specifically on its evolution over the past Century. It highlighted the birth of the discipline of IR in the aftermath of WWI, which saw a new impetus given to idealist notions of dealing with international threats to peace and security. These notions guided the theory and practice of humanitarian intervention throughout the inter-war period. The chapter also revealed how the unprecedented human cost of government-orchestrated violence during WWII (notably the Holocaust), accelerated the rationalisation of and for humanitarian intervention. The codification of the 1945 UN Charter, the 1948 Universal Declaration of Human Rights, as well as the Geneva Conventions of 1949 (and additional Protocols of 1977), significantly impacted the discourse on and praxis of humanitarian intervention. With the onset of the cold war, however, the humanitarian intervention regime was subjected to the confines of superpower rivalry, and the divisive ideological agenda that characterised it tainted all matters of intervention for human protection. The immediate post-cold war system saw the rapid development of a new human security paradigm, and this had a transformative effect on the doctrine of humanitarian intervention. In the context of Africa, the chapter revealed how a wave of post-cold war intra-state, rather than inter-state, conflicts rocked the international community. Events such as the 1994 genocide in Rwanda, in full view of international observers, proved to be a tipping point, and made it clear that a new doctrine on humanitarian protection was urgently needed.

Chapter Three examined the evolution of the RtoP against the backdrop of a stalemate in the intellectual discourse on a humanitarian intervention regime. Departing from the context offered by Chapter Two, it highlighted the normative imperatives that were revealed by the Srebrenica and Rwanda atrocities, among other cases. These imperatives were encapsulated in UN Secretary-General Kofi Annan's challenge to world leaders, policy-makers, academics and humanitarianists, issued at the beginning of the new millennium, to find a normative solution to bridge the seemingly incompatible relationship between the rights of sovereign states and matters of human protection. Annan's challenge was tackled in a comprehensive research

251

endeavour by the ICISS, sponsored by the Canadian government. The Commission published its landmark report in 2001 and coined the phrase 'Responsibility to Protect'. The essence of this new concept was that sovereignty is not simply a negative right of states, but also a positive, pro-active right in that they are duty-bound to protect their people from all avoidable crises. In the event that states are unable to do so, or default on their primary role to protect, the residual duty to protect should be borne by the wider international community (ICISS 2001). By probing the question of what ought to be done (or not to be done) when a population is facing a humanitarian catastrophe, the RtoP resonates with the normative theories of international relations. Thus, it has been linked to 'liberal peace' theory with its focus on the promotion of democratic values, which ties in with notions of good governance and the protection of human rights.

The protection continuum of the RtoP encapsulates three progressive dimensions: prevention, reaction, and rebuilding. The emphasis on prevention as the most important dimension of the RtoP, the idea that resorting to military reaction should be a last resort, plus the novel importance attached to rebuilding responsibilities (related to the idea of post-conflict peace-building), revealed the ICISS's ground-breaking attempt to change the tenor and substance of the traditional debate on humanitarian intervention. The RtoP also differed from conventional theory on humanitarian intervention in its focus on the multilateral involvement of the international community, a contemporary dimension that adds legitimacy to the protection mandate.

The chapter paid special attention to the place of Africa in the genesis of the RtoP. In this regard it revealed that even before the 2001 report by the ICISS, a significant intellectual, even if rudimentary, shift in the debate had taken place: Francis Deng and Roberta Cohen in their book, *Sovereignty as Responsibility: Conflict Management in Africa* (1996) provided a conceptual template that inspired Kofi Annan's call for an interrogation of state sovereignty. Africa, on account of its dearth of peace and stability, has a uniquely large stake in humanitarianism, and it is thus fitting that the African Union (AU) became the first intergovernmental organisation to codify (albeit implicitly) the principles of the RtoP in Article 4 (h) of its Constitutive Act of 2000. By embracing the RtoP in the supreme law of the continent even before the ICISS Report

was published, the AU intimated African ownership of the guiding principles of the RtoP, namely to protect populations at risk across the frontiers of member states. Mwanasali (2008: 9) described this normative shift as movement from "non-interference to non-indifference" and, perhaps somewhat optimistically, as "the dawn of an interventionist phase in the continental management of peace and security".

A high point in the RtoP debate was ushered in by the UN Secretary-General's 2005 Report, *In Larger Freedom: Towards Development, Security and Human Rights for All*. The report appeared to reflect global momentum for a new humanitarian protection regime, and prompted world leaders to endorse the RtoP concept at the World Summit of that same year. Their endorsement was hailed as a milestone in the development of the norm, and it appeared that there was a growing consensus within international society to respond timeously and decisively to compelling situations threatening human security (ICRtoP 2013; Evans 2008; Thakur 2007). The Outcomes Document of the summit's report accepted the guiding notion of 'sovereignty as responsibility', which encapsulates the idea of sovereignty as relational (rather than absolute) and dependent on a state's ability to provide its citizens with basic existential needs.

In regard to progress made since 2005 in galvanising global support for the RtoP, it was argued that the RtoP 'Toolbox', developed by Gareth Evans in 2008, as well as the later 2013 'Toolkit' framework of the ICRtoP, were important contributions to clarification of the practical dimensions of operationalising the RtoP. The emphasis on a wide range of available options, the vast majority of which do not involve military action, underlined the extent to which the RtoP has transcended traditional humanitarian law. In addition, the study revealed major attempts at institutionalising the RtoP, amongst others, through creating international centres for on-going, dedicated research on the RtoP concept (such as the Global Centre for RtoP) and the establishment of special executive positions within the UN body, filled by influential experts such as Francis Deng and Edward Luck, to strengthen the UN Secretary-General's ability to implement the RtoP.

Despite efforts by a range of proponents to give momentum to the building of a doctrine based on the RtoP, the chapter documented major weaknesses in the fragile consensus around the

norm that have become apparent since 2005. The 'setbacks' to the norm have mainly resulted from fears (real or imagined) that the RtoP would become a prerogative of the powerful (Acharya 2002). This viewpoint manifested itself rather starkly when the 2011 NATO-led intervention in Libya resulted in deliberate regime change – what Chimni (2013: 1) refers to as "imperialism with a human face" – that widened the rift between proponents and opponents of the RtoP (Loiselle 2013; Breakey 2012; Sarkin 2012). Critical voices from emerging powers, such as the BRICS nations (Brazil, Russia, India, China, and South Africa), urged a more nuanced approach to intervention, with China raising the idea of "Responsible Protection" and Brazil introducing the related concept of "Responsibility while Protecting". A major RtoP predicament, harking back to the traditional debate on humanitarian intervention, was revealed by the perverse impact of intervention not always being able to mitigate the human cost of conflict.

Chapter Four provided an overview of the origins, scope and nature of the humanitarian crisis in Zimbabwe, reaching its peak in 2008. The chapter commenced by adopting a broader historical, analytical overview of the humanitarian crisis, primarily by highlighting the root causes of this man-made disaster. Causes that were identified included the adoption of populist policies, such as the unbudgeted-for War Veterans' pay-outs in 1997 and the costly 1998 military intervention in the DRC (Mlambo and Raftopoulos 2010; Mlambo 2006; Raftopolous and Phimister 2004). The 2000 adoption of the Fast-Track Land Reform Programme (FTLRP) was singled out as the main precursor to the crisis. Apart from the programme's disastrous domestic impact, the ideological rhetoric that was used to justify the FTLRP soured the already cool relations between the Zimbabwean government and its former colonial master, the UK, as well as other Western countries.

It emerged that the worsening economic conditions in Zimbabwe led to the creation of a viable opposition, the MDC, in 1999. This posed an unprecedented direct challenge to the supremacy of the ZANU-PF-dominated government. Waning political support prompted the ruling party to resort to open, government-directed violence in order to secure civilian compliance. Governance and democracy deteriorated amidst the militarisation of state organs, and all the electoral processes between 2000 and 2008 were marked by rigging and gross human rights

254

violations. The period 2008 to 2009 was identified as the apex of the humanitarian crisis. State-instigated violence prior to and after the June 2008 run-off elections displaced millions of people, with many fleeing to neighbouring countries (Masunungure 2008). This gave the crisis an undeniable international dimension. The humanitarian scope of the crisis was aggravated by declining health conditions in the country, amongst others a very serious cholera epidemic. The government of Zimbabwe was not only instrumental in the crisis but callously denied any wrongdoing, brutally suppressing domestic opposition and effecting a media blackout (utilising repressive regulations such as AIPPA and POSA) to silence any criticism.

Condemnation of the Zimbabwean government by non-state and state actors mounted, both domestically and internationally. As they had done during the pre-crisis period when they issued early warnings of the developing man-made catastrophe, NGOs were the most vocal in their reaction to human rights violations in Zimbabwe, as well as the most ardent advocates of explicit RtoP responses. Western countries, led by the US and the UK, appealed to the international community to exercise its explicit RtoP mandate and to respond decisively to the crisis in Zimbabwe. They were joined by the global financial institutions, such as the IMF and World Bank, in imposing targeted economic and political sanctions on the Zimbabwean regime. This was, however, rendered obsolete by the SADC, the AU, NAM, and some BRICS member countries. Unlike the West, who called for a robust reaction to the crisis, their counterparts in the SADC, NAM, the AU, as well as Russia and China, considered the crisis a mere domestic matter. Also, not many countries from the global South regarded the crisis as constituting a threat to international peace and security, as well as warranting the invoking of the RtoP norm. Accordingly, unco-ordinated international responses to the humanitarian crisis resulted in a country-by-country approach. From the study it was deduced that, although the crisis was officially subjected to SADC mediation, it was only South Africa which took the initiative by adopting "quiet diplomacy" as a crisis resolution mechanism.

Although the SADC, as a regional body, played some sort of mediatory role in the Zimbabwe crisis, this can be interpreted in different ways. On the one hand, its efforts at mediation prevented further escalation of the humanitarian crisis after the signing of the Global Political Agreement (GPA) in 2008. However, it failed to the extent that it did not pre-empt, prevent,

and effectively manage the crisis. This failure is reflected in the different approaches adopted by its member states in efforts to resolve the conflict and manage the humanitarian crisis. As previously noted, South Africa opted for 'quiet diplomacy', which can be interpreted as non-interference in the internal affairs of a member state, even though the crisis was already causing serious social problems in neighbouring countries. Contrary to this, SADC member states such as Botswana and Zambia broke ranks with the regional body's 'solidarity' approach to the RtoP.

Chapter Five mirrored the previous chapter as it focused on the origins, scope and nature of the humanitarian crisis in Darfur. The crisis was analysed by situating it within the broader context of Sudan's civil war, which only ended with the formation of the independent state of South Sudan in 2011. Civil war linkages revealed the extent to which Darfur can be considered an 'appendage' of the North-South conflict. The people of Darfur suffered structural neglect by the central government in Khartoum, with longstanding historical grievances regarding power-sharing and distribution of the means of production. The quest for autonomy by the people of South Sudan, who experienced similar marginalisation, inspired the people of Darfur to take up arms against the Sudanese government (Ismail 2013; Daly 2010; Williams and Bellamy 2005). In order to properly account for the politics of marginalisation in Darfur, Azar's (1990) model of protracted social-conflict theory was utilised. The chapter also focused on the harsh climatic conditions in the region, and the fact that a history of droughts and water scarcity had spawned endemic tribal tensions (Global Security Review 2012; Mbuen 2009; Murithi 2008).

The looming humanitarian crisis was ignited by the militarisation of the conflict. An armed attack on the government of Sudan by the main Darfurian liberation movement, the SLA, was met by Khartoum's decision to launch a counter-insurgency offensive and to recruit the non-statutory militant group, the *Janjaweed,* to wage a proxy war. Thus, the Sudanese government exploited the ethnic divides in Darfur by arming Arab militia to attack black Africans. In the process, increasing numbers of innocent civilians were subjected to human rights abuses, growing into a full-scale humanitarian crisis with regional spill-over effects. This worsening humanitarian situation attracted NGO engagement, as well as bilateral and multilateral involvement by the international community. As the crisis became more and more internationalised, it attracted labels such as "crimes against humanity", "ethnic cleansing", and

256

"genocide" (Mamdani 2009; ICG 2005; Williams and Bellamy 2005). These value-laden labels triggered a debate on the politics of naming and invariably impeded the international community from adopting a unified position on Darfur.

With specific reference to the crisis in Darfur, and despite clear evidence that the crisis warranted an urgent RtoP intervention, it could be argued that some actors lacked the necessary political will to do so. The US did not insist on military intervention in Darfur because it wanted to retain Sudan's support in its 'war on terror' in Iraq and Afghanistan and did not want to be distracted, while China and Russia, because of pure economic interests, opposed any direct military intervention. The AU, who could have intervened in the crisis, was still in its formative stages during the outbreak of the conflict and lacked the material and other logistical resources. Neighbouring countries such as Chad, although politically willing to intervene, also did not have the requisite resources to do so. Other members of the international community, such as South Africa, appeared unwilling to commit human and material resources, at least in the initial stages of the crisis.

Although responses to the humanitarian crisis varied from political/diplomatic mediation to military deployment, as well as a judicial approach through the ICC, the divided international position on Darfur undermined any RtoP-informed response. Just as in the case of Zimbabwe, the 'politics of solidarity' of the SADC, NAM, the UAL and other BRICS member countries posed a similar challenge and impeded any robust responses to the humanitarian crisis in Darfur. More importantly, the lack of a unified position undermined the imposition of measures such as economic and political sanctions, as well as an arms embargo. An overview of AU and UN military deployment revealed that AMIS and UNAMID lacked civilian focus and their involvement was largely symbolic rather than substantive. Moreover, the international community's quest for protecting civilians through peace agreements suffered from partiality and a failure to address the root causes of the conflict.

Chapter Six provided a summative evaluation of the extent to which the RtoP was operationalised in Zimbabwe and Sudan's Darfur region through the use of specific instruments. Evans's RtoP 'Toolbox', as discussed in Chapter Three, was adopted as an

257

analytical framework for conducting an inventory of the extent to which RtoP prevention, reaction and rebuilding tools were operationalised. Some elements of the ICRtoP's 2013 'Toolkit' were also incorporated, but to a lesser extent, because unlike Evans's Toolbox, it does not prescribe reaction measures.

A cross-cutting, thematic approach was adopted in order to ascertain specific responses in each case scenario. The chapter revealed that the escalation of the respective crises was largely due to prevention failure by the international community. However, the international community's inability to prevent these conflicts at their early stages was not due to an absence of early-warning mechanisms: notwithstanding the AU and the REC's under-capacitated or under-utilised early-warning mechanisms there was ample warning, especially from civil society and INGOs, about the impending humanitarian disasters. Rather, the lack of effective preventive action can be ascribed solely to political reasons. The state-centric approach to humanitarian intervention at the global and regional levels reinforces the primacy of state actors that possess the necessary political gravitas to prevent crises. In the case studies that were reviewed, the spill-over effects on neighbouring countries rather than the imperative to save populations at risk arguably determined whether early warnings were heeded or not -- in other words, whether the RtoP was invoked or not. Early-warning 'failures' in many instances can be linked to the unwillingness of key state actors to commit resources to a situation that is not deemed to threaten their vital interests. Moreover, where state parties did respond in a preventive manner, their responses were diluted through the lack of proper co-ordination. These political inconsistencies in RtoP enactment at the prevention level tend to scupper subsequent reaction, when too little is done too late.

With regard to prevention, the escalation of the crisis in Zimbabwe indicates that preventive measures were largely ineffective. Their ineffectiveness can be attributed, amongst others, to the reality that many states in the non-Western world assisted the Zimbabwean government economically, and thereby cancelled out the effect of Western sanctions. The fact that Britain (the former colonial power in Zimbabwe) led the Western bloc into adopting restrictive measures, ended up playing into the hands of the Mugabe regime's allegation of a Western neo-colonial agenda (NAM 2003). It also provoked the notorious 'politics of solidarity' among

258

African leaders, which manifests in the protection of peers regardless of what they do *vis-à-vis* their own populations. It was revealed that where preventive diplomacy was pursued explicitly, such as in the Zimbabwean context, the measures instituted (such as political and economic sanctions by the EU and the US) failed to address the root causes of the crisis. Attention to root causes, and not only the catalysts, of conflict is a key tenet of contemporary conflict resolution approaches, and the RtoP (as a continuum of responses) is very much part of that discourse.

Unlike the 'Responsibility to Prevent' and the 'Responsibility to Rebuild', the 'Responsibility to React' is by far the most controversial and problematic of the three dimensions of the RtoP. It is here where the traditional debate on humanitarian intervention reached a stalemate, and where the danger lies that reaction should be seen only in military terms. This was abundantly clear in the furore that followed the Libyan intervention of 2011. The RtoP 'Toolbox' for reaction is, however, as nuanced as any other of its dimensions, and Evans stipulated direct reaction measures ranging from diplomatic peace-keeping, political sanctions, economic sanctions, the threat of military force, and an arms embargo, among other measures. Of the tools that were operationalised in the two case studies, notably sanctions and other restrictive measures, it was evident that implementation can only be effective if done in concert with the entire international community. Both cases saw considerable resistance by non-Western state actors and, by extension, the international organisations they belong to, including the UN, in enforcing punitive action against these errant regimes.

The study revealed that the institutionalisation of the GPA, leading to the formation of a GNU in reaction to state-orchestrated violence, was meant to protect civilians through peace agreements. However, it was argued that, although the GNU was a commendable move in the light of the 'relative peace' that prevailed subsequently, state-orchestrated electoral violence could have attracted stronger and more urgent reaction, such as the preventive deployment of peace-keepers. The imposition of 'smart sanctions' on the Zimbabwean government by the West is another reaction that was stifled by the lack of UN Security Council support, hence the interpretation of these measures as unilateral and illegal.

In the Darfur context, the international community's reaction was through several peace agreements, such as the N'Djamena Humanitarian Ceasefire Agreement, the Darfur Peace Agreement (DPA), and the Doha Document for Peace in Darfur (DDPD), amongst others, which contained both diplomatic and legal elements. These diplomatic measures, however, failed to bring a lasting solution to the crisis as a result of the lack of commitment by the parties concerned and a failure to address the root causes of the crisis. Similarly, as in the Zimbabwean case, sanctions were imposed (and had UN Security Council backing), but competing interests among the permanent UN Security Council members rendered them ineffective.

Evidence showed that the severity of the humanitarian crisis in Darfur, which was characterised by armed violence, prompted the deployment of AMIS and UNAMID. However, evidence also showed that military reaction to the crisis through UNAMID and AMIS deployment was largely ineffective because the deployment was made conditional on Sudanese government oversight, and this turned the international community into a mere spectator. Thus, reaction to the crisis through the deployment of AMIS and UNAMID failed to halt civilian suffering due to a confused mandate whereby military personnel were required to keep a fictional peace but lacked the authority to react robustly to threatening situations.

The deployment of an international force in Darfur was premised on the fact that civilians were caught between armed Sudanese government forces and rebel movements, and this reinforced the idea that the military reaction component of the RtoP is limited to situations involving armed conflict. But this precluded attention to a whole range of contemporary humanitarian crises. In terms of constitutional and legal RtoP reaction tools, the judicial dimension of reaction to the Darfur crisis presented a unique and unprecedented situation in that a sitting head of state was indicted by the ICC. This, in itself, complicated the debate and diluted the international focus on the humanitarian issue at the heart of the Darfur crisis. It was revealed that the judicial route was not welcomed by the bulk of Third World countries, who interpreted the move as an assault on their sovereignty. It was revealed that most members of NAM, the UAL and the AU remained resolute in their support for Omar al-Bashir. Of the 33 AU member states that are signatories to the ICC, Chad, Malawi, Kenya, the Central African Republic, and South Africa have demonstrated non-compliance by not arresting Bashir upon visiting their countries. This

260

is mainly because many African states saw the ICC move as too legalistic and short-sighted --
that is, lacking in a political/diplomatic, long-term vision at a very delicate stage of the conflict
resolution process. It also reignited the debate about stronger versus weaker states, as well as
the issue of international justice, as justice is perceived to be non-enforceable on stronger states.

Discussion and analysis show that the prevention tools used in addressing both the Zimbabwean
and Darfur crises were not designed to address the root causes, but to meet the criteria of
inclusiveness, consensus and continuity, which are temporary measures in conflict
management. Measures such as diplomacy, economic sanctions (in the case of Zimbabwe) and
'good offices' can be regarded as continuity measures, while preventive deployment (in the
case of Darfur) can be regarded as a mere knee-jerk response. Arguably, this may be because
these measures were not well thought-out, but merely implemented to prevent a further
escalation of the humanitarian crisis.

The normative principle of the RtoP emphasises that rebuilding is important because it links up
with prevention in a seamless circular movement. With regard to the 'Responsibility to Rebuild'
in the contexts of Darfur and Zimbabwe, Chapter Six indicated that invoking this last principle
of the RtoP was rather illusive at best. In the Zimbabwean case, attempts at instituting national
healing and reconciliation in the post-GNU era failed to achieve the desirable results, largely
due to political interference, a lack of political will by the ruling ZANU-PF government, as well
as the absence of independent structures. RtoP rebuilding precepts emphasise financial support
as part of post-crisis reconstruction. In the case of the Zimbabwean government, financial
incentives could not suffice because the EU, the US and the leading global financial institutions
remained sceptical about the Mugabe regime's commitment to political reform. The EU, for
example, considered easing travel restrictions on some ZANU-PF political elite figures, as
opposed to lifting economic sanctions.

The Darfur experience showed that the lack of an inclusive, agreed-upon peace deal hindered
the realisation of a rebuilding process. Initial proposals by the DPA to give financial and
development support to the people of Darfur did not materialise because of a lack of
commitment by the Sudanese government. In both Darfur and Zimbabwe it can be argued that

economic support should have targeted the well-being of population groups affected by the humanitarian crisis. It is also based on the logic that economic well-being will preclude political crisis, while economic destitution will trigger political turmoil.

Possibilities for democratic consolidation and restoration of the rule of law have not been explored, yet these would ensure inclusion as against exclusion, the latter precipitating political crisis. Although these tools are necessary for ensuring sustainable peace, it can also be argued that it cannot be achieved overnight. It is, therefore, a process that should be nurtured. In both the cases of Darfur and Zimbabwe, the fact that there were no meaningful political and security-sector reforms suggests that democratic entrenchment will remain rather illusive. Constant interference in political affairs by state security forces does point to the need for depoliticising and reforming the security frameworks in both countries.

In the case of Darfur, armed conflict demanded that there should be disarmament, demobilisation and reintegration for purposes of sustainable peace. Although these measures were emphasised during the DPA process, they were not actively pursued. This made post-crisis economic rebuilding and reconstruction almost unattainable, if not highly unlikely. Lack of political reform, as well as a cast-iron, agreed-upon peace deal, meant that constitutional reform and measures such as a transitional justice system could not be realised. The destabilisation impact of the crisis demanded reparations or restorative justice to compensate conflict victims, and resource redistribution to address socio-economic inequalities, amongst other measures. The restoration of human rights requires that all facets of human security are regarded as necessary steps to be followed through upon.

7.3 A SUMMATIVE CONCLUSION TO THE RESEARCH PROBLEM

The overview of research, as discussed in the previous section, revealed several findings that emerged from each of the substantive chapters. Based on the foregoing, this section will synthesise the conclusions in order to answer the research questions that introduced the thesis.

The main research question that guided the study was: To what extent (implicitly or explicitly) did the RtoP principles relating to prevention, reaction, and rebuilding guide the international community's handling of the humanitarian crises in Zimbabwe and Darfur? Three subsidiary research questions were postulated, guiding the analysis of the research problem: *a) what were the deficiencies in the implementation by the governments of Zimbabwe and Sudan of Pillar One of the RtoP concept that necessitated the international community's resort to Pillar Two and, more specifically, Pillar Three of the RtoP norm?; b) what instruments were used by the international community in operationalising its responsibilities to prevent, react, and rebuild, and with what effect?; and c) is there global consensus on the conceptual parameters of the nascent RtoP doctrine and, if not, what are the gaps that inhibit the operationalisation of the norm?*

In his January 2009 Report, UN Secretary-General Ban Ki-Moon added three conceptual 'pillars' to the evolving debate on the RtoP, the first of which deals with the responsibility of individual states to protect their own citizens from all avoidable humanitarian catastrophes. Regardless of the labels that were used to describe the respective crises in Darfur and Zimbabwe, it was manifestly clear from the findings in Chapters Four and Five that the two governments had defaulted on their RtoP obligations. Not only did they fail to protect their populations, they actively orchestrated and perpetrated violence by using state security forces against civilians. Thus, in Zimbabwe state-driven political violence resulted in the death or injury of thousands of people, with several millions internally displaced or forced to flee to neighbouring countries. The humanitarian crisis that peaked in Darfur between 2003 and 2004 was estimated to be the worst in the world at the time (ICG 2005). The Sudanese government's sponsorship of *Janjaweed* militants resulted in the killing and maiming of hundreds of thousands of Darfurians. The catastrophe was aggravated by the government's use of scorched-earth policies and its obstruction of humanitarian aid, which resulted in widespread starvation and destruction of health infrastructure. As in the case of Zimbabwe, internal displacement and refugee flows into neighbouring countries ran into the millions. Whatever the causes of these humanitarian crises, and even if the two governments callously denied their complicity, they were obviously shirking their responsibilities to respond to these catastrophes. Pillar One of the RtoP was, therefore, not adhered to.

263

Pillar Two of the RtoP – the necessity for the international community to strengthen and capacitate individual governments to implement Pillar One – is conditional on a co-operative relationship between a particular government and the broader world community. Assistance can only be rendered if a recipient government agrees that a specific humanitarian crisis does exist (or is imminent) and that it needs capacity to deal with it. In the case of both Zimbabwe and Darfur the failure of the international community with regard to Pillar Two is, therefore, a direct result of the intransigence of the two regimes, both of which resorted to a rhetorical blame-game, even denied the scope of the crisis, and persisted with a campaign of orchestrated violence against civilians. This meant that Pillar Three of the RtoP – the international community's residual duty to respond when affected governments are unable or unwilling to do so – became imperative and urgent in order to address the dire consequences of the humanitarian situation in both countries.

In all respects, the responsibilities to prevent, react, and rebuild were more universally and consistently met by non-state actors, especially transnational civil society groups (CSOs and NGOs) and international non-governmental organisations (INGOs) such as Human Rights Watch, the International Crisis Group, and Doctors without Borders, to name but a few. However, it is also evident that international actualisation of the RtoP produces mixed results, especially at the bilateral, interstate level. Single-state type reactions, even with the approval of a regional community, tend to be national-interest driven rather than have as a goal the humanitarian protection of people at risk in a foreign country. Strategic interests of individual states determine whether or not the RtoP is operationalised, the extent to which it is done, and even the choice of tools utilised. In this regard, for example, Chad's reaction to the Darfur crisis was prompted by its fears of spill-over ramifications and not primarily to end the conflict for any altruistic reasons. In the same vein, South Africa's quiet diplomacy on the Zimbabwean crisis was informed by the fear of spill-over effects through escalation of the conflict or possible degeneration into a civil war. Sadly, these cases demonstrated that interest-driven responses occur regardless of the diagnostic dimension -- in other words, regardless of the gravity of the humanitarian situation, or the label attached to it.

At the multilateral level, the research showed that organisations tend to take the route of least resistance, 'pass the buck', or become mired in the diverging interests of their member states. Thus, responses to the humanitarian crises in Zimbabwe and Darfur through the UN Security Council were subjected to the conflicting and competing interests of the permanent members of the Council. In the context of Zimbabwe, China and Russia blocked attempts by the US and the UK to place the crisis on the Security Council agenda. Similarly, the US, despite rhetoric to the contrary, did not pursue a robust stance in the Council *vis-à-vis* Darfur, mainly because the Sudanese government co-operated with Washington in its global war on terror. In the case of both Zimbabwe and Darfur, the role of the UN, regional, and sub-regional institutions was characterised by lacklustre and over-cautious and, in the case of Zimbabwe, unco-ordinated responses. This is an alarming finding, because commentators are in broad agreement that regional organisations are at the epicentre of the RtoP's operationalisation and have a pivotal role in overseeing all three of its dimensions: prevention, reaction, and rebuilding as it manifests in all three pillars of the norm.

Each of the RtoP dimensions offers a wide range of tools for implementation, and all of these tools feed into a holistic continuum of responses. Attention to rebuilding, for example, is as important as prevention, because they are connected in a seamless circle of events. The fact that conflict in both cases continues to simmer on, means that not a single one of the RtoP dimensions had been handled effectively. This proves that the purported global consensus that was proclaimed by the 2005 WSOD was a symbolic but inchoate moment in the conceptual journey of the RtoP. Significant gaps still exist that need to be addressed. The most obvious gap is that there seems to be a larger degree of consensus on the principles behind the RtoP than on their implementation. This becomes particularly obvious when Pillar Three has to be resorted to.

A related problem is the ideological schism that marks the debate on the RtoP. Thus, the typical 'Western' approach is seen as liberal, viewing the RtoP as central to human security and societal advancement. Non-Western states (the global South) argue that Western support for the RtoP is rather spurious, and is provided only when non-Western states are at the receiving end of interventions. Any intervention that undermines state sovereignty is seen as neo-imperialism.

265

Important global powers such as China and Russia are leaders in this view, which resonates with a host of countries that experienced a history of colonial subjugation. The consequence of this asymmetrical North-South relationship is also superimposed, rightly or wrongly, on the RtoP's operationalisation, because intervention takes place almost exclusively in less-developed countries, particularly in Africa. And this political apprehension has been amplified by recent events, such as the NATO-led intervention in Libya, where the RtoP mandate became a licence for regime change.

The acrimonious relationship between the global North and the global South regarding the RtoP's operationalisation also reinforces a blind solidarity based on developmental status and ideological affinity. Errant regimes, such as those of Sudan and Zimbabwe, are able to exploit the concerns of their peers that the RtoP is the preserve of the powerful and a mechanism to undermine the sovereign rights of weaker states. Implementation of the RtoP norm beyond the frontiers of the West is, therefore, riddled with political subtexts, and the contention feeds on perceptions that the liberal discourse advanced by RtoP pundits is a model for entrenching Western hegemony (Adolfo 2009; Gevisser 2009; Carver 2008).

From the discussion thus far, it is clear that the RtoP is essentially a political debate, notwithstanding the fact that it has sought to make humanitarian law more nuanced. The very fact that the RtoP is a political construct for guiding states towards delivering on their mandate to protect their populations from all avoidable humanitarian crises, explains the contestation between law and politics. The law-politics nexus is subject to the broader weaknesses of international law, as well as the fact that recent additions, such as the International Criminal Court, have a somewhat ambiguous relationship with the mandate of the UN Security Council -- in the sense that the majority of the Council's permanent members are not signatories to the Rome Statute of the ICC, yet have the power to refer cases (such as that against Sudan's Omar al-Bashir) to the Court. A huge gap in the conceptual development of the RtoP is caused by such contradictions in the political relationship between statutory bodies at the global level and, equally so, by contradictions in (or even the total absence of) localised RtoP law in the regional context.

7.4 CHALLENGES EXPERIENCED IN THE COURSE OF THE RESEARCH, AND RECOMMENDATIONS REGARDING FURTHER RESEARCH

As is the case with all academic investigations, this study is rather limited and suffers from certain shortcomings. These are the result of specific challenges that were experienced in the course of the research endeavour.

The first challenge was the sheer conceptual scope of the RtoP. While it is a political concept with a more narrow focus than related norms, such as the Protection of Civilians, PoC (which is specific to armed conflict, and thus typically on the UN Security Council agenda), the RtoP draws on a much wider range of tools in its responses than any other discourse in the domain of humanitarian intervention. Moreover, it covers three dimensions: prevention, reaction, and rebuilding -- elements that, in combination, address the full spectrum of conflict resolution theory, to name just one related field of inquiry. This vast scope meant that the conceptual discussion on the RtoP could only be broached partially. The issues that are alluded to below, as proposed future research focus areas, are just a few of the myriad conceptual puzzles that could have been addressed in more depth. To have done so, however, would have proved unmanageable within the framework of the research that has been prescribed and limited in terms of its scope, as well as the time that had to be spent on collecting the relevant data.

A second major challenge was the fact that the RtoP is not just a nascent norm, but a very fast-evolving one. Since the research commenced, the discourse underwent major flux in both tenor and substance, driven amongst others by humanitarian crises in West and North Africa and the Middle East, and the controversy around international responses (or the lack thereof). The 2011 intervention in Libya, in particular, was followed by an acrimonious row that saw further polarisation between proponents and opponents of the RtoP. This also prompted UN Secretary-General Ban Ki-moon in his UN General Assembly 2014 Report to remark that "we know too little about what actually works for [the] RtoP". In the midst of a furious global debate, this researcher had to maintain focus on the evidence yielded by the two case studies that were selected for this thesis -- in other words, to base the findings on what transpired in Darfur and Zimbabwe only.

A third challenge pertained to methods of data collection. As a result of the sensitive nature of the subject under debate, and the fact that both cases (Zimbabwe and Darfur) remain unresolved conflict situations, the researcher could not undertake fieldwork to gather empirical evidence. The study, therefore, depended quite overly on the documentary analysis of primary and secondary data sources. The major shortcoming of documentary analysis, like all qualitative research work, is that the conclusions reached are largely subjective. Personal interviews with key players and policy-makers in Darfur and Zimbabwe could have added much value to the research findings.

Notwithstanding these weaknesses, the many valuable findings of the research, when considered in combination with the indicated shortcomings, offer ample scope for a future and complementary research agenda. The following issue areas can be highlighted:

- *The RtoP and the Role of Regional Organisations*

The research did not encompass a comprehensive critique of any single international actor, but it is evident that individual regional organisations, such as the AU and the SADC, need to be subjected to much more scrutiny and examination in order to determine their 'RtoP compliance'.

- *The RtoP and Norm Localisation*

The flagrant disregard shown by the governments of Zimbabwe and Sudan towards their 'Responsibility to Protect' is an indictment of the extent to which RtoP principles have been localised in African countries. Quite evidently, more research is required to guide policy-makers and advisors, especially in Africa, on the internalisation of an RtoP 'culture' within their countries and regions. This applies equally to legal instruments, such as national constitutions, and to social tools, such as incorporating the concept of the RtoP into school and tertiary curricula, professional training for civil servants, and so on. Further research could entail devising a 'toolbox' for norm-internalisation in individual states and regional organisations. Pro-active mobilisation is required, because the concept of the RtoP does not automatically cascade to regional and domestic levels. Moreover, the linkages between the RtoP and norms (such as good governance, the rule of law, transparency, and the accountability of

268

leaders) should be investigated, as it impacts instruments such as the African Peer Review Mechanism.

- *Building Political Will at the International Level*

While experts agree that the element of prevention in the RtoP, amongst others through early warning, should be prioritised, the research shows that the effectiveness of such tools is conditional upon the political will to respond appropriately and timeously. This is probably the most elusive of RtoP requirements. Therefore, practical tools to mobilise political will (absent in both Evans's 'Toolbox' and the ICRtoP's 'Toolkit') need to be developed, for utilisation at the global interstate level but also, more crucially, at the regional level.

- *The RtoP and the Next Generation*

Humanitarian crises across the globe have seen the instrumental role of young people, the youth, as they are typically co-opted as agents for destructive engagements, while higher political structures in government institutions assume command responsibility. In both the cases of Darfur and Zimbabwe, non-statutory security structures such as the *Boda Gezi* militia in Zimbabwe and the *Janjaweed* militia in Sudan, were responsible for mass atrocities. It is, therefore, recommended that RtoP research should also entail a 'youth prism' with an eye on making the next generation of leaders in Africa more 'RtoP smart'. This would have specific, practical educational implications.

- *The Military Dimension of the RtoP*

Analysts tend to neglect the military dimension of the RtoP. This is understandable, because the debate becomes bogged down in political polemics. The emphasis on a spectrum of instruments, apart from military action, gives primacy to prevention over reaction, and stresses the crucial conceptual fact that the RtoP is NOT the same as humanitarian intervention. But the military dimension of the RtoP cannot be denied, and when it is implemented, as in the case of the deployment of AMIS and UNAMID in Darfur, it requires much more conceptual clarity. This would entail a large range of issues, including appropriate training, command structures, mission mandate, and sufficient funding. In particular, the UN's collaboration with regional organisations, such as the AU, is a vital area to be investigated and strengthened.

269

7.5 CONCLUDING REMARKS

This researcher's empathy with the humanitarian plight of millions of people across the world (and, more specifically, in Africa) found resonance in the ICISS's mission to develop a "global political consensus on how to move from polemics – and often paralysis – towards action within the international system" (ICISS 2001). It seemed as though a new regime of humanitarian protection was gaining currency in international relations when, in 2005, the principles of the RtoP were endorsed by world leaders in the 'World Summit Outcomes Document'. However, this much-lauded consensus appeared to be rather flimsy and, in 2009, UN Secretary-General Ban Ki-Moon had to make an appeal to the international community to strengthen the "doctrinal, policy and institutional life" of the norm. This study was a specific response to that call, and aimed to complement efforts by scholars worldwide to refine the conceptual parameters of this fledgling though crucial new norm.

The two case studies that were selected had many aspects in common, yet Darfur was widely documented as an RtoP case, while Zimbabwe's 'credentials' remain disputed. Nevertheless, this research was not guided by subjective labelling. In both case studies there was overwhelming evidence that the governments in question defaulted on their RtoP responsibilities (and, in an ironic coincidence, both regimes are still in place and continue to abuse their people). The humanitarian disasters that unfolded in the two countries impacted millions of people and also had spill-over effects in their respective regions, thus creating wider international peace and security concerns. It is, therefore, the contention of this researcher that RtoP-guided responses by the international community were warranted in both these cases.

Thus, the study set out to compile an extensive inventory of responses to the two crises by non-state, state, and broader intergovernmental entities. It was found that the behaviour of these actors complied, at different times and to varying degrees, with the triadic RtoP sub-responsibilities of prevention, reaction, and rebuilding. Therefore, the original research assumption of the study is valid, namely that RtoP principles did play a discernible role in the international community's responses to the humanitarian crises in Zimbabwe and Darfur. It is

270

also evident that the inconsistent, ambiguous, unco-ordinated, and *ad hoc* implementation of these principles poses a serious challenge to the theory and praxis of the RtoP.

A significant finding of the study was the extent to which the politicisation of the RtoP undermines its operationalisation. From the lack of political will to implement decisions, or to respond to the early warning of looming catastrophe, to the real or perceived agendas of intervening entities, the RtoP debate is continually subject to a political narrative. This is evidenced by the fact that neither Darfur nor Zimbabwe has seen any timeous, effective, or lasting responses to the humanitarian crises that were caused and perpetuated by their own governments. It would seem that the alignment of state interests, rather than the severity or consequences of a specific humanitarian crisis, determines the nature of state responses. Non-state international actors support a robust application of RtoP principles, while state actors seemingly welcome its normative aspects but not its operationalisation. Since states are the most important actors in international politics and vital to the operationalisation of RtoP principles, it can be concluded that their disagreement over the implementation of the RtoP implies that its principles have not yet succeeded in guiding the international community from polemics to action as envisioned by RtoP proponents.

Finally, on a more positive note, the study demonstrated that RtoP principles have indeed become an enduring part of the discourse on humanitarian intervention, both when the norm is invoked explicitly (as in Darfur) and when major actors downplay its invocation (as in Zimbabwe). However, the operationalisation of the RtoP continues to be dogged by controversy and conceptual ambiguity, and any global political consensus on the norm remains fragile and rhetorical. This is glaringly evident in terms of its implementation, or lack of implementation. There exists an imperative, then, to broaden the global consensus not just around the principles of the RtoP, but certainly around its actual operationalisation through available instruments, both those that have been identified and those that should be conceptualised through further research.

BIBLIOGRAPHY

Abass, A. 2007. 'The United Nations, the African Union and the Darfur Crisis: Of Apology and Utopia'. *Netherlands International Law Review*, 5 (4), pp. 415-440.

Abiew, F.K. 1999. *The Evolution of the Doctrine and Practice of Humanitarian Intervention*. Amsterdam: Martinus Nijhoff Publishers.

Aboagye, F. 2009. 'Sudan: Stumbling and Fumbling Over the Implementation of the Responsibility to Protect: The Darfur Debacle'. *ReliefWeb*, 9 April. Internet: http://reliefweb.int/report/sudan/sudan-stumbling-and-fumbling-over-implementation-responsibility-protect-darfur-debacle (accessed 22 May 2011).

Aboagye, F. 2012. 'A Stitch in Time Would Have Saved Nine: Operationalising the Africa Standby Force', *ISS Policy Briefing*, No. 34, September. Internet: http://www.issafrica.org/uploads/ASFPolBrief.pdf (accessed 29 Feb 2014).

Acharya, A. 2002. 'Defining the Dilemmas of Humanitarian Intervention'. *Australian Journal of International Affairs*, 56 (3), pp. 373-381.

Acharya, A. 2004. 'How Ideas Spread: Whose Norms Matter? Norms Localisation and Institutional Change in Asian Regionalism'. *International Organisations*, 58 (2), pp. 239-275.

Action Aid International (AAI). 2005. *The Impact of Operation Murambatsvina/Restore Order in Zimbabwe*. Action Aid International, Southern Africa Partnership Programme (SAPP-Zimbabwe), Harare, August. Internet: http://archive.kubatana.net/docs/urbdev/action_aid_survey_murambatsvina_0508.pdf (accessed 12 September 2010).

Adar, K. G. 2010. *The International Criminal Court and the Indictment of President Omar al-Bashir: Implications for Sudan and Africa*. Africa Institute of South Africa (AISA) Policy Briefing No. 10. Internet: http://www.africaportal.org/dspace/articles/internation al-criminal-court-and-indictment-president-omar-al-bashir-implications (accessed 13 March 2013).

Adebajo, A. and Landsberg, C. 2000. 'Pax Africana in the Age of Extremes'. *South African Journal of International Affairs*, 7 (1), pp. 11-26.

Adele, B. 2008. *Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect*. House of Commons Library Research Paper 08/55, 17 June. Internet: http://pustakahpi.kemlu.go.id/dir_dok/Reinventing-Hum-Int-Two-Cheers-for-%20the-%20R2P.pdf (accessed 15 June 2010).

Adolfo, C. 2009. *The Collision of Liberation and Post-Liberation Politics within SADC: A Study on SADC and the Zimbabwean Crisis*. Stockholm: Swedish Defence Research Agency. Internet: http://www.foi.se/reportfiles/foir_2770.pdf (accessed 7 August 2013).

Africa Mediators Retreat. 2011. *Meeting's Report*, *23-25 November 2011, Zanzibar-Tanzania*. Internet: http://www.sloforum.org/sites/default/files/Africa%20Mediators%20 Retreat%202011-Mediatiors%20in%20Current%20African%20Conflicts.pdf (accessed 10 October 2012).

African Civil Society Organisations. 2008. *Communiqué of the African Emergency Summit on Zimbabwe*, *Dar es Salaam, 21 April*. Internet: http://allafrica.com/stories/200805061022. html (accessed 12 July 2009).

African Commission on Human and People's Rights (ACHPR). 2007. *African Charter on Democracy, Elections and Good Governance*. Adopted by the Eighth Ordinary Session of the AU Assembly, Addis Ababa, Ethiopia, 30 January. Internet: http://www.achpr. org/instruments/charter-democracy/ (accessed 21 May 2013).

African Union (AU). 2000. *The Constitutive Act of the AU*. Internet: http://www.africaunion. org/root/au/aboutau/constitutive_act_en.htm (accessed 3 June 2010).

African Union (AU). 2003. *African Union Policy Framework for the Establishment of the African Standby Force and the Military Staff Committee (MSC), 15-16 May*. Addis Ababa: AU. Internet: http://www.peaceau.org/en/article/policy-framework-for-the-esta blishment-of-the-african-standby-force-and-the-military-staff-committee (accessed 7 July 2011).

African Union (AU). 2004. *Agreement with the Sudanese Parties on the Modalities for the Establishment of the Ceasefire Commission and the Deployment of Observers in Darfur, 28 May*. Addis Ababa: AU. Internet: http://www.issafrica.org/AF/profiles/sudan/darfur/ cfc/agreement.pdf (accessed 8 October 2010).

African Union (AU). 2006(a). *Communiqué of the 51st Meeting of the AU Peace and Security Council, 15 May, and the Communiqué of the 58th Meeting of the AU Peace and Security Council*, *PSC/MIN.Comm/1 (LI)*. Addis Ababa: AU. Internet: http://www.apsta-africa. org/documentation/APSTA_ASF%20Manuals/ASF%20Training%20Policy.pdf (accessed 18 May 2011).

African Union (AU). 2006(b). *Meeting the Challenge of Conflict Prevention in Africa: Towards the Operationalisation of the Continental Early-Warning System: A Concept Paper*, *17-19 December*. Kempton Park, South Africa. Internet: http://www.peaceau.org/en/article/ meeting-the-challenge-of-conflict-prevention-in-africa-towards-the-operationalisation-of-the-continental-early-warning-system (accessed 18 March 2013).

African Union (AU). 2007. *African Charter on Democracy, Elections and Governance*. Addis Ababa, 30 January.

African Union (AU). 2008(a). *Communiqué of the African Union 11ᵗʰ Ordinary Session, Sharm El-Shekh, Egypt, Assembly/AU/Res.1(x1), 30 June-1 July*. Internet: http://www.au.int/ en/sites/default/files/ASSEMBLY_EN_30_JUNE_1_JULY_2008_AUC_ELEVENTH_O RDINARY_SESSION_DECISIONS_DECLARATIONS_%20TRIBUTE_RESOLUTIO N.pdf (accessed 11 April 2010).

African Union (AU). 2008(b). *Report on the Implementation of the Communiqué of the 142ⁿᵈ Meeting of the AU Peace and Security Council on Sudan, 21 July, and the AU Peace and Security Council, 151ˢᵗ Meeting, 22 September, PSC/MIN/COMM (CXLII)*. Addis Ababa: AU. Internet: http://www.peaceau.org/uploads/reportdarfureng.pdf (accessed 10 June 2011).

African Union (AU). 2009. *AU Chair Urges New Zimbabwean Government to Put the Past Behind and Look Ahead* (Statement by the Chairperson of the AU Commission), No. 53, 12 February. Internet: http://www.issafrica.org/uploads/No5Dec2009.pdf (accessed 29 July 2012).

African Union (AU). 2010. *Communiqué on the 3 February 2010 Judgment of the International Criminal Court Appeals Chamber on Darfur, 4 February*. Addis Ababa: AU. Internet:http://www.iccnow.org/documents/AU_Communique_on_ICC_Genocide_ Charge_Feb_4_2010_eng.pdf (accessed 12 July 2011).

African Union (AU). 2012. *Press Release No. 2 on the Decision of the Pre-Trial Chamber 1 of the ICC, Pursuant to Article 87(7) of the Rome Statute on the Alleged Failure by the Republic of Chad and the Republic of Malawi to Comply with the Co-operation Requests Issued by the Court with Respect to the Arrest and Surrender of President Omar Hassan al-Bashir of the Republic of Sudan*. Internet: http://www.africa-union.org (accessed 28 November 2013).

African Union-Pan African Parliament (AU-PAP). 2008. *Interim Statement by the Pan-African Parliament Election Observer Mission on the Presidential, and Parliamentary By-Election in Zimbabwe, 29 June*. Internet: http://www.panafricanparliament.org/docu mentsresources-display-documents-aspx?type=docs&id=1029.pdf (accessed 27 Novem-ber 2010).

Agwai, M.L. 2009. *More Helicopters for Darfur*. Pretoria: Institute of Security Studies.

Ahmed, G.K. 2010. *The Chinese Stance on the Darfur Conflict*. Occasional Paper No. 67, September. Johannesburg: South African Institute of International Affairs. Internet: http:// www.saaia.org.za (accessed 29 November 2011).

Ajayi, T. 2008. *The UN, the AU and ECOWAS: A Triangle for Peace and Security in Africa?*. FES Briefing Paper, 11 November. Internet: http://library.fes.de/pdf-files/bueros/usa/058 78.pdf (accessed 21 June 2011).

Akokpari, J. 2008. 'Dilemmas of Regional Integration and Development in Africa', in J. Akokpari, A. Ndinga-Muvumba and T. Murithi (eds). *The African Union and its Institutions*. Cape Town: Centre for Conflict Resolution, pp. 85-110.

Akonor, K. 2010. 'Assessing the African Union's Right of Humanitarian Intervention'. *Criminal Justice Ethics*, 29 (2), pp. 157-173.

Albert, I. O. 2007. The African Union and Conflict Management. *Africa Development*, XXXII (1), pp. 41–68.

Alden, C. and Schoeman, M. 2003. 'The Hegemony that wasn't: South Africa's foreign policy towards Zimbabwe'. *Strategic Review for Southern Africa* 25(91).pp. 1-28.

Alden, C. 2010. *A Pariah in Our Midst: Regional Organisations and the Problematic of Western-Designated Pariah Regimes: The Cases of SADC/Zimbabwe and ASEAN/ Myanmar*. London: London School of Economics and Political Science.

Alexander, K. and Raftopoulos, B. 2005. *The Struggle for Legitimacy: A Long-Term Analysis of the 2005 Parliamentary Elections and its Implications for the Democratic Process in Zimbabwe*. Cape Town: Institute for Justice and Reconciliation.

Alexander, J. and Tendi, B. M. 2008. A tale of two elections: Zimbabwe at the polls in 2008. *Concerned African Scholars Bulletin* 80, pp. 5-17.

Alexander, J. and Chitofiri, K. 2010. 'The Consequences of Violent Politics in Norton, Zimbabwe', in Chan, S. and Primorac, R. (eds). *The Round Table: The Commonwealth Journal of International Affairs*, 99 (411), pp. 673-686.

Alghali, Z.A. and Mbaye, M. 2008. 'The African Standby Force and Regional Standby Brigades'. *Conflict Trends*, 3, pp. 34-38.

Allen, K. 2006. 'UN "Missed" Darfur Crisis Signs'. *BBC News Online*. Internet: http://news. bbc.co.uk/2/hi/africa/6053828.stm (accessed 12 April 2010).

Amann, D. M., Eisa, M. A. A. and Varma, M. K. 2011. Toward Peace with Justice in Darfur: A framework for Accountability. U.C. Davis Journal of International Law and Policy 18(1), pp. 1-118.

American Red Cross (ARC). 2011. 'Summary of the Geneva Conventions of 1949 and Their Additional Protocols'. *International Humanitarian Law*, April. Internet: http://www.red cross.org/images/Media_CustomProductCatalog/m3640104_IHL_SummaryGenevaConv. pdf (accessed 16 October 2012).

275

Amnesty International (AI). 2006. *Sudan: Crying out for Safety*. Internet: http://www. cfr.org/sudan/amnesty-international-crying-out-safety-sudan-p11941 (accessed 13 April 2013).

Amnesty International (AI). 2007(a). *Chad: Civilians under Attack: Darfur Conflict Spreads to Eastern Chad*. London: Amnesty International, March. Internet: http://www.amnesty.org/ en/library/info/AFR20/005/007 (accessed 18 December 2012).

Amnesty International (AI). 2007(b). *Sudan, Amnesty International Report 2007: Human Rights in the Republic of Sudan*. London: Amnesty International, March. Internet: http:// www.amnesty.org/en/region/sudan/report-2007 (accessed 18 December 2012).

Amnesty International (AI). 2007(c). *Sudan: Arms Continue to Fuel Serious Human Rights Violations in Darfur*. London: Amnesty International, May. Internet: http://www.amnesty.org/en/library/asset/AFR54/019/2007/en//c464853c-d396-11dd-329-2f46302a8cc6/afr540192007en.html (accessed 19 September 2013).

Amnesty International (AI). 2008. *Zimbabwe: Time for Accountability*. 31 October. Internet: http://www.refworld.org/publisher/amnesty/zwe/50ffbce52e9,0.html (accessed 23 June 2010).

Amneus, D. 2006. 'Swedish State Practice 2004-5'. *The Nordic Journal of International Law*, 75 (3), pp. 11-315.

Andersson, H. 2008. 'China is Fuelling War in Darfur'. *BBC News*, 13 July. Internet: http://news.bbc.co.uk/1/hi/7503428.stm (accessed 30 June 2011).

Ankomah, B. 2007. 'Mugabe: "Our Cause is Africa's Cause"'. *NewAfrican Magazine*, May, Issue 462, pp. 1-142.

Annan, K. 2000. *We the Peoples: The Role of the UN in the 21st Century*. New York: United Nations Department of Public Information, 3 April. Internet: http://www.un.org/en/events /pastevents/pdfs/We_The_Peoples.pdf (10 April 2009).

Annan, K. 2004. *UN Secretary-General Kofi Annan's Action Plan to Prevent Genocide*. Speech in Geneva Commemorating the 10th Anniversary of the 1994 Genocide in Rwanda, 7 April. Press Release: SG/SM/9197AFR/893. Internet: http://www.preventgen ocide.org/prevent/UNdocs/Kofi_Annans_Action_Plan_to_Prevent_Genocide_7_Apr_200 4.htm (accessed 12 October 2010).

Annan, K. 2005. *In Larger Freedom: Towards Development, Security and Human Rights for All*. Report of the Secretary-General to the United Nations General Assembly, A/59/ 2005/Add.3. Internet: http://www.unmillenniumproject.org/documents/inlargerfreedom.p df (accessed 17 October 2009).

Annan, K. 2007. *The Fifth Nelson Mandela Annual Lecture Address, Johannesburg, South Africa*. Internet: http://www.nelsonmandela.org/news/entry/the-fifth-nelson-mandela-annual-lecture-address (accessed 6 March 2010).

Appiah-Mensah, S. 2005. 'AU's Critical Assignment in Darfur: Challenges and Constraints'. *African Security Review*, 14 (2), pp. 7-21.

Axworth, L. and Rock, A. 2009. 'R2P: A New and Unified Agenda'. *Global Responsibility to Protect*, 1, pp. 54-69.

Ayoob, M. 2004. 'Third World Perspectives on Humanitarian Intervention and International Administration'. *Global Governance: A Review of International Organisations*, 10 (1), pp. 99-118.

Azar, E. 1990. *The Management of Protracted Social Conflict: Theory and Cases*. Dartmouth: Dartmouth Publishing Co.

Aziakou, G. 2008. 'UN Chief Urges African Leaders to End Zimbabwe Crisis'. *Reliefweb*. Paris: Agence France-Presse, 16 April. Internet: http://reliefweb.int/report/zimbabwe/un-chief-urges-african-leaders-end-zimbabwe-crisis (accessed 12 August 2010).

Babbie, E. 2008. *The Practice of Social Research* (12th Edition). Belmont (CA): Thomson Wadsworth.

Badescu, C.G and Bergholm, L. 2009. 'The Responsibility to Protect and the Conflict in Darfur: The Big Let-Down'. *Security Dialogue*, 40 (3), pp. 287-309.

Badza, S. 2008. 'Zimbabwe's 2008 Elections and Their Implications for *Africa*'. *African Security Review*, 17 (4), pp. 2-16.

Bah, A. S. 2010. *The African Union in Darfur: Understanding the Afro-Arab Response to the Crisis*. New York: New York University Press.

Bailes, A.J.K. 2008. 'The EU and a "Better World": What Role for the European Security and Defence Policy?' *International Affairs*, 84 (1), pp. 115-130.

Baldwin, C., Chapman, C., and Gray, Z. 2007, *'Minority Rights: The Key to Conflict Prevention'.* London: Minority Rights Group International.

Ban, K-M. 2005. *Secretary-General's Statement on Zimbabwe*. United Nations: New York, 22 July. Internet: http://www.un.org/sg/STATEMENTS/index.asp?nid=1589 (accessed 10 September 2010).

Ban, K-M. 2008. *Secretary-General Urges Expeditious, Transparent Release of Election Results in Zimbabwe*. Press Release: SG/SM/11498-AFR/1676. Internet: http://www.un.org/press/en/2008/sgsm11498.doc.htm (accessed 15 October 2010).

277

Ban, K-M. 2009. *Implementing the Responsibility to Protect*. Report of the Secretary-General, Sixty-Third Session of the United Nations General Assembly (UNdoc. A/63/677, 12 January). Internet: http://responsibilitytoprotect.org/SGRtoPEng%20%284%29.pdf (accessed 10 July 2012).

Barnnett, M. 2007. 'Social Constructivism', in J. Baylis, S. Smith & P. Owens (eds). *The Globalisation of World Politics: An Introduction to International Relations* (4th Edition). Oxford: Oxford University Press, pp. 160-173.

Bashua, A. 2012. *Reflections on the Darfur Peace Process: The Role of the Mediator in Achieving an Effective Peace Agreement*. Paper presented at the Consultative Workshop on Mediation, Centre for Mediation in Africa, in collaboration with the UN Mediation Support Unit, University of Pretoria, 5 April. Internet: http://www.up.ac.za/media/shared/Legacy/sitefiles/file46/1322/17295/abdiodunbashuapresentation.pdf (accessed 25 July 2013).

Baylis, J., Smith, S. and Owens, P. (eds). 2008. *The Globalisation of World Politics: An Introduction to International Relations* (5th Edition). London: Oxford University Press.

Bellamy, A. J. 2005. 'Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq'. *Ethics and International Affairs*, 19 (2), pp. 31-54.

Bellamy, A. J. 2006. 'Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit'. *Ethics and International Affairs*, 20 (2), pp. 143-169.

Bellamy, A. J. 2009. *Responsibility to Protect*. London: Polity Press.

Bellamy, A.J. 2011a. *Global Politics and the Responsibility Protect: From Words to Deeds*. London: Routledge.

Bellamy, A. J. 2011b. 'Libya and the Responsibility to Protect: The Exception and the Norm'. *International Affairs*, 25 (3), pp. 263-269.

Bellamy, A.J. 2012. *Massacres and Morality: Mass Atrocities in an Age of Civilian Immunity*. Oxford: Oxford University Press.

Bellamy, A.J. and Williams, P.D. 2013. *Providing Peacekeepers: The Politics, Challenges and Future of United Nations Peacekeeping Contributors*. Oxford: Oxford University Press.

Bennet, A.R. 1995. *International Organisation: Principles, Issues* (6th Edition). Englewood Cliffs: Prentice-Hall.

Bergholm, L. 2008. 'The UN and the AU: A Co-Dependent Relationship on Matters of Peace and Security', in *The United Nations, Security and Peacekeeping in Africa: Lessons and Prospects* (Critical Current, 5), pp. 25-39.

278

Besada, H and Moyo, N. 2008. *Zimbabwe in Crisis: Mugabe's Policies and Failures*. Technical Paper No. 38. Ontario, Canada: The Centre for International Governance Innovation (CIGI).

Blair, T. 2001. *Let Us Re-Order This World Around Us*. Speech to the Labour Party Annual Conference, Brighton, 2 October. Internet: http://www.theguardian.com/politics/2001/Oct /02/labourconference.labour7 (accessed 11 September 2011).

Bond, J. and Sherret, L.A. 2006. *A Sight for Sore Eyes: Bringing Gender Vision to the Responsibility to Protect Framework*. Santo Domingo: United Nations International Research and Training Institute for Advancement of Women (UN-INSTRAW). Internet: http://iwrp.org/new/wp-content/oploads/2010/07/nv-bond.pdf (accessed 21 June 2012).

Bond, P. 2002. 'Zimbabwe, South Africa and the power politics of Bourgeoisie democracy'. *Monthly Review* 54 (1) Internet: http://monthlyreview.org/2002/05/01/zimbabwe-south-africa-and-the-power-politics-of-bourgeois-democracy/ (accessed 12 May 2010).

Booth, K. and Smith, S. 1997. *International Relations Theory Today*. London: Polity Press.

Boshoff, H., Very, W. and Rautenbach, G. 2010. *The Burundi Peace Process: From Civil War to Conditional Peace*. Monograph 171. Pretoria: Institute for Security Studies.

Bosl, A., Breytenbach, W., McCarthy, C. and Schade, K. 2008. 'Monitoring Regional Integration in Southern Africa'. *Yearbook*, 8. Stellenbosch: Trade Law Centre for Southern Africa.

Boutros-Boutros Ghali. 1992. *An Agenda for Peace*. New York: United Nations Publications.

Bracking, S. 2005. 'Development Denied: Autocratic Militarism in Post-Election Zimbabwe'. *Review of African Political Economy*, 32 (104), pp. 341-357.

Bratton, M. and Masunungure, E. 2007. 'Popular Reactions to State Repression: Operation Murambatsvina in Zimbabwe'. *African Affairs*, 106 (422), pp. 21-45.

Bratton, M. and Masunungure, E. 2008. 'Zimbabwe's Long Agony'. *Journal of Democracy*, 19 (4), pp. 41-55.

Breakey, H.E. 2012. Protection Norms and Human Rights: A Rights-Based Analysis of the Responsibility to Protect and Protection of Civilians in Armed Conflict'. *Global Responsibility to Protect*, 4 (3), pp. 309-333.

Brett, E. A. 2008. 'State Failure and Success in Uganda and Zimbabwe: The Logic of Political Decay and Reconstruction in Africa'. *Journal of Development Studies*, 44 (3), pp. 339-364.

Brett, E. A. 2010. *Systemic Crises: Conflicting Interests and State Failure in Zimbabwe, 1997-2004*. London: Development Research Centre, London School of Economics. Inter-net: http://r4d.dfid.gov.uk/PDF/Outputs/CrisisStates/brett1.pdf (accessed 12 June 2012).

Brickhill, J. 2007. *Protecting civilians through peace agreements: Challenges and lessons of the Darfur Peace Agreement*. Pretoria: Institute of Security Studies (ISS) Paper 138.

British Broadcasting Corporation (BBC). 2002. *Zimbabwe Food Crisis Warning*. News Online, 28 November. London: BBC. Internet: http://news. bbc.co.uk/2/hi/africa/2525063 .stm (accessed 10 July 2010).

British Broadcasting Corporation (BBC). 2003. *Whittall Joins Zimbabwe Exodus*. News Report, 16 March. London: BBC. Internet: http://news.bbc.co.uk/sport3/cwc2003/_/newsi d_2850000/newsid_2854400/2854435.stm (accessed 25 September 2012).

British Broadcasting Corporation (BBC *NewsOnline* (London), 4 March 2009. 'News Report: World reaction: Bashir warrant'. Internet: http://news. bbc.co.uk/ 2/hi/africa/7923797.stm (accessed 19 May 2010).

British Broadcasting Corporation (BBC). 2007. *'Darfur Quarrel over a Camel', said Gaddafi*. News Report, 23 October. London: BBC. Internet: http://news.bbc.co.uk/2/hi/africa/7058 671.stm (accessed 7 February 2013).

British Broadcasting Corporation (BBC). 2008. *Mugabe Rival Quits Election Race*. News Report, 22 June. London: BBC. Internet: http://news.bbc.co.uk/2/hi/africa/7467990.stm (accessed 12 March 2012).

British Broadcasting Corporation (BBC). 2009. *World Reaction: Bashir Warrant*. News Online, 4 March. London: BBC. Internet: http://news.bbc.co.uk/2/hi/africa/7923797.stm (accessed 19 May 2010).

British Broadcasting Corporation (BBC). 2014. *ICC Drops Uhuru Kenyatta Charges for Kenya Ethnic Violence*. 5 December. London: BBC. Internet: http://www.bbc.com/news/ world-africa-30347019 (accessed 18 December 2014).

Brown, A. 2008. *Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect*. London: House of Commons Library Research Paper 08/55. Internet: http://pu stakahpi.kemlu.go.id/dirdok/Reinventing-Hum-Int-Two-Cheers-for-%20the-%20R2P.pdf (accessed 28 August 2009).

Buchanan, A. 2003. 'Reforming the International Law of Humanitarian Intervention', in Keohane, O.R. & J.L. Holzgrefe (eds). *Humanitarian Intervention: Ethical, Legal and Political Dilemmas*. Cambridge: Cambridge University Press, pp. 130-174.

Bull, H. 1977. *The Anarchical Society*. Basingstoke: Palgrave.

280

Bush, G.W. 2002. *The National Security Strategy of the United States of America*. Washington, DC: Executive Office of the President. Internet: http://www.state.gov/documents/organisation/63562 (accessed 21 August 2012).

Buzan, B. 1991. *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*. New York: Harvester Wheatsheaf.

Buzan, B. 2004. *From International to World Society? English School Theory and the Social Structure of Globalisation*. Cambridge: Cambridge University Press.

Campbell, H. 2008. *Threats of Military Intervention in Zimbabwe: Mamdani, Mugabe and the African Scholarly Community: The Africanisation of Exploitation*. Global Research, 27 December. Internet: http://wwwglobalresearch.ca/the-threats-of-military-intervention-in-zimbabwe/11510 (accessed 19 May 2012).

Campbell, E. and Crush, J. 2012. *Unfriendly Neighbours: Contemporary Migration from Zimbabwe to Botswana*. Cape Town: Bronwen Müller (Southern African Migration Project).

Carey, S.C., Gibney, M. and Poe, S.C. 2010. *The Politics of Human Rights: The Quest for Dignity*. New York: Cambridge University Press.

Carnegie Commission on Preventing Deadly Conflict. 1998. *Preventing Deadly Conflict: Strategies and Institutions*. Institute of Universal History of the Russian Academy of Sciences, Moscow, and the Center for International Security and Arms Control, Stanford University, California. Internet: http://cisac.fsi.stanford.edu/publications/preventing_deadly_conflict_strategies_and_institutions (accessed 24 June 2009).

Carver, R. 2008. '*Zimbabwe: A Regional Analysis'*. A Writenet Report Commissioned by the United Nations High Commissioner for Refugees, Emergence and Technical Support Service, 31 March. Internet: http://www.refworld.org/pdfid/486252aa2.pdf (accessed 17 February 2010).

Catholic Commission for Justice and Peace (CCJP). 1997. *Report on the 1980s Disturbances in Matabeleland and the Midlands*. Harare, March. Internet: http://www.rhodesia.nl/matabeleland%20Report.pdf (accessed 20 November 2010).

Centre for Conflict Resolution (CCR). 2007. *Africa's Responsibility to Protect: Policy Advisory Seminar Report*. Cape Town: University of Cape Town, Conference held at Somerset West, 23-24 April. Internet: http://www.ccr.org.za/index.php/media-release/rep orts/seminar-reports?start=30 (accessed 23 May 2012).

Chanda, N. and Froetschelo, S. (eds). 2012. *A World Connected: Globalisation in the 21st Century*. New Haven (CT): Yale Center for the Study of Globalisation.

281

Chandler, D. 2004. 'The Responsibility to Protect? Imposing the "Liberal Peace"'. *International Peacekeeping*, 11 (1), pp. 59-81.

Chandler, D. 2008. *Unravelling the Paradox of 'The Responsibility to Protect'*. Draft paper prepared for the Royal Irish Academy Committee for International Affairs Annual High-Level Conference on 'A Responsibility to Protect? Sovereignty vs Intervention'. Dublin, 21 November. Internet: http://www.davidchandler.org/wp-content/uploads/2014/11/R2P-paradox-RIA.pdf (accessed 30 August 2009).

Chandra, L.S. and Suren, P. 2010. *Peace versus Justice? The Dilemmas of Transitional Justice in Africa*. Oxford: James Currey Publishers.

Chavez, H. 2005. *Speech by President Hugo Chavez to the 60th UN General Assembly*. New York, 15 September. Internet: http://www.embavenez-us.org/news.php?nid=1745 (accessed 9 May 2011).

Chief Justice Decree. 2005. *Decree Establishing the Special Criminal Court on the Events in Darfur*, 7 June (SCCED Decree).

Chigora, P. 2006. 'On Crossroads: Reflections on Zimbabwe's Relations with Britain at the New Millennium'. *Alternatives: Turkish Journal of International Relations*, 5 (3), pp. 61-76.

Chimni, B.S. 2013. 'R2P and Syria: Imperialism with a Human Face', in *Open Democracy*. Internet: https://www.opendemocracy.net/openglobalrights/bschimni/r2p-and-syria-imperialism-with-human-face (accessed 20 October 2014).

Chingono, H. 2010. 'Zimbabwe Sanctions: An Analysis of the "Lingo" Guiding the Perceptions of the Sanctioners and the Sanctionees'. *African Journal of Political Science and International Relations*, 4 (2), pp. 66-74.

Chitando, E. 2011. 'Prayers, Politics and Peace: The Church's Role in Zimbabwe's Crisis'. *Openspace*, (1), pp. 43-48.

Chitiyo, K. 2009. *The Case for Security Sector Reform in Zimbabwe*. Occasional Paper, September. London: Royal United Services Institute. Internet: https://www.rusi.org/downloads/assets/Zimbabwe_SSR_Report.pdf (accessed 12 April 2010).

Chitupa-Mashiri, C. 2011. 'Collapse of Zimbabwe's GNU Would be a ZANU-PF's Victory', *Zimbabwe Daily*, 10 March. Internet: http://www.thezimbabwedaily.com/opinion/7517-collapse-of-zimbabwes-gnu-would-be-a-zanu-pfs-victory.html (accessed 23 October 2013).

Chomsky, N. 2009. *The Responsibility to Protect*. Lecture given at the UN General Assembly. New York, July 23. Internet: http://www.chomsky.info/talks/20090723.htm (accessed 10 October 2012).

Cilliers, J. 2008. *Human Security in Africa: A Conceptual Framework for Review.* Pretoria: Africa Human Security Initiative.

Cilliers, J., Gumede, S. and Mbadlanyana, T. 2009. 'Africa and the "Responsibility to Protect": What Role for the ICC?' *Irish Institute of International Affairs*, 20, pp. 55-67.

Cilliers, J. 2004. *Human Security in Africa: A Conceptual Framework for Review*. Monograph for the African Human Security Initiative. Internet: http://www.africanreview.org (accessed 13 January 2010).

Clark, I. 2005. *Legitimacy in International Society*. Oxford: Oxford University Press.

Coady, C.A. 2002. *The Ethics of Armed Humanitarian Intervention*. Washington, DC: United States Institute of Peace.

Coady, C.A.M and Solomon, H. 2009. 'Deconstructing Constructive Engagement: Examining Mbeki's Foreign Policy towards Zimbabwe'. *World Affairs*, 13 (1), pp. 170-186.

Coalition for the International Criminal Court (CIC). 2008. *Darfur: Prosecutor Charges Sudanese President with War Crimes, Crimes against Humanity and Genocide*. The Hague, The Netherlands, 14 July. Internet: http://www.iccnow.org/?mod=newsdetail& news=2755 (accessed 10 September 2012).

Coalition for the International Criminal Court (ClC). 2010. *Overview of Rome Statute Signatories, Ratifications and Implementation Legislations*. Internet: http://www.ccnow.o rg/mod=download&doc=4348 (accessed 28 October 2009).

Cohen, R and O'Neill, W. G. 2006. 'Last Stand in Sudan'. *Bulletin of Atomic Scientists* 62(2): pp. 51-58.

Collins, A. 2006. *Contemporary Security Studies*. Oxford: Oxford University Press.

Collins, R. 2011. *Thinking about Libya, the Responsibility to Protect and Regime Change: Lessons Learned*. A Discussion Paper. World Federalist Movement-Canada (WFMC). Internet: https://www.worldfederalistscanada.org/wfmcDraftLibyaRC5_Oct19%204.pdf (accessed 11 May 2013).

Collins, R.O. 2006. *Darfur and the Arab League*. Washington, DC: The Washington Institute Policy Watch 1141, 28 August. Internet: http://www.washingtoninstitute.org/policyanalys is/view/darfur-and-the-arab-league (accessed 19 March 2012).

Coltart, D. 2007. *Understanding the Zimbabwean Crisis: A First Step in Planning its Recovery*. 14 October. Internet: http://www.davidcoltart.com/ (accessed 17 May 2009).

Colvard, K. and Lee, C.M (eds). 2003. *Unfinished Business: The Land Crisis in Southern Africa*. Pretoria: Africa Institute of South Africa.

Colvile, O. 2012. 'Zimbabwe: Blood Diamonds'. *Hansard*, Column 199WH, 17 July. London: Westminster Hall (Plymouth, Sutton & Devonport). Internet: http://www.public ations.parliament.uk/pa/cm201213/cmhansrd/cm120717/halltext/120717h0001.htm (accessed 17 October 2013).

Commission on Human Security. 2003. *Human Security Now*. New York: United Nations. Internet: http://hdr.undp.org/sites/default/files/human_security_guidance_note_r-nhdrs.pd f (accessed 16 September 2009).

Constitution of the Republic of Sudan (entered into force on 1 July 1998). Internet: https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/d728f18be88d9482c1256dc600507f33/$FIL E/Constitution%20Sudan%20-%20EN.pdf (accessed 19 September 2013).

Cosgrove, E. 2002. *The Efficacy of Sanctions*. International Security Policy Paper No. 82. London: International Security Information Service.

Council of the European Union. 2003. *European Security Strategy: A Secure Europe in a Better World*. Internet: http://www.consilium.europa.eu/uedocs/cmsdata/librairie/PDF/Q C7809568ENC.pdf (accessed 15 May 2009).

Council of the European Union. 2007. *Press Release: 2824th Council Meeting, General Affairs and External Relations*. Luxembourg, 15-16 October. Internet: http://www.consili um.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/96535.pdf (accessed 29 November 2010).

Crawford, N. C. 2003. *Argument and Change in World Politics: Ethics, Decolonisation, and Humanitarian Intervention*. Cambridge: Cambridge University Press.

Cresswell, J.W. 2007. *Qualitative Inquiry and Research Design: Choosing among Five Approaches* (2nd Edition). Thousand Oaks (CA): Sage Publications.

Dagne, T. 2011. *Sudan: The Crisis in Darfur and status of the North –South Peace Agreement.* United States: Congressional Research Service. Internet: http://www.crs.gov (accessed on 22 February 2012).

Dallaire, R. 2003. *Shake Hands with the Devil: The Failure of Humanity in Rwanda*. London: Arrows Books.

Dallaire, R. 2004. 'Looking at Darfur, Seeing Rwanda', *New York Times*, 4 October. Internet: http://www.nytimes.com/2004/10/04/opinion/04dallaire.html?_r=0 (accessed 25 September 2012).

Daly, M.W. 2010. *The Forgotten History of Humanitarian Disaster: Darfur's Sorrow*. Cambridge: Cambridge University Press.

Darfur Peace Agreement (DPA). 2006. Signed between the Government of the Sudan, the Sudan Liberation Movement/Army (SLM/A), and the Justice and Equality Movement (JEM). Abuja, Nigeria, 5 May. Internet: http://www.un.org/zh/focus/southernsudan/pdf/dpa.pdf (accessed 16 May 2012).

De Vries, A.W. and Hazelzet, H. 2005. 'The EU as a New Actor on the Sanctions Scene', in P. Wallensteen and C. Staibano (eds). *International Sanctions*: *Between Words and Wars* in the *Global System*. London: Frank Cass, pp. 95-107.

De Waal, A. 2005a. 'Sudan: Prospects for Peace'. *African Affairs*, 104 (414), pp. 127-135.

De Waal, A. 2005b. 'Who Are the Darfurians? Arab and African Identities, Violence and External Engagement'. *African Affairs*, 104 (415), pp. 181-205.

De Waal, A. 2006a. 'I Will Not Sign'. *London Review of Books*, 28 (23), pp. 17-20.

De Waal, A. 2006b. *The DPA and its National Context*. Cape Town: African Center for the Constructive Resolution of Disputes (Accord).

De Waal, A. 2007. 'Darfur and the Failure of the International Community's Responsibility to Protect'. *International Affairs*, 83 (6), pp. 1039-1054.

Deegan, H. 2009. *Africa Today: Culture, Economics, Religion and Security*. London: Routledge.

Deng, M.F. 1995. 'Frontiers of Sovereignty'. *Leiden Journal of International Law*, 8 (2), pp. 249-286.

Deng, M.F. 2007. *Sudan at the Crossroads*. Cambridge: Massachusetts Institute of Technology (MIT).

Deng, M.F. and Cohen, R. 1996. *Sovereignty as Responsibility: Conflict Management in Africa*. Washington, DC: Brookings Institution.

Deng, M.F. and Cohen, R. 1998. 'Exodus within Borders: The Uprooted Who Never Left Home'. *Foreign Affairs*, 77 (4), pp. 12-16.

Department of Foreign Affairs, South Africa (DFA). 2003. *Statement on the Continuation of the Suspension of Zimbabwe from the Council of the Commonwealth*. Pretoria: Department of Foreign Affairs, 9 December.

Department of Foreign Affairs (DFA). 2005. *Joint Communiqué of the Official Visit to the Republic of Sudan by His Excellency President Thabo Mbeki, 30 December to 2 January*. Pretoria: Department of Foreign Affairs, 2 January.

Department of Foreign Affairs, Republic of South Africa (DFA). 2007. *Joint Communiqué on the Official Visit to the Republic of Sudan by His Excellency President Thabo Mbeki, 30 December 2004-2 January 2005*. Internet: http://www.dfa.gov.za/docs/2005/suda0103. htm (accessed 10 November 2012).

Derbal, A. 2008. *The ICC's Involvement in the Situation in Darfur: Not a Threat to Peace*. Working Paper No. 1, Winter. University of Notre Dame, Centre for Civil and Human Rights. Internet: http://www.academia.edu/7008862/The_ICC_s_Involvement_ in_the_ Situation_in_Darfur (accessed 27 May 2010).

Diakanyo, S. 2008. *The Nonsensical Boycott of the SADC Meeting by Botswana, 16 August*. Internet: http://www.thoughtleader.co.za/sentletsediakanyo/2008/08/16/the-nonsensical-boycott-of-the-sadc-meeting-by-botswana/comment-page-2/ (accessed 18 December 2009).

Dobell, L. 1998. *Swapo's Struggle for Namibia, 1960-1991, War by Other Means*. Basel: Namibian Series: Schlettwein Publishing.

Doha Document for Peace in Darfur (DDPD). 2011. *The Doha Document for Peace in Darfur*. All Darfur Stakeholders Conference, May 2011**,** Doha, Qatar. Internet: http:// unamid.unmissions.org/Default.aspx?tabid=11060 (accessed 28 May 2012).

Dowden, R. 2006. 'Engaging with Mugabe'. *The Round Table: The Commonwealth Journal of International Affairs*, 95 (384), pp. 283-286.

Du Plessis, M. 2008. 'Chinese Arms Destined for Zimbabwe over South African Territory: The R2P Norm and the Role of Civil Society'. *African Security Review*, 17 (4), pp. 17-29.

Du Plessis, M. 2013. *Universalising International Criminal Law: The ICC, Africa and the Problem of Political Perceptions*. ISS Paper No. 249, December. Pretoria: Institute for Security Studies. Internet: http://www.issafrica.org/uploads/Paper249.pdf (accessed 19 May 2014).

Du Plessis, M. and Ford, J. 2008. *Justice and Peace in a New Zimbabwe: Transitional Justice Options*. ISS Paper No. 164. Pretoria: Institute for Security Studies.

Dunne, T. 2013. 'Distributing Duties and Counting Costs'. *Global Responsibility to Protect*, 5 (4), pp. 443-465.

Duursma, A. 2011. 'Mediation with Muscles or with Minds?: Lessons From a Conflict-Sensitive Mediation Style in Darfur'. *Conflict Trends*, 4, pp. 11-19.

Dzimiri, P. and Runhare, T. 2012. 'The Human Security Implications of Operation Restore Order on Urban Habitation in Zimbabwe'. *Journal of Human Ecology*, 38 (3), pp. 191-205.

Edinger, H. and Burke, C. 2008. *AERC Scoping Studies on China-Africa Relations: A Research Report on Zimbabwe*. Internet: http://dspace.africaportal.org/jspui/bitstream/123456789/32047/1/Zimbabwe-China.pdf?1 (accessed 3 July 2010).

Eisenman, J. 2005. 'Zimbabwe: China's African Ally'. *China Brief*, 5 (15), pp. 9-11.

El-Kaissouni, A. 2007. 'Sudan Rejects ICC Jurisdiction', "Says One Suspect Held"'. Reuters, 27 February. Internet: http://www.reuters.com/article/2007/02/27/idUSL27385823._CH._.2400 (accessed 23 August 2009).

Eliss, M. S. and Golstone, R. J. 2008. *The International Criminal Court: Challenges to Achieving Justice and Accountability in the 21st Century (Sourcebook on Contemporary Controversies).* U.S.A: Lewiston.

El-Tom, A.O. 2006. 'Darfur People: Too Black for the Arab Islamic Project of Sudan, Part II'. *Irish Journal of Anthropology*, 9 (1), pp. 12-17.

Eppel, S. and Raftapolous, B. 2009. *Political Crisis, Mediation and the Prospects for Transitional Justice in Zimbabwe*. Solidarity Peace Trust, South Africa. Internet: http://www.solidaritypeacetrust.org/486/political-crisis-mediation-and-transitional-justice/ (accessed 11 May 2011).

Etzioni, A. 2006. 'Neo-Communitarian Approach to International Relations: Rights and the Good'. *Human Rights Review*, 7 (4), pp. 69-80.

European Commission (EC). 2011. *Zimbabwe: Commission Support the Council Decision*. Press Release: IP/11/190 by the European Commission, Brussels, 15 February. Internet: http://europa.eu/rapid/press-release_IP-11-190_en.htm?locale=en (accessed 24 April 2013).

European Parliament (EU). 2006. *European Parliament Resolution on Sudan (Darfur)*. RE\632194EN.doc, Brussels, 25 September. Internet: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=//EP//NONSGML+MOTION+B6-2006-0512+0+DOC+PDF+V0//EN (accessed 10 July 2011).

European Parliament (EU). 2007. *EU Parliament Resolution on the Situation in Darfur: Outcome of the General Affairs and External Relations Council*, 12-13 February. Press Release: 15 February. Internet: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=//EP//TEXT+TA+P6-TA-2007-0052+0+DOC+XML+V0//EN (accessed 10 July 2011).

European Union (EU). 2002. 'Council Common Position of 18 February 2002 Concerning Restrictive Measures against Zimbabwe (2002/145/CFSP)'. *Official Journal of the European Communities*, l50/1. Internet: http://www.sipri.org/databases/embargoes/eu_arms_embargoes/zimbabwe/eu-common-position-2002-145-cfsp (accessed 25 August 2009).

287

European Union (EU). 2004(a). *Council Common Position 2004/31/CFSP of 9 January 2004 Concerning the Imposition of an Embargo on Arms, Munitions and Military Equipment on Sudan*. Internet: http://www.sipri.org/databases/embargoes/eu_arms_embargoes/su dan/2004_1 (accessed 11 June 2013).

European Union (EU). 2004(b). *European Union Council Common Position 161/CFSP, 19 February 2004 on Renewing Restrictive Measures against Zimbabwe*. Brussels: Council of the European Union. Internet: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri =CE LEX: 32004E0161 (accessed 12 December 2010).

European Union (EU). 2004(c). *Council Decision of 15 March 1994 on the Common Position Defined on the Basis of Article J.2 of the Treaty on the European Union Concerning the Imposition of an Embargo on Arms, Munitions and Military Equipment on Sudan (94/165/CFSP)*. Brussels: Council of the European Union. Internet: http://www.sipri.org/ databases/embargoes/eu_arms_embargoes/sudan/eu-council-decision-94-165-cfsp (accessed 12 March 2012).

European Union (EU). 2005(a). *Council Common Position 2005/411/CFSP of 30 May 2005 Concerning Restrictive Measures against Sudan and Repealing Common Position 2004/31/CFSP*. Internet: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do? (accessed 19 February 2012).

European Union (EU). 2005(b). 'Council Regulation (EC) No. 1184/2005 of 18 July 2005 Imposing Certain Specific Restrictive Measures Directed against Certain Persons Impeding the Peace Process and Breaking International Law in the Conflict in the Darfur Region in Sudan'. *Official Journal of the European Union*. Internet: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:193:0009:0016:EN:PDF (ac cessed 19 February 2012).

European Union (EU). 2006(a). *Council Secretariat Fact Sheet: Darfur -- Consolidated EU Package in Support of AMIS II, 3 March*. Internet: http://www.eeas.europa.eu/csdp/ missions-and-operations/eu-support-amis-darfur/pdf/01032006_factsheet_eu-support-ami s-darfur_en.pdf (accessed 19 May 2013).

European Union (EU). 2006(b). *Fact Sheet: European Union Response to the Darfur Crisis*. Brussels, 1 July: Council of the EU. Internet: http://www.consilium.europa.eu/uedocs /cmsUp load/060714-Darfur_Update2.pdf (accessed 9 February 2012).

European Union (EU). 2008(c). *EU Support to the African Union Mission in Darfur -- AMIS: European Union Council Secretariat Fact Sheet (AMIS II/08), January*. Internet: http://www.eeas.europa.eu/csdp/missions-and-operations/eu-support-amis-darfur/pdf/010 12008_factsheet_eu-support-amis-darfur_en.pdf (accessed 10 July 2011).

European Union (EU). 2008(d). *Council Decision (2008/922/CFSP) and Commission Regulation (EC) No. 1226/2008 of 8 December 2008 Amending Council Regulation (EC)*

288

No. 314/2004 Concerning Certain Restrictive Measures in Respect of Zimbabwe. Internet: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008R1226 (accessed 21 October 2011).

European Union (EU). 2008(e). *Council Decision 2008/922/CFSP of December 2008, Implementing Common Position 2004/161/CFSP: Renewal of Restrictive Measures against Zimbabwe*. Brussels: Council of the European Union. Internet: http://www.eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008D0922 (accessed 12 December 2010).

European Union (EU). 2009. 'Council Decision (2011/1/101/CFSP) and Council Common Position 2009/68/CFSP of 26 January 2009, Renewing Restrictive Measures against Zimbabwe'. *Official Journal of the European Union*, 27 January. Internet: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:023:0043:0059:EN:PDF (accessed 20 April 2012).

European Union (EU). 2009. *Press Release: 2920th Council Meeting, General Affairs and External Relations*. Brussels: Council of the European Union, 29 January. Internet: http://europa.eu/rapid/press-release_PRES-09-15_en.htm?locale=en (accessed 27 May 2010).

European Union (EU). 2010. 'President Zuma Calls for End to Zimbabwe Sanctions: News and Resources on the Joint Africa-EU Strategy'. *Europafrica Bulletin*, 38, September. Internet: http://europafrica.net/2010/09/29/president-zuma-calls-for-end-to-zimbabwe-sanctions/#more-5783 (accessed 12 December 2010).

European Union (EU). 2011(a). *Council Decision 2011/101/CFSP of 15 February 2011 Concerning Restrictive Measures against Zimbabwe*. Internet: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1406813925121&uri=CELEX:32011D0101 (accessed 10 May 2013).

European Union (EU). 2011(b). *Declaration by the High Representative Catherine Ashton on Behalf of the European Union on Zimbabwe, 6567/11*. Press Release 29, Brussels, 15 February. Internet: http://www.europa.eu/rapid/press-release_PESC-11-29_en.htm?Locale=en (accessed 23 June 2012).

European Union (EU). 2011(c). 'Council Decision 2011/423/CFSP of 18 July 2011 Concerning Restrictive Measures against Sudan and South Sudan and Repealing Common Position 2005/411/CFSP. *Official Journal of the European Union*. Internet: http://www.sipri.org/databases/embargoes/eu_arms_embargoes/sudan/council-decison-2011-423-cfsp.pdf (accessed 12 May 2011).

European Union (EU). 2012. *Council Decision 2012/97/CFSP of 17 February 2012, Amending Decision 2011/101/CFSP Concerning Restrictive Measures against Zimbabwe*. Internet: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1406814221384&uri=CELEX:32012D0097 (accessed 29 October 2013).

European Union Institute for Security Studies. 2003. *A Secure Europe in a Better World: European Security Strategy*. Brussels, 12 December. Internet: http://www.iss.europa.eu/uploads/media/solanae.pdf (accessed 21 July 2013).

Evans, G. 2004. 'The Responsibility to Protect: Rethinking Humanitarian Intervention'. *Proceedings of the Annual Meeting, American Society of International Law*, 98, pp. 78-89.

Evans, G. 2006. *Responsibility to Protect: Never Say Never Again*. International Crisis Group, 3 May. Internet: http://www.crisisgroup.org/en/publication-type/commentary/responsibility-to-protect-never-say-never-again.aspx (accessed 7 August 2009).

Evans, G. 2008. *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All*. Brussels: Brookings Institution Press.

Evans, G. 2011. 'Interview: The R2P Balance Sheet after Libya', in T.G. Weiss *et al. The Responsibility to Protect: Challenges and Opportunities in Light of the Libyan Intervention*. e-International Relations, November, pp. 34-42. Internet: http://www.e-ir.info/wp-content/uploads/R2P.pdf (accessed 29 February 2012).

Evans, M. 1989. *The Front-Line States, South Africa and Southern African Security: Military Prospects and Perspectives*. Harare: University of Zimbabwe.

Evans, M. & Murray, R. 2008. *The African Charter on Human and Peoples' Rights: The System in Practice, 1986-2006*. Cambridge: Cambridge University Press.

Fabricius, P. 2009. 'High Praise for Mbeki's Darfur Panel', *Pretoria News*, 2 November.

Fendenberg, D. and Tirole, J. 1991. *Game Theory*. Cambridge (MA): MIT Press.

Ferris, F.G. 2008. *The Looming Crisis: Displacement and Security in Iraq*. Policy Paper No. 5. Washington, DC: Brookings Institution Press.

Finnemore, M. 1996. 'Constructing Norms of Humanitarian Intervention', in P.Z. Katzenstein (ed). *The Culture of National Security: Norms and Identities in World Politics*. New York: Columbia University Press, pp. 153-185.

Flint, J. 2006. ''A Steady Drip of Death'. *Daily Star* (Lebanon), 20 June.

Flint, J. 2010. *Rhetoric and Reality: Failure to Resolve the Darfur Conflict*. Small Arms Survey, HSBA Working Paper No. 19. Geneva: Graduate Institute of International and Development Studies.

Flint, J. and De Waal, A. 2008. *Darfur: A New History of Long War* (2nd Edition). London: Zed Books.

Fontein, J. 2009. Anticipating the Tsunami: Rumours, planning and the arbitrary state in Zimbabwe. *Africa: Journal of the International African Institute* 79(3), pp. 369 - 398.

Food and Agriculture Organisation of the United Nations (FAO). 2002. *Joint FAO/WFP: UN Agencies Warn of Massive Southern Africa Food Crisis: 10 Million People Threatened by Famine, 29 May*. Internet: http://www.fao.org/english/newsroom/news/2002/5260-en. html (accessed 21 June 2010).

Forced Migration Studies Programme (FMSP). 2009. *Violence, Labour and Displacement of Zimbabweans*. Migration Policy Brief No. 2, December. Johannesburg: Forced Migration Studies Programme.

Frank, S. 2006. 'The CARMA Report: Western Media Coverage of Humanitarian Disasters'. *The Political Quarterly*, 77 (2), pp. 281-284.

Frost, E. 2000. *Ethics in International Relations: A Constitutive Theory*. Cambridge, Cambridge University Press.

Galtung, J. 1967. 'On the Effects of International Economic Sanctions: With Examples from the Case of Rhodesia'. *World Politics*, 19 (3), pp. 378-416.

Gardner, H. 2011. *American Ambivalence and the 'Responsibility to Protect' in Libya: Veering toward 'Boots on the Ground'*. CICARO Foundation Great Debate Paper No. 11/12. Paris: American University.

Garrett, A.S. 1999. *Doing Good and Doing Well: An Examination of Humanitarian Intervention*. New York: Greenwood Publishing Group.

Genocide Watch. 2010. '*Genocide Watch calls for prosecution of Zimbabwe's Robert Mugabe for genocide.*' Washington, D. C and Cape Town, South Africa, 16 September. Internet: http:// www.genocidewatch.org/zimbabwe.html. (accessed 28 June 2011).

Gerson, M. 2008. 'The Despot's Democracy'. *Washington Post*, 28 May. Internet: http:// www.washingtonpost.com/wpdyn/content/article/2008/05/27/AR2008052702556.html (accessed 10 June 2009).

Gevisser, M. 2009. *Thabo Mbeki: The Dream Deferred* (Updated International Edition). New York: Palgrave Macmillan.

Glanville, L. 2014. *Sovereignty and the Responsibility to Protect: A New History*. Chicago: University of Chicago Press.

Global Security Review. 2012. Internet: *http://www.global security.org/ military/ world/para/darfur.htm* (accessed 28 June 2012).

291

Gottschalk, K. and Siegmar, S. 2004. 'The African Union and the New Partnership for Africa's Development: Strong Institutions for Weak States?'. *Internationale Politik und Gesellschaft*, 4, pp. 138-158.

Government Gazette Extraordinary, Zimbabwe. 2009. *Constitution of Zimbabwe Amendment (No. 19) Act*, 13 February. Internet: http://archive.kubatana.net/docs/legisl/constitution_zim_090213.pdf (accessed 29 July 2013).

Government of Zimbabwe. 2006. *The Education Act: Chapter 25:04*. Harare: Government Printers.

Graham, V.L. 2006. 'How Firm is the Handshake? South Africa's Use of Quiet Diplomacy in Zimbabwe from 1999 to 2006'. *African Security Review*, 15 (4), pp. 114-127.

Graham, V.L. 2008. 'Deconstructing Quiet Diplomacy: Pinning Down the Elusive Concept'. *Journal of Contemporary History*, 33 (2), pp. 117-135.

Grinnell, R.M. and Stothers, M. 1988. *Utilising Research Designs* (3rd Edition). Itasca (IL): F.E. Peacock.

Grono, N. 2006. "Briefing -- Darfur: The International Community's Failure to Protect". *African Affairs*, 105 (421), pp. 621-663.

Groves, A. 2008. *Achievements and Limitations of Nation-Building in Africa: The Case of Zimbabwe*. London: Oxford University Press.

Gruzd, S. 2009. *The African Peer Review Mechanism: Assessing Origins, Institutional Relations and Achievements*. Occasional Paper No. 29. Johannesburg: South African Institute of International Affairs (SAIIA). Internet: https://www.africaportal.org/dspace/articles/african-peer-review-mechanism-assessing-origins-institutional-relations-and-achievements (accessed 21 July 2010).

Hadland, A. 2008. *Violence and Xenophobia in South Africa: Developing Consensus, Moving to Action*. Pretoria: Human Sciences Research Council (HSRC).

Hamilton, R.J. 2006. 'The Responsibility to Protect: From Document to Doctrine, But What of Implementation?' *Harvard Human Rights Journal*, 19, pp. 290-297.

Hammer, A., Raftopoulos, B. and Jensen, S. (eds). 2003. *Zimbabwe's Unfinished Business: Rethinking Land, State and Nation in the Context of Crisis*. Harare: Weaver Press.

Hammer, M., Battini, M. and Snow, C. 2008. *Keeping the Stable Doors Open before the Horses*. Briefing Paper No. 111. One World Trust. Internet: http://www.oneworldtrust.org (accessed 18 October 2010).

Hancock, D.R. and Algozzine, B. 2006. *Doing Case Study Research: A Practical Guide for Beginning Researchers*. New York: Columbia University.

Hartwell, L. 2008. *To Act or Not To Act, This is the Question: Mugabe's Ordeal with International Law*. Pretoria: University of Pretoria, Centre for International Political Studies. Electronic Briefing Paper No. 49/2008. Internet: http://www.cips.up.ac.za/files/ pdf/ebriefing/492008_To_Act_or_Not_to_Act_This_is_the_Question_Mugabes_Ordeal_ with_International_Law_by_Leon_Hartwell.pdf (accessed 16 July 2010).

Hawkins, T. 2003. 'The Zimbabwean Crisis: Economic Implications for the Southern African Development Community', in Colvard, K. and Lee, C.M. (eds). *Unfinished Business: The Land Crisis in Southern Africa*. Ann Arbor (MI): Michigan University Press, pp. 383-409.

Hawkins, T. 2008. 'Zimbabwe: The Long Road to Recovery'. *Institute for Strategic Studies Bulletin*, 3 (1), pp. 1-15.

Heine, J. 2009. 'R2P and the Zimbabwean Crisis: Rescuing a Sinking Ship'. *World Affairs*, 13 (1), pp.146-169.

Hendrick, C. and Hutton, L. 2009. *Security Sector Reform in Zimbabwe: What, Why and How?'* Pretoria: Institute for Security Studies Policy Brief No. 1, June. Internet: http:// www.issafrica.org (accessed 13 June 2011).

Hoey, K. 2012. *Zimbabwe: Blood Diamonds*. *Hansard*, Column 199WH, 17 July. London: Westminster Hall (Plymouth, Sutton and Devonport). Internet: http://www.publications.= parliament.uk/pa/cm201213/cmhansrd/cm120717halltext/120717h0001.htm (accessed 17 October 2013).

Holsti, K.J. 1995. *International Politics: A Framework for Analysis*. London: Prentice-Hall International.

Holsti, K.J. 2004. *Taming the Sovereigns: Institutional Change in International Politics*. Cambridge Studies in International Relations. Cambridge: Cambridge University Press.

Holzgrefe, J.L. 2003. 'The Humanitarian Intervention Debate', in Keohane, R.O. and JL. Holzgrefe, J.L. (eds). *Humanitarian Intervention: Ethical, Legal and Political Dilemmas*. Cambridge: Cambridge University Press, pp. 15-52.

Holzgrefe, J.L. and Keohane, R.O. 2003. *Humanitarian Intervention: Ethical, Legal and Political Dilemmas*. Cambridge: Cambridge University Press.

House of Commons. 2006. *Debate on the Zimbabwean Crisis*. London: British House of Commons, 22 November. Internet: http://www.thezimbabwean.co/news/8048/house-of-commons-debate-on-zimbabwean-crisis-23-11-06.html (accessed 17 October 2012).

Howard-Hassmann, R. 2010. 'Mugabe's Zimbabwe, 2000-2009: Massive Human Rights Violations and the Failure to Protect'. *Human Rights Quarterly*, 32 (4), pp. 898-920.

Huisingh, F. 2013. 'A Responsibility to Prevent: A Norm's Political and Legal Effects'. *Amsterdam Law Forum*, 5 (1), pp. 1-35.

Human Rights Watch (HRW). 2005. *Evicted and Forsaken: Internally-Displaced People in the Aftermath of Operation Murambatsvina*. New York, December. Internet: http://www.hrw.org/re ports/2005/zim1205/zim1205web.pdf (accessed 11 May 2010).

Human Rights Watch (HRW). 2006(a). *Imperatives for Immediate Change -- The African Union Mission in Sudan, 18 (1A)*. New York, January. Internet: http://www.hrw.org/reports/ 2006/sudan0106/sudan0106web.pdf (accessed 19 May 2013).

Human Rights Watch (HRW). 2006(b). *Lack of Conviction: The Special Criminal Court on the Events in Darfur*. New York, June. Internet: http://www.hrw.org/legacy/backgrounder /ij/sudan0606/ (accessed 12 July 2010).

Human Rights Watch (HRW). 2007. *Darfur: Chaos by Design, Peace-keeping Challenges for AMIS and UNAMID, 19, 15(A)*. New York, September. Internet: http://www.hrw.org/ reports/2007/sudan0907/sudan0907webwcover.pdf (accessed 12 November 2010).

Human Rights Watch (HRW). 2009. *Zimbabwe: Crisis without Limits -- Human Rights and the Humanitarian Consequences of Political Repression in Zimbabwe*. New York, January. Internet: http://www.hrw.org/sites/default/files/reports/zimbabwe0109web.pdf (accessed 11 May 2010).

Human Rights Watch (HRW). 2010. *The Mbeki Panel Report One Year On*. New York: 29 October. Internet: https://www.hrw.org/news/2010/10/29/mbeki-panel-report-one-year-on (accessed 12 June 2012).

Igiri, C.O and Lyman, P.N. 2004. *Giving Meaning to 'Never Again': Seeking an Affective Response to the Crisis in Darfur and Beyond*. New York: Council on Foreign Relations, CRS No. 5. Internet: http://www.cfr.org/publication/7402/givingmeaningagain.html (accessed 15 May 2009).

Ignatieff, M. 2004. 'Why are we in Iraq (and Liberia? and Afghanistan?)'. *The New York Times Magazine*, 14 March.

International Coalition for the Responsibility to Protect (ICRtoP). 2013. *A Toolkit on the Responsibility to Protect*. New York: Institute for Global Policy. Internet: http://res ponsibilitytoprotect.org/ICRtoP%20Toolkit%20on%20the%20Responsibility%20to%20P rotect%20high%20res.pdf (accessed 10 November 2014).

294

International Commission of Inquiry (ICI). 2005. *Report to the UN Secretary-General, Geneva, 25 January*. Internet: http://www.un.org/News/dh/sudan/com_inq_darfur.pdf (accessed on 20 May 2011).

International Commission on Intervention and State Sovereignty (ICISS). 2001. *The Responsibility to Protect*. Ottawa: International Development and Research Centre (IDRC).

International Criminal Court (ICC). 2008. *Situation in Dafur, Sudan -- Summary of the Case: The Prosecutor's Application for a Warrant of Arrest under Article 58 against Omar Hassan Ahmad Al-Bashir*. Internet: http://www.icc-cpi.int/NR/rdonlyres/64FA6B33-05 C3-4E9CA6723FA2B58CB2C9/277758/ICCOTPSummary20081704ENG.pdf (accessed 29 January 2013).

International Criminal Court (ICC). 2009. *The Prosecutor v. Omar Hassan Ahmad Al-Bashir (ICC-02/05-01/09), The Hague, The Netherlands*. Internet: http://www.icc-cpi.int/en_ menus/icc/situations%20and%20cases/situations/situation%20icc%200205/related%20ca ses/icc02050109/pages/icc02050109.aspx (accessed 4 May 2011).

International Criminal Court (ICC). 2010. *Situation in Darfur, Sudan: In the Case of the Prosecutor v. Omar Hassan Ahmad Al-Bashir, The Hague, the Netherlands, 12 July*. Internet: http://www.icc-cpi.int/iccdocs/doc/doc907140.pdf (accessed 29 January 2013).

International Crisis Group (ICG). 2008. *Ending Zimbabwe's Nightmare: A Possible Way Forward*. Africa Policy Briefing No. 56. Brussels: ICG. Internet: http://www.crisisgroup. org/en/regions/africa/southern-africa/zimbabwe/B056-ending-zimbabwes-nightmare-a-po ssible-way-forward.aspx.(accessed 23 July 2009).

International Crisis Group (ICG). 2010. *Implementing the Responsibility to Protect in Kenya and Beyond, 5 March*. Internet: http://www.responsibilitytoprotect.org/index.php/compo nent/content/article/35-r2pcs-topics/2730-international-crisis-group-implementing-the-res ponsibility-to-protect-in-kenya-and-beyond (accessed 30 November 2010).

IRIN News (Harare), 29 July 2009. 'News Report: Zimbabwe -- Mugabe Threatens to Ban NGOs Again'. Internet: http://www.irinnews.org/report/85487/zimbabwe-mugabe-threat ens-to-ban-ngos-again (accessed 27 August 2010)

Ismail, O. and LaRocco, A. 2012. *Failing Darfur*. Washington, DC: Enough Project. Internet: http://www.enoughproject.org/files/DDPDimplementation.pdf (accessed 9 July 2014).

Ismail, O. 2013. 'The Internationally Recognised Right to Life Trumps State Sovereignty: The Case of Darfur', in Sancin, V. and Dine, M.K. (eds). *The Responsibility to Protect in Theory and Practice*. Ljubjana: GV Zalozba Publishing House, pp. 331-356.

Jackson, R. and Sorensen, G. 2003. *Introduction to International Relations: Theories and Approaches* (2nd Edition). Oxford: Oxford University Press.

Jackson, R. and Sorensen, G. 2007. *Introduction to International Relations: Theories and Approaches* (3rd Edition). Oxford: Oxford University Press.

Jacobs, N. and Stultz, N. 2009. *Teaching with the News: The United Nations Crisis in Zimbabwe*. Providence (RI): Brown University, The Choices Programme, Watson Institute for International Studies. Internet: http://www.choices.edu/resources/documents/ zimbabwe_lesson.pdf (accessed 23 December 2010).

Jain, D. 2009. 'Non-Alignment in 2009?' *The Wall Street Journal*, 15 July 2009. Internet: http://www.devakijain.com/pdf/jain_nonalignment2009.pdf (accessed 10 June 2011).

Jennifer, B. and Laurel, S. 2006. *A Slight for Sore: Bringing Gender Vision to the Responsibility to Protect Framework*. Santo Domingo: United Nations International Research and Training Institute for the Advancement of Women (INSTRAW). Internet: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2129575 (accessed 11 May 2010).

Jentleson, B.W. 2012. 'The Obama Administration and R2P: Progress, Problems and Prospects'. *Global Responsibility to Protect*, 4 (4), pp. 399-423.

Jeremy, S. 2009. 'The Role of the UN, AU and Africa's Sub-Regional Organisations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian Intervention and the Responsibility to Protect'. *Journal of African Law*, 53 (1), pp. 1-33.

Johansen, R.C. 2011. 'Opinion: How to Save Lives in Libya', *GlobalPost*, 13 March 2011. Internet: http://www.globalpost.com/dispatch/news/opinion/110311/libya-united-nations-gaddafi (accessed 18 September 2013).

Johnson, D.H. 2003. *The Root Causes of Sudan's Civil War*. Oxford: Bloomington.

Johnson, R.W. 2010. *South Africa's Brave New World: The Beloved Country since the End of Apartheid*. London: Penguin.

Junbo, J. 2012. *China in International Conflict-Management: Darfur as a Case*. Shanghai: Shanghai Institute of International Studies, Global Review.

Kaldor, M. 2007. *Human Security: Reflections on Globalisation and Intervention*. Cambridge: Polity Press.

Kalu, A.K. 2009. 'Resolving African Crisis: Leadership Role for African States and the AU in Darfur'. *African Journal on Conflict Resolution*, 9 (1), pp. 9-39.

Kamete, A.Y. 2006. The return of the jettisoned: Zanu-PF's Crack at 're-urbanising' in Harare. *Journal of Southern African Studies* 32(2), pp. 255 - 271.

Karbo, T. 2004. *'Conflict Prevention, Management and Resolution in Africa,' Paper presented on a Conference on Managing Multi-National Peace Missions.* University of Zimbabwe: Centre for Defence Studies.

Kardas, S. 2001. 'Humanitarian Intervention: The Evolution of the Idea and Practice'. *Journal of International Affairs*, 4 (2), pp. 1-11.

Kassner, J.J. 2013. *Rwanda and the Moral Obligation of Humanitarian Intervention: Studies in Global Justice and Human Rights*. Edinburgh: Edinburgh University Press.

Katzenstein, P.Z. (ed). 1996. *The Culture of National Security: Norms and Identities in World Politics*. New York: Columbia University Press.

Kaulemu, D. 2010. 'Church Responses to the Crisis in Zimbabwe'. *The Review of Faith and International Affairs*, 8 (1), pp. 47-54.

Ken, B. and Steve, S. 1995. *The Self–Image of a Discipline: A Genealogy of International Relations Theory*. University Park (PA): Pennsylvania State University Press.

Kersten, M. 2011. *The ICC and the Responsibility to Protect -- Bridging the Gap*. Justice in Conflict Blog. Internet: http://justiceinconflict.org/2011/03/28/the-icc-and-r2p-bridging-the-gap/ (accessed 31 January 2013).

Khalid, M. 1990. *The Government They Deserve: The Role of the Elite in Sudan's Political Evolution*. London: Kegan Paul International.

Kilogour, D. 2005. *Darfur and the Responsibility to Protect*. Ottawa: National Press Club, 17 June. Internet: http://www.david-kilgour.com/mp/Darfur%20and%20the% 20Responsibility%20to%20Protect.htm (accessed 27 May 2011).

Kindiki, K. 2007. *Intervention to Protect Civilians in Darfur: Legal Dilemmas and Policy Imperatives*. Pretoria: Institute for Security Studies, Monograph Series No. 131, May. Internet: https://www.issafrica.org/publications/monographs/monograph-131-intervention-to-protect-civilians-in-darfur-legal-dilemmas-and-policy-imperatives-kithure-kindiki (accessed 27 June 2008).

Kioko, B. 2003. 'The Right of Intervention under the African Union's Constitutive Act: Non-Interference to Non-Intervention'. *International Review of the Red Cross*, 8 (5), pp. 807-825.

Kisiangani, E. 2008. 'Indicting Al-Barshir: The Promise of Justice versus the Peril of Politics: Negotiating a Balance'. *Global Insight*, Issue 2, September 2008. Braamfontein: Institute for Global Dialogue.

Koko, S. 2007. 'Whose Responsibility to Protect? Reflection on the Dynamics of an "Abandoned Disorder" in Somalia'. *African Security Review*, 16 (3), pp.1-13.

Kotey, L.A. 2008. 'Ghana: MPs Call for Military Intervention in Zimbabwe', *Ghanaian Chronicle*, 25 June 2008. Internet: http://allafrica.com/stories/200806251099.html (accessed 29 August 2013).

Krasner, S.T. 1982. 'Structural Causes and Regime Consequences: Regimes as Intervening Variables'. *International Organisation*, 36 (2), pp. 185-205.

Kubicek, P. and Parke, D. 2011. 'European Union and Humanitarian Intervention: Bosnia, Darfur and Beyond'. *EU External Affairs Review*, 1, pp. 60-70.

Kupferberg, K. 2008. *Humanitarian Intervention in Darfur: Justifying the Right to Intervention by Mapping Principles of the Just War Paradigm*. Unpublished Masters Dissertation in International Relations and Politics, University of Nottingham.

Kuwali, D. 2009. *Persuasive Prevention: Towards a Principle for Implementing Article 4(h) and R2P by the African Union*. Current African Issues Series No. 42, Uppsala: Nordic Africa Institute.

Kuwali, D. 2012. *The Responsibility to Protect: Why Libya and not Syria*. Policy and Practical Brief Issue No. 16. Durban: African Centre for the Constructive Resolution of Disputes (Accord).

Lamony, S. A. 2013. 'Nigeria was wrong to host Omar Al-Bashir at AU summit'. *African Arguments,* 2 August 2013. Internet: http://africanarguments.org/2013/08/02/nigeria-was-wrong-to-host-omar-al-bashir-at-au-summit-by-stephen-a-lamony/ (accessed 26 August 2013).

Landsberg, C. 2010. 'Pax South Africana and the Responsibility to Protect'. *Global Responsibility to Protect*, 2 (2), pp. 436-457.

Large, D. 2011. *China and Post-Conflict Reconstruction in Africa: The Case of Sudan*. Policy Briefing No. 36, October. Johannesburg: South African Institute of International Affairs. Internet: http://file:/C:/Users/Administrator/Downloads/saia_spb_36_large_20111031.pdf (accessed 25 May 2012).

Lippman, M. 'Darfur: The Politics of Genocide Denial Syndrome'. *Journal of Genocide Research*, 9 (2), pp. 193-213.

Lipton, M. 2009. 'Understanding South Africa's Foreign Policy: The Perplexing Case of Zimbabwe'. *South African Journal of International Affairs*, 16 (3), pp. 331-346.

Loeb, J. 2013. *Talking to the Other Side: Humanitarian Engagement with Armed Non-State Actors in Darfur, Sudan, 2003-2012*. Humanitarian Policy Group (HPG) Working Paper. London: Overseas Development Institute. Internet: http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8590.pdf (accessed 21 May 2014).

Loewenthal, C. 2006. 'President Bush Signs Darfur Peace and Accountability Act: Issues Executive Order Blocking Khartoum's Property and Transactions'. *ReliefWeb*, 14 October 2006. Internet: http://reliefweb.int/report/sudan/president-bush-signs-darfur-pea ce-and-accountability-act (accessed 19 May 2009).

Loiselle, E.M. 2013. 'The Normative Status of the Responsibility to Protect after Libya'. *Global Responsibility to Protect*, 5 (3), pp. 317-341.

Louis, A. 2008. 'The Responsibility to Protect as a Duty to Care in International Law Practice'. *International Studies Review*, 34 (3), pp. 445-458.

Luck, E. 2010. 'A Response'. *Global Responsibility to Protect*, 2 (1-2), pp. 178-183.

Lund, M. 2005. *Preventing Violent Conflicts: A Strategy for Preventive Diplomacy*. Washington DC: United States Institute of Peace.

Lyman, P. 2011. *Statement by the US Special Envoy to the House Sub-Committee on Africa and Global Health, 8 August 2011*. Washington, DC: US Congress. Internet: http://www.state.gov/s/sudan/rem/2011/167439.htm (accessed 18 July 2013).

Lynch, C. 2014. 'A Mission That Was Set Up to Fail'. *Foreign Policy.com*, 8 April. Internet: http://foreignpolicy.com/2014/04/08/a-mission-that-was-set-up-to-fail/ (accessed 21 October 2014).

Machakanja, P. 2010. National Healing and Reconciliation in Zimbabwe: Challenges and Opportunities. Zimbabwe Monograph Series No. 1. Cape Town: Institute for Justice and Reconciliation. Internet: http://www.ijr.org.za/publications/pdfs/IJR%20AP%20Mono graph %201%20Zimbabwe%20WEB.pdf (accessed 81 August 2011).

Maclean, S.J. 2002. 'Mugabe at War: The Political Economy of Conflict in Zimbabwe'. *Third World Quarterly*, 23 (3), pp. 513-528.

Mada, G. 2007. 'Catch Them Young' -- Cadet Schools as Modern Initiation Lodges: A Case Study of Southern Rhodesia (Zimbabwe), 1900-1968. *Zimbabwe Journal of Education Research*, 19 (2), pp. 163-174.

Magret, F. 2009. *Beyond the 'Salvation' Paradigm: Responsibility to Protect (Others) vs Power of Protecting Oneself*. Security Dialogue, McGill University, Montreal.

Mail&Guardian (Johannesburg), 28 January 2005. News Report: 'Zimbabwe: 5.8m Go Hungry as Food Crisis Worsens'. Internet: http://mg.co.za/article/2005-01-28-zimbabwe-58m-go-hungry-as-food-crisis-worsens (accessed 10 July 2010).

Makumbe,   J. 2003. ZANU‑PF: A Party in Transition?, *in* Cornwell, *R.* (ed). Zimbabwe's Turmoil: Problems and Prospects. Pretoria: Institute for Security Studies. pp 24–38).

Mallotti, A. 2013. 'Human Rights and Regional Co-operation in Africa: SADC and the Crisis in Zimbabwe'. *Strategic Review for Southern Africa*, 35 (1), pp. 17-40.

Mamdani, M. 2007. 'The Politics of Naming: Genocide, Civil War and Insurgence'. *Review of Books*, 29 (5), pp. 1-9.

Mamdani, M. 2008. 'The New Humanitarian Order', *The Nation* (Nairobi), 29 September 2008. Internet: http://www.thenation.com/article/new-humanitarian-order# (accessed 26 July 2014).

Mamdani, M. 2009. *Saviours and Survivors: Darfur Politics and the War on Terror*. Cape Town: Human Sciences Research Council.

Mandaza, I. 1995. 'Peace and Security, Regional Co-operation and Economic Integration'. *Southern Africa Political and Economic Monthly*, 8 (7), pp. 29-31.

Manji, F. and Marks, S. (eds). 2007. *African Perspectives on China in Africa*. Oxford: Fahamu.

Manungo, K. D. 1991. '*Role peasants played in Zimbabwe war of liberation with special emphasis on Chiweshe district.'* Ohio University: PhD Thesis- Department of History Department of History.

Mansaray, A.V. 2009. 'AMIS in Darfur: Africa's Limits in Peace and Political Mediation'. *African Security Review*, 18 (1), pp. 35-48.

Mapuva, J. 2010. 'Government of National Unity (GNU) as a Conflict Prevention Strategy: Case of Zimbabwe and Kenya'. *Journal of Sustainable Development in Africa*, 12 (6), pp. 247-263.

Maroodza, R.G. 2011. 'The Socio-Economic Dimensions of Zimbabwe's Look East Policy'. *Berkeley Journal of Social Sciences*, 1 (4), pp. 1-42.

Marowa, I. 2009. Construction of the sell-out' Identity during Zimbabwe's war of liberation: A case study of the Dandawa Community of Hurungwe district, 1975-1980. *An Afro-Asian Dialogue* 10(1), pp. 121- 131.

Martyns, J. 2008. *The Responsibility to Protect*. Paper prepared for the Second World International Studies Conference (WISC) on 'What Keeps Us Apart, What Keeps Us Together? International Order, Justice and Values', Ljubljana, Slovenia, 23-26 July. Internet: http://www.wiscnetwork.org/ljubljana2008/papers/WISC_2008-68.pdf (accessed 17 August 2009).

Mashingaidze, T. 2006. 'The Zimbabwean Entrapment: An Analysis of the Nexus between Domestic and Foreign Policies in a "Collapsing" Militant State, 1990-2006'. *Alterna-tives: Turkish Journal of International Relations*, 5 (4), pp. 57-72.

Mashiri, C. 2011. 'Collapse of Zimbabwe's GNU Would be a ZANU-PF Victory', *Zimbabwe Daily* (Harare), 10 March. Internet: http://www.thezimbabwedaily.com/opinion/7517-collapse-of-zimbabwes-gnu-would-be-a-zanu-pf-victory.html (accessed 13 March 2013).

Masunungure, E. 2011. *Zimbabwe on the Crossroads: Challenges for Civil Society*. Johannesburg: Open Society Initiative for Southern Africa. Internet: http://www.osisa.org/sites/default/files/sup_files/Zimbabwe%20at%20the%20crossroads.pdf (accessed 28 October 2012).

Matlary, J. 2006. *Values and Weapons: From Humanitarian Intervention to Regime Change?* New York: Palgrave Macmillan.

Matombo, L. and Sachikonye, L. 2010. The Labour Movement and Democratisation in Zimbabwe, in Beckman, B., Buhlungu, S and Sachikonye, L. (eds). *Trade Unions and Party Politics' Labour Movements in Africa*. Pretoria: Human Sciences Research Council (HSRC).Pp.109-130.

Mavhunga, P. J. 2006. Africanisaing the School Curriculum: A Case for Zimbabwe. *Zimbabwe Journal of Educational Research* 18(3). pp. 440 –456

Mazarire, G. 2013. 'ZANU-PF and the Government of National Unity', in Rafopoulos, B. (ed). *The Hard Rock to Reform: The Politics of Zimbabwe's Global Political Agreement*. Harare: Weaver Press, pp. 71-116.

Mbeki, M. 2010. *Architects of Poverty: Why Africa's Capitalism Needs Changing*. Johannesburg: Macmillan.

Mbeki, T. 2011(a). *Sudan in Africa: A Vision for the Future*. A lecture at the University of Khartoum, 5 January 2011. Internet: http://africanarguments.org/2011/01/05/sudan-in-africa-a-vision-for-the-future/ (accessed 3 May 2012).

Mbeki, T. 2011(b). 'What the World Got Wrong in Côte d'lvoire'. *NewAfrican*, No. 507, June.

Mboya, T. 2009. 'Conflict between State Sovereignty and the Right of Intervention under the Constitutive Act of the African Union'. *Africa Insight*, 39 (2), pp. 77-89.

Mbuen, E.L. 2009. *The Impunity of Gross Human Rights Violations in Conflict Zones: A Case for the Responsibility to Protect in Darfur*. Budapest: Central European University.

McKinley, D.T. 2004. 'South Africa's Foreign Policy towards Zimbabwe under Mbeki'. *Review of African Political Economy*, 31 (100), pp. 357-364.

Melber, H. 2009. 'Southern African Liberation Movements as Governments and the Limits to Liberation'. *Review of African Political Economy*, 36 (121), pp. 451-459.

Memorandum of Understanding (MoU). 2008. Memorandum of Understanding between the Zimbabwe African National Union-Patriotic Front and the Two Movements for Democratic Change Formations, Harare, 15 September. Internet: http://www.peaceau.org/up loads/zimbabwe-memorandum-of-understanding.pdf (accessed 11 June 2009).

Meredith, M. 2007. *Power, Plunder and the Struggle for Zimbabwe*. South Africa: Jonathan Ball Publishers.

Mufamadi, S. 2010. 'Lessons from African Diplomatic Initiatives in the DRC, Sudan and Zimbabwe'. *The Round Table: The Commonwealth Journal of International Affairs*, 99 (411), pp. 621-630.

Mhandara, L. and Pooe, A. 2013. *Mediating a Convoluted Conflict: South Africa's Approach to the Inter-Party Negotiations in Zimbabwe*. Occasional Paper Series Issue 1. Durban: African Centre for the Constructive Resolution of Disputes (Accord). Internet: http://dspace.africaportal.org/jspui/bitstream/123456789/34129/1/ACCORD-occasional paper-2013-1.pdf?1 (accessed 21 June 2014).

Mills, G. 2005. *Agitator, Facilitator or Benefactor? Assessing South Africa's Zimbabwe Policy*. Testimony given to the House Committee on International Relations, Sub-Committee on Africa, Global Human Rights, and International Operations, 21 April. Washington DC: US Congress. Internet: http://wwwa.house.gov/international_relations/ 109/mil042105.pdf (accessed 12 November 2010).

Mills, K. 2009. Vacillating on Darfur: Responsibility to Protect, to Prosecute, or to Feed? *Global Responsibility to Protect*, 1 (4), pp. 532-559.

Mitchel, C.R. 1981. *The Structure of International Conflict*. London: Macmillan.

Mlabo, A.S. 1972. *Rhodesia: The Struggle for a Birth Right*. London: Hurst.

Mlambo, A.S. 1997. *The Economic Structural Adjustment Programme: The Zimbabwean Case, 1990-1995*. Harare: UZ Publications.

Mlambo, A. 2003. 'The Social Costs of the Zimbabwe Crisis since 2000', in Colvard, K. and Lee, C.M. (eds). *Unfinished Business: The Land Crisis in Southern Africa*. Pretoria: Africa Institute of South Africa.

Mlambo, A.S. 2005. 'Land Grab or Taking Back Stolen Land: The Fast-Track Land Reform Process in Zimbabwe in Historical Perspective'. *Compass History*, 3 (1), pp. 1-21.

Mlambo, A.S. 2006. 'The Zimbabwean Crisis and International Response'. *Journal of Contemporary History*, 31 (2), pp. 54-77.

302

.Mlambo, A.S. and Raftopoulos, B. 2010. *The Regional Dimensions of Zimbabwe's Multi-Layered Crisis: An Analysis*. Conference Paper presented on the theme, 'Election Process, Liberation Movements and Democratic Change in Africa', Maputo (supported by the Ministry of Foreign Affairs, Norway, 18 April). Internet: http://www.iese.ac.mz/lib/publication/proelit/Alois_Mlambo.pdf (accessed 16 August 201).

Montreal Institute for Genocide and Human Rights Studies (MIGS). 2009. *Mobilising the Will to Intervene: Leadership and Action to Prevent Mass Atrocities*. Montreal: MIGS.

Morgenthau, H. and Thompson, K. 1985. *Politics among Nations* (6th Edition). New York: McGraw-Hill.

Moyo, S. 1995. *The Land Question in Zimbabwe*. Harare: SAPES.

Moyo, S. 2000. *The Political Economy of Land Acquisition and Redistribution in Zimbabwe, 1890-1999*. Harare: SAPES.

Moyo, S. 2001. 'The Land Occupation Movement in Zimbabwe: Contradictions of Neoliberalism'. *Millennium: Journal of International Studies 30*(2). pp. 311-330.

Moyo, S. and Yeros, P. 2007. 'Radicalised State: Zimbabwe's Interrupted Revolution'. *Review of African Political Economy*, 34 (111), pp. 103-121.

Murithi, T. 2007(a). Between Paternalism and Hybrid Partnership: The Emerging UN and Africa Partnership in Peace Operations. Briefing Paper. New York: Friedrich-Ebert-Stiftung (FES). Internet: http://library.fes.de/pdf-files/iez/global/04676.pdf (accessed 11 May 2010).

Murithi, T. 2007(b). 'The Responsibility to Protect as Enshrined in Article 4 of the Constitutive Act of the African Union'. *African Security Review*, 16 (3), pp. 14-24.

Murithi, T. 2008. 'The African Union's Evolving Role in Peace Operations: The African Union Mission in Burundi, the African Union Mission in Sudan, and the African Union Mission in Somalia'. *African Security Review*, 17 (1), pp. 71-82.

Murithi, T. 2009. 'The African Union's Transition from Non-Intervention to Non-Indifference: An ad hoc Approach to the Responsibility to Protect? *Internationale Politik und Gesellschaft*, 1, pp. 90-106.

Murithi, T. 2013. *The African Union and the International Criminal Court: An Embattled Relationship?* Policy Brief No. 8, March. Cape Town: Institute for Justice and Reconciliation. Internet: http://www.ijr.org.za/publications/pdfs/IJR%20Policy%20Brief%20No%208%20Tim%20Miruthi.pdf (accessed 71 June 2013).

Murithi, T. and Mpyisi, K. (eds). 2007. 'Conflict Prevention and the Responsibility to Protect in Africa? *African Security Review*, 16 (3), pp. iv-vi.

303

Murithi, T. and Mawadza, A. 2011. 'Voices from Pan-African Society on Zimbabwe: South Africa, the African Union and SADC', in Murithi, T. and Mawadza, A. (eds). *Zimbabwe in Transition: A View from Within*. Johannesburg: Jacana Media, pp. 290-311.

Muzondidya, J. 2009. 'From Buoyancy to Crisis, 1980-1997', in Raftopoulos, B. and Mlambo, A.S. (eds). *Becoming Zimbabwe: A History from the Pre-Colonial Period to 2008*. Harare: Weaver Press, pp. 167-200.

Muzondidya, J. 2013. 'The Opposition Dilemma in Zimbabwe: A Critical Review of the Politics of the Movement for Democratic Change under the GPA Framework, 2009-2012', in Rafopoulos, B. (ed). *The Hard Road to Reform: The Politics of Zimbabwe's Global Political Agreement*. Harare: Weaver Press, pp. 39-70.

Mwanasali, M. 2004. 'Emerging Security Architecture in Africa'. *Policy: Issues and Actors*, 17 (4), pp. 1-27.

Mwanasali, M. 2008. 'From Non-Interference to Non-Indifference: The Emerging Doctrine of Conflict Prevention in Africa', in Akokpari, J., Ndinga-Muvumba, A. and Murithi, T. (eds). The African Union and its Institutions. Cape Town: Centre for Conflict Resolution, pp. 41-68.

Myerson, R.B. 1991. *Game Theory: Analysis of Conflict*. Cambridge (MA): Harvard University Press.

Nako, J. 2011. 'Dollarization: The Case of Zimbabwe'. *Cato Journal*, 31(2), pp. 339-365.

Nathan, L. 2005. 'Consistencies and Inconsistencies in South Africa's Foreign Policy in Africa'. *International Affairs*, 81 (2), pp. 361-372.

Nathan, L. 2006. *No Ownership, No Peace: The Darfur Peace Agreement*. Working Paper No. 2. London: Crisis States Research Centre. Internet: http://www.peacemaker.un.org/sites/peacemaker.un.org/files/NoOwnershipNoPeaceDarfur_Nathan.pdf (accessed 12 February 2010).

Nathan, L. 2007(a). 'Long Road to Peace in Darfur. *Pambazuka News* (Fahamu: Networks for Social Justice), Issue 316, 8 August. Internet: http://www.pambazuka.org/en/category/comment/42960 (accessed 20 May 2011).

Nathan, L. 2007(b). 'The Making and Unmaking of the Darfur Peace Agreement', in De Waal, A. (ed). *War in Darfur and the Search for Peace*. Cambridge (MA): Harvard University Press, pp. 245-266.

Nathan, L. 2009. 'Counting Al-Barshir! South Africa, Sudan and Darfur', in Shilling, K. (ed). *Africa's Peacemaker? Lessons from South African Conflict Mediation*. Johannesburg: Jacana Media, pp. 81-91.

Nathan, L. 2011. *The Sacking of the SADC Tribunal*. Paper prepared for 'The UN and Regional Challenges in Africa, 50 Years after the Death of Dag Hammarskjöld, University of Pretoria, 13-15 July.

Nathan, L. 2013. 'The Disbanding of the SADC Tribunal: A Cautionary Tale'. *Human Rights Quarterly*, 35, pp. 870-892.

Ncube, B. 2013. *SADC Mediation Mechanism on Conflict Prevention, Management and Resolution: Lessons from the Zimbabwe Process*. Pretoria: SADC Lawyers Association. Internet: http://www.sadcla.org/sites/default/files/B.%20Ncube%20SADCLA%20Presen tation_ 0.pdf (accessed 10 May 2014).

Ndlela, D.B. 2003. 'Zimbabwe's Economy since 1990', in Colvard, K. and Lee, C.M. (eds). *Unfinished Business: The Land Crisis in Southern Africa*. Pretoria: Africa Institute of South Africa.

Ndlovu-Gatsheni, S. 2005. *Zimbabwe's Self-Induced Tsunami: Fast-Track Land Reform and Operation Clean-Up.* DPhil Thesis, Monash University of South Africa (unpublished).

Ndlovu-Gatsheni, S. 2006. *The Nativist Revolution and Development Conundrums in Zimbabwe*. Occasional Paper Series 1 (4). Durban: African Centre for the Constructive Resolution of Disputes (Accord).

Ndlovu-Gatsheni, S.J. 2007. 'Bob is Peerless: Zimbabwe and the Quest for an African Peer Review Mechanism', in Melber, H. (ed). *Governance and State Delivery in Southern Africa: Examples from Botswana, Namibia and Zimbabwe*. Uppsala: Nordic Africa Institute, pp. 43-65.

Newman, E. 2001. **"**Human Security and Constructivism**."** International Studies Perspectives**, 2** (3), pp. 239-251.

News24 Archives. 2000. 'Zim spent $200m on DRC War'. 30 August. Internet: http://www. news24.com/xArchive/Archive/Zim-spent-200m-on-DRC-war-. (accessed 12 May 2010).

New Zimbabwe (Harare), 28 August 2012. News Report: 'Mugabe in Tehran for NAM Summit". Internet: http://www.newzimbabwe.com/news-8900-Mugabe+in+ Tehran+for+ NAM+ summit/news.aspx (accessed 12 September 2012).

Ngoma, N. 2005. 'Peace Support Operations and Perpetual Human Failings: "Are We All Human, or Are Some More Human than Others?"'. *African Security Review*, 14 (2), pp. 112-116.

Nikolaos, K.T. 1996. *The Theory and Praxis of Humanitarian Intervention*. PhD Thesis, University of Nottingham. Internet: http://eprints.nottingham.ac.uk/10916/1/339635.pdf (accessed 12 January 2009).

Njeri, C. 2008. *Xenophobia in South Africa: What Stoked the Members?* <u>Khaleej Times Online</u>. Internet: http://www.khaleejtimes.com/index00.asp (accessed 10 March 2011).

Non-Aligned Movement (NAM). 2003. *XIIIth Conference of Heads of State and Government of the Non-Aligned Movement, Kuala Lumpur, 20-25 February (NAM XIII/Summit/ Report).* Internet: http://www.nam.gov.za/media/030227a.htm (accessed 18 May 2010).

Non-Aligned Movement (NAM). 2012. *Ministerial Meeting of the Non-Aligned Movement Co-ordinating Bureau, Sharm El Sheikh, Egypt, 7-10 May (Final Document/NAM 2012/CoB/Doc.*1). Internet: http://www.mfa.gov.eg/nam/documents/final%20document%20adopted%20by%20the%20ministerial%20meetings%209-10%20May.pdf (accessed 15 November 2013).

Norman, B. 2008. *The ICC Indictment of Sudanese President Bashir and the Continuing Genocide in Darfur.* New York: Henry Jackson Society.

Norris, J. and Malknecht, A. 2013. *Atrocities Prevention Board Background: Performance, and Options.* Washington, DC: Centre for American Progress, 13 June. Internet: https://www.americanprogress.org/wp-content/uploads/2013/06/AtrocitiesPrevBoard.pdf (accessed 19 June 2014).

North Atlantic Treaty Organisation (NATO. 2008. *Press Release: NATO Supporting African Union's Missions, February 1.* Internet: http://www.nato.int/docu/pr/2008/p08-018e.html (accessed 24 June 2011).

Norwegian Nobel Committee (NNC). 2001. *Press Release: The Nobel Peace Prize, 12 October.* Internet: http://www.nobelprize.org/nobel_prizes/peace/laureates/2001/press.ht ml (accessed 19 August 2009).

Nyakudya, M. 2007. 'The Rationale for National Strategic Studies in Teacher Training Colleges: Fostering a Sense of Patriotism in Trainee Teachers'. *Zimbabwe Journal of Education Research*, 19 (2), pp. 115-126.

Nyang'oro, J. 2005. *The 2006 General Elections in Tanzania: Implications for Peace and Security in Southern Africa.* Occasional Paper No. 122, February 2006. Pretoria: Institute for Security Studies.

O'Connell, M.E. 2011. 'How to Lose a Revolution', in Weiss, T.G. *et al. The Responsibility to Protect: Challenges and Opportunities in Light of the Libyan Intervention.* e-International Relations, November, pp. 315-317. Internet: http://www.e-ir.info/wp-content/uploads/R2P.pdf (accessed 29 February 2012).

Orford, A. 2012. *International Authority and Responsibility to Protect.* Cambridge: Cambridge University Press.

O'Loughlin, J. (ed). 1994. *Dictionary of Geopolitics*. Westport (CT): Greenwood Press.

O'Neill, W.G and Cassis, V. 2005. *Protecting Two Million Internally Displaced: The Successes and Shortcomings of the AU in Darfur*. Washington, DC: Brookings Institution.

O'Tuathail, G. 2002. 'Theorising Practical Geopolitical Reasoning: The Case of the United States Response to the War in Bosnia'. *Political Geography*, 21, pp. 601-628.

O'Tuathail, G., Dalby, S. and Routledge, P. 1998. *The Geopolitics Reader*. New York: Routledge.

Obama, B. 2008. *Statement of Senator Barack Obama on the Crisis in Zimbabwe, 26 April* Internet: http://www.presidency.ucsb.edu/ws/?pid=91066 (accessed 23 May 2009).

Obi, C. 2011(a). *West African Regional Security Architecture with Special Reference to the Côte d'lvoire Crisis*. Paper prepared for 'The UN and Regional Challenges in Africa, 50 Years after the Death of Dag Hammarskjöld, University of Pretoria, 13-15 July.

Obi, C.I. 2011(b). 'Are Elections Really Enough? The Transition to Democratic Peace in West Africa', in Lorentz, L. (ed). *The Rise of Africa: Miracle or Mirage?* Uppsala: Nordic Africa Institute, pp. 14-16.

Odero, S. 2011. 'Politics of International Criminal Justice, the ICC's Arrest Warrant for Al-Bashir, and the African Union's Neo-Colonial Conspirator Thesis', in Murungu, C. and Biegon, J. (eds). *Prosecuting International Crimes in Africa*. Pretoria: University of Pretoria Press, pp. 145-159.

Okolo, B.S. 2003. 'Darfur and the Genocide Debate'. *African Journal on Conflict Resolution*, 9 (3), pp. 33-52.

Olivier, M. and Chusi, N. 2009. 'Intervention in African Conflicts by the United Nations Security Council'. *Strategic Review for Southern Africa*, 31 (1), pp. 1-18.

Onslow, S. 2011. *Zimbabwe and Political Transition*. IDEAS-Strategic Update. London: London School of Economics and Political Science. Internet: http://www.amazon.com /Zimbabwe-Political-Transition-Strategic-Updates-ebook/dp/B006BZBQ0G (accessed 11 July 2012).

Pallotti, A. 2013. 'Human Rights and Regional Co-operation in Africa: SADC and the Crisis in Zimbabwe'. *Strategic Review for Southern Africa*, 35 (1), pp. 17-40.

Pantuliano, S. and O'Callaghan, S. 2006. *The 'Protection Crisis': A Review of Field-Based Strategies for Humanitarian Protection in Darfur*. London: Overseas Development Institute, Humanitarian Policy Group. Internet: http://www.odi.org.uk/hpg (accessed 28 June 2011).

Parekh, B. 1997. 'Rethinking Humanitarian Intervention'. *International Political Science Review*, 18 (49), pp. 54-55.

Parsons, R. 2007. 'After Mugabe Goes -- The Economic and Political Reconstruction of Zimbabwe'. *South African Journal of Economics*, 75 (4), pp. 599-615.

Pen, Q. 2007. 'China Opposed More Sudan Sanctions', *ChinaDaily.com*, 30 May. Internet: http://www.chinadaily.com.cn/china/2007-05/30/content_882954.htm (accessed 7 July 2010).

Pendleton, W. 2006. *Migration, Remittances and Development in Southern Africa*. Migration Policy Series No. 44. Cape Town: Southern African Migration Project (SAMP),

Petrasek, D. 2013. *R2P – Hindrance, Not a Help in the Syrian Crisis*. Open Democracy. Internet: https://www.opendemocracy.net/openglobalrights/david-petrasek/r2p-%E2%80%93-hindrance-not-help-in-syrian-crisis (accessed 20 October 2014).

Phimister, I. and Raftopoulos, B. 2004. 'Mugabe, Mbeki and the Politics of Anti-Imperialism'. *Review of African Political Economy*, 101 (31), pp. 385-400.

Physicians for Human Rights. 2009. Health in Ruins: A Man-Made Disaster in Zimbabwe. An Emergency Report by Physicians for Human Rights, January. Internet: https://s3.amazonaws.com/PHR_Reports/health-in-ruins-zim-full-2009.pdf (accessed 17 January 2010).

Piet, B. 2009. 'Khama, Mugabe Face-Off in the Offing at SADC Summit, 23 January'. *MmegiOnline*. Internet: http://allafrica.com/stories/200901260241.html (accessed 12 May 2011).

Pieterse, J.N. (ed). 1998. *World Orders in Making*. London: Macmillan.

Pitt, R.S. 2008. 'Realities of the Space Age and the Realities of Carl von Clausewitz's Theories of "Fog and Friction"'. *Army Space Journal*, pp. 54-59.

Ploch, L. 2010. *Zimbabwe: Backgrounder*. Washington, DC: Congressional Research Service (CRS). Internet: http://www.fas.org/sgp/crs/row/RL32723.pdf (accessed 12 October 2011).

Polgreen, L. 2007. 'Peacekeepers as targets: Darfur Attack Imperils Talks,' *New York Times*, 2 October. Internet: http://www.nytimes.com/2007/10/02/world/africa/02darfur.html (accessed 2 May 2011).

Pope Benedict the XVIIth. 2008. *Address to the General Assembly of the United Nations, New York, 18 April*. Internet: http://catholicmoraltheology.com/the-411-on-r2p/ (accessed 19 May 2013).

Porto, J. G. 2002. 'Contemporary Conflict Analysis in Perspective,' in Lind, J and Sturman, K. (eds). *Scarcity and Surfeit: The Ecology of Africa's Conflicts*. Pretoria: Institute of Security Studies, pp. 1-49.

Powell, C. L. 2004. *The current situation in Sudan and the prospects for peace, hearing before the Committee on Foreign Relations United States Senate- One Hundred and Eighth Congress Second Session, 9 September*. US Government Printing Office 97-822, Washington, D.C. Internment: http://www.access.gpo.gov/congress/senate (accessed 17 May 2011).

Power, S. 2004. 'Dying in Darfur', *The New Yorker* (New York), 30 August. Internet: http://www.newyorker.com/archive/2004/08/30/040830fa_fact1 (accessed 12 January 2010).

Presidential Decision No. 97. 2005. *Decree Establishing a National Commission of Inquiry to Investigate the Alleged Human Rights Violations Committed by Armed Groups in Darfur, 8 May 2004*. Internet: http://www.un.org/news/dh/sudan/com_inq_darfur.pdf (accessed 18 May 2013).

Prunier, G. 2005. *Darfur: The Ambiguous Genocide*. New York: Cornell University Press.

Prunier, G. 2008. *Darfur: A 21st Century Genocide* (3rd Edition). New York: Cornell University Press.

Pugwash Study Group on Intervention. 1999. *Sovereignty and International Security*. Washington, DC: Pugwash Group.

Puley, G. 2005. *Responsibility to Protect: East, West and Southern Africa Perspectives on Preventing and Responding to Humanitarian Crisis*. Ottawa: Ploughshares.

Quach, T.T. 2004. *The Crisis in Darfur: An Analysis of its Origins and Story Telling*. Unpublished MA Thesis, Virginia Polytechnic Institute and State University, Blacksburg (VA).

Raftopoulos, B. 2006. 'The Zimbabwean Crisis and the Challenges for the Left'. *Journal of Southern African Studies*, 32 (2), pp. 203-220.

Raftopoulos, B. 2010. 'The Global Political Agreement as a "Passive Revolution": Notes on Contemporary Politics in Zimbabwe', in Chan, S. and Primorac, R. (eds). *The Round Table: The Commonwealth Journal of International Affairs*, 99 (411), pp. 705-718.

Raftopoulos, B. 2013. 'An Overview of the GPA: National Unity', in Raftopoulos, B. (ed). *The Hard Road to Reform: The Politics of Zimbabwe's Global Political Agreement*. Harare: Weaver Press, pp. 1-38.

Raftopoulos, B. and Mlambo, A.S. 2010. *Becoming Zimbabwe: A History of Zimbabwe from the Pre-Colonial Period to 2008*. Johannesburg: Jacana Press.

Reeler, T. 2009. *Subliminal Terror? Human Rights Violations and Torture in Zimbabwe during 2008*. Report prepared by the Centre for the Study of Violence and Reconciliation (CSVR), Johannesburg. Internet: http://www.csvr.org.za/docs/torturereview.pdf (access- ed 10 November 2010).

Reeves, E. 2011. *Darfur Humanitarian Overview: The Consequences of International Silence*. Sudan: Research and Analysis Advocacy. Internet: http://sudanreeves.org/2011/01/23/darfur-humanitarian-overview-the-consequences-of-international-silence/ (accessed 12 May 2010).

Refugees International. 2005. *No Power to Protect: The African Union Mission in Sudan*. Internet: http://www.refintl.org/policy/in-depth-report/no-power-protect-african-union-mission-sudan (accessed 18 May 2010).

Reliefweb. 2005. 'Zimbabwe: "Operation Murambatsvina" -- An Overview and Summary'. Internet: http://reliefweb.int/report/zimbabwe/zimbabwe-operation-murambatsvina-overview-and-summary (accessed 21 August 2012).

Reuters News (London), 14 March 2007. 'News Report: The AU Chairman at the Time, former Ghanaian President John Kufuor, Labelled the Incident "Very Embarrassing"'. Internet: http://www.reuters.com/article/2007/03/14/us-zimbabwe-africa-idUSL1444136 120070314?mod=related&channelName=worldNews (accessed 18 August 2009).

Richardson, C. 2004. *The Collapse of Zimbabwe in the Wake of the 2000-2003 Land Reforms*. New York: The Edwin Millen Press.

Roberts, H. 2011. "Who Said Gaddafi Had to Go?" *London Review of Books,* 33 (22), pp. 8–18.

Robertson Economic Information Services. 2008. *Focus Paper*. Harare: REIS.

Robinson, P. 2008. *Dictionary of International Security*. London: Polity Press.

Rodney, W. 1972. *How Europe Underdeveloped Africa*. London: Bogle-L'Ouverture Publications.

Rose, T. 2005. *Integrating Conflict Prevention and Peace-Building into the United Nations Development Assistance Frameworks*. Discussion Paper No. 2. International Peace-Building Assistance. Internet: http://heller.brandeis.edu/coex/pdfs/complementary-approaches/2005i-p-interpeace-integrating-peacebuilding-into-un-development-assistance-frameworks-en.pdf (accessed 11 January 2010).

Rossouw, M. and Moyo, J. 2008. 'Botswana Raps "No Crisis" Mbeki', *Mail&Guardian*, 8 April. Internet: http://mg.co.za/article/2008-04-18-botswana-raps-no-crisis-mbeki (accessed 11 November 2008).

Runhare, T. and Hwami, M. 2009. 'The Ideological Role of Education in the Clash between National State Conservatism and Globalisation: The Case of Zimbabwe'. *Journal of Educational Studies*, 8 (1), pp. 92-114.

Rupesinghe, K. 1997. *The General Principles of Multi-Track Diplomacy*. Durban: African Centre for the Constructive Resolution of Disputes (Accord).

Rupiya, M. 2005. *Evolutions and Revolutions: A Contemporary History of Militaries in Southern Africa*. Pretoria: Institute for Security Studies.

Ruppel, O.C and Bangamwabo, F.X. 2008. 'The SADC Tribunal: A Legal Analysis of its Mandate and the Role in Regional Integration', in Bosl, A., Breytenbach, W., Hartzenberg, T., McCarthy, C. and Schade, K. (eds). *Monitoring Regional Integration in Southern Africa: Yearbook, Volume 8*, Stellenbosch: Trade Law Centre for Southern Africa, pp. 196-239.

Ryniker, A. 2001. 'The ICRC's Position on Humanitarian Intervention'. *International Review of the Red Cross*, 83 (842), pp. 527-532.

Sachikonye, L.M. 2005a. 'The Land is the Economy: Revisiting the Land Question'. *African Security Review*, 14 (3), pp. 32-44.

Sachikonye, L.M. 2005b. 'South Africa's Quiet Diplomacy: The Case of Zimbabwe', in Daniel, J., Lutchman, J. and Southall, R. (eds). *State of the Nation: South Africa, 2004-2005*. Cape Town: HSRC Press, pp. 569-585.

Sampson, I. T. 2011. I*nternational Prosecution or Political Compromise: Which way for the African Union in Darfur Crisis?* African Centre for Constructive Resolution of Disputes (ACCORD).

Sarkin, J. 2009. 'The Role of the United Nations, the African Union and Africa's Sub-Regional Organisations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian Intervention and Responsibility to Protect'. *Journal of African Law*, 53 (1), pp. 1-33.

Sarkin, J. 2012. 'Is the Responsibility to Protect an Accepted Norm of International Law in the Post-Libya Era? How its Third Pillar Ought to be Applied.' *Groningen Journal of International Law*, 1, pp. 11-48.

Saunders, R. 1996. 'Economic Structural Adjustment Programme (ESAP)'s Fables II'. *Southern Africa Report*, 11 (4), pp. 8-15.

Saurombe, A. 2009. 'Regional Integration Agenda for SADC "Caught in the Wind of Change": Problems and Prospects'. *Journal of International Commercial Law and Technology*, 4 (2), pp. 100-106.

Save the Children UK. 2010. *Case Studies on the Role of Politicisation of Education in Conflict-Affected Countries*. Background paper prepared for Education for All, Global Monitoring Report, 2011. Internet: http://unesdoc.unesco.org/images/0019/001913/19135 6e.pdf (accessed 24 October 2012).

Scarnecchia, T. 2006. 'The "Fascist Cycle" in Zimbabwe, 2000-2005'. *Journal of Southern African Studies*, 32 (2), pp. 221-237.

Schoeman, M. and Alden, C. 2003. 'The Hegemony that Wasn't: South Africa's Foreign Policy towards Zimbabwe'. *Strategic Review for Southern Africa*, 25 (1), pp. 1-28.

Schweizer, B. 2004. 'Moral Dilemmas for Humanitarianism in the era of 'humanitarian' military interventions'. *International Review of the Red Cross* 86 (855), pp. 547–564.

Segell, G. 2009. 'The First NATO Mission to Africa: Darfur'. *Scientia Militaria: South African Journal of Military Studies*, 36 (2), pp. 1-18.

Shillinger, K. (ed). 2009. *Africa's Peacemaker? Lessons from South African Conflict Mediation.* Auckland Park, South Africa: Jacana Media.

Sibanda, B. 2008. 'Falling Economic Standards Cause Xenophobia in South Africa'. *Africa-News*, May 14 2008. Internet: http://www.afrik-news.com/article13586.html (accessed 20 May 2010).

Sidiropoulos, E. 2004. 'Southern Africa's Sanctions Experience: Bringing about Change?,' in Mills, G. and Sidiropoulos, E. (eds). *New Tools for Reform and Stability: Sanctions, Conditions and Conflict Resolution*. Johannesburg: South Africa Institute of International Affairs, pp. 83-120.

Slim, H. 2010. 'Values versus Power: Responsible Sovereignty as Struggle in Zimbabwe'. *Global Responsibility to Protect* 2. pp. 155-160.

Sims, B.M., Masamvu, S. and Mirell, H. 2010. *Restrictive Measures and Zimbabwe: Political Implications, Economic Impact and a Way Forward*. Pretoria: Institute of Democracy in Southern Africa (Idasa).

Skrbec, K. 2013. 'The R2P, the Doctrine of Non-Indifference, and Co-operation of African States with the ICC', in Sancin, V. and Dine, M.K. (eds). *The Responsibility to Protect in Theory and Practice*, Ljubjana: GV Zalozba, pp. 789-816.

Slaughter, A. 2004. 'Sovereignty and Power in a Networked World'. *Stanford Journal of International Law*, 9 (2), pp. 283-293.

Small Arms Survey. 2010. *Human Security Baseline Assessment (HSBA) for Sudan and South Sudan: Darfur Peace Process Chronology*. Geneva: Small Arms Survey. Internet: http://

www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/sudan/darfur/peace-process -chronology/HSBA-Darfur-Peace-Process-Chronology.pdf (accessed 23 October 2013).

Smiles, J. 2006. 'Zimbabwe's Political Third Way Debate'. *Journal for Contemporary History*, 31 (1), pp. 17-28.

Solana, J. 2003. *European Security Review Strategy: A More Secure Europe in a Better World*. Brussels: Council of the European Union.

Solana, J. 2006. *Address by the EU High Representative for Common Foreign and Security Policy, on the Occasion of Receiving the Carnegie-Wateler Peace Prize, The Hague, 23 November*. Internet: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en /discours/91837.pdf (accessed 10 June 2011).

Solidarity Peace Trust. 2003. *National Youth Service Training – 'Shaping Youths in a Truly Zimbabwean Manner': An Overview of Youth Militia Training and Activities in Zimbabwe, October 2000-August 2003*. Internet: http://www.solidaritypeacetrust.org/ 205/national-youth-service-training/ (accessed 9 May 2009).

Solidarity Peace Trust. 2006. *Policing the State: An Evaluation of the 1 981 Political Arrests in Zimbabwe, 2000-2005*. Cape Town: Institute for Justice and Reconciliation, 14 December. Internet:http://www.solidaritypeacetrust.org/download/report-files/policing_ the_state.pdf (accessed on 12 March 2010).

Solidarity Peace Trust. 2008. *Punishing Dissent, Silencing Citizens: The Zimbabwe Elections 2008*. Johannesburg: Solidarity Peace Trust. Internet: http://www.solidarity peacetrust.org/133/punishing-dissent-silencing-citizens/ (accessed 24 June 2010).

Southern African Development Community (SADC). 1996. *Communiqué on the Establishment of the SADC Organ on Politics, Defence and Security, 28 June, Gaborone- Botswana.* Internet: http://www.sadc.int/documents-publications/show/1025 (accessed 30 June 2010).

Southern African Development Community (SADC). 2000. *Communiqué of the SADC Summit of Heads of State and Government on Zimbabwe, 6-7 August, Windhoek-Namibia*. Internet: http://www.sadc.int/files/3913/5292/8384/SADC_SUMMIT_COM MUNIQUES_1980-2006.pdf (accessed 12 July 2012).

Southern African Development Community (SADC). 2001. *SADC Protocol on Politics Defence and Security Co-operation, Article 2: g, Blantyre-Malawi, 12-14 August*. Internet: http://www.sadc.int/files/3913/5292/8384/SADC_SUMMIT_COMMUNIQUES _1980-2006.pdf (accessed 12 July 2012)

Southern African Development Community (SADC). 2008. *Communiqué of the SADC Extraordinary Summit on the Situation in Zimbabwe, Dar es Salaam-Tanzania, 28-29*

March. Internet: http://www.sadc.int/news/news_details.php?news_id=927 (accessed 23 May 2012).

Southern African Development Community (SADC). 2009. *Communiqué of the Extra-Ordinary Summit of the SADC Heads of State and Government, Mbabane-Swaziland, 30 March*. Internet: http://www.sadc.int/files/8213/5292/8385/SADC_Extraordinary_Summit_March_2009.pdf (accessed 20 May 2011).

Southern African Development Community (SADC). 2011. *Communiqué on the Summit of the Organ Troika on Politics, Defence and Security Co-operation, 31 March, Livingstone-Zambia*. Internet: http://www.thezimbabwean.co/news/38604/full-sadc-troika-communique-livingstone-zambia.html (accessed 29 July 211).

Southern African Development Community (SADC) Election Observer Mission (SEOM). 2008. *Preliminary Statement Presented by the Hon. Jose Marcos Barrica, Minister of Youth and Sports of the Republic of Angola and Head of the SEOM, on the Presidential Run-Off and House of Assembly By-Elections, 29 June, Harare*.

Spencer, R. 2009. 'The Arab League Backs Darfur Genocide', *Jihad Watch*, 4 September. Internet: http://www.humanevents.com/article.php?id (accessed 19 April 2010).

Spies, Y. and Dzimiri, P. 2011. 'A Conceptual Safari: Africa and R2P'. *Regions and Cohesion*, 1 (1), pp. 32-53.

Srinivasan, S. 2006. *Minority Rights, Early Warning and Conflict Prevention: Lessons from Darfur*. London: Minority Rights Group International. Internet: http://www.minorityrights.org/download.php@id=102 (accessed 10 May 2010).

Newzimbabwe.com (Harare), 28 August 2008. 'News Report: Mugabe in Tehran for NAM Summit'. Internet: http://www.Newzimbabwe.com/news-8900-Mugabe+in+Tehran+for+NAM+summit/news.aspx (accessed 12 September 2012).

Statute of the Arab League's Peace and Security Council, Res. 331-5-18-29.3. 2006. Internet: http://www.fride.org/download/op_darfur_arab_legaue_eng_feb10.pdf (accessed 21 May 2011).

Stiff, P. 2000. *Cry Zimbabwe: Independence Twenty Years On*. Johannesburg: Galago Books.

Stowell, E.C. 1921. *Intervention in International Law*. Washington, DC: Byrne.

Strydom, H. 2007. The Non-Aligned Movement and the Reform of International Relations', in Von Bogdandy, A. and Wolfrum, R. (eds). *Max Planck Yearbook of United Nations Law*, 2. Leiden: Martinus Nijhoff, pp. 1-46.

Sudan Human Security Baseline Assessment Project. 2010. *Darfur Peace Process*, 17 October. Internet: http://www.smallarms.survey.sudan.org/facts-figures-darfur-peace-pro cess.php (accessed 11 February 2012).

Sudan Tribune (Khartoum), 27 February 2008. 'News Report: "Sudan Rejects ICC Jurisdiction", Says One Suspect Held'. Internet: http://www.sudantribune.com/spip.php?article20473 (accessed 23 August 2009).

Sudan Tribune (Kharoum), 16 November 2009. 'News Report: Rifts Emerge between Mbeki and Bassole over the Darfur Peace Process'. Internet: http://www.sudantribune.com/spip. php?article33134 (accessed 12 July 2011).

Sudan Tribune (Khartoum), 28 May 2010. 'News Report: South Africa warns Sudan's Bashir to Stay Away from World Cup Event'. Internet: http://sudantribune.com/spip.php?article35214 (accessed 19 June 2011).

Sudan Tribune (Khartoum), 26 August 2010. 'News Report: AU, UNAMID and US Support Sudan's New Strategy in Darfur'. Internet: http://www.sudantribune.com/spip.php?article36080 (accessed 28 May 2013).

Sudan Tribune (Khartoum), 17 July 2013. 'News Report: Bashir's "Escape" from Nigeria Offers Some Relief to Rights Groups'. Internet: http://www.sudantribune.com/spip. php?article47311 (accessed 19 August 2013).

Sudanese National Security Forces Act. 1999. Amended in July 2001. Internet: https://www.icrc.org/applic/ihl/ihl-nat.nsf/0/d1e69ed1e857e7bcc12571100039f36d/$FILE/national_security_forces_act_1999.pdf (accessed 12 May 2010).

Sullivan, J. 2007. 'UN Approves Peace-Keepers for Darfur', *The New York Times*, 1 August 2007. Internet: http://www.nytimes.com/2007/08/01/world/africa/01nations.html?r=0 (accessed 7 February 2013).

Sun, I. 2008. *SADC Announces New Humanitarian Campaign for Zimbabwe*. The ZimbabweSituation.com, 7 December. Internet: http://www.zimbabwesituation.com/old/dec18_2008.html#Z23 (accessed 23 October 2009).

Tadjbakhsh, S. 2005. 'Human Security: Concepts and Implications with an Application to Post-Intervention Challenges in Afghanistan'. *Les Etudes du CERI*, 7, pp. 117-118.

Taylor, I. and Williams, P. 2002. 'The Limits of Engagement: British Foreign Policy and Crisis in Zimbabwe'. *International* Affairs, 78 (3), pp. 547-565.

Teson, F. R. 1998. *A Philosophy of International Law*. Boulder: Westview Press.

Thakur, R. 2007. *The United Nations: Peace and Security*. Cambridge: Cambridge University Press.

Thakur, R. 2011. *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics*. New York: Routledge.

Thakur, R. 2012. 'The World's Responsibility to Protect Libyans', in Chanda, N. and Froetschel, S. (eds). *A World Connected: Globalisation in the 21st Century*. New Haven (CT): Yale Centre for the Study of Globalisation, pp. 397-401.

Thakur, R. and Weiss, T.G. 2009. 'The Responsibility to Protect: From Idea to Norm and Action?'. *Global Responsibility to Protect*, 1 (1), pp. 22-53.

The Charter of the Arab League, Cairo, 22 March 1945. Internet: http://www.arableague. org.uk/league/charter.html#5 (accessed 14 October 2012).

The Constitution of the Republic of Sudan. 1998. Internet: http://www.sudanembassy.ca/ Docs/THE%20CONSTITUTION%20OF%20THE%20REPUBLIC%20OF%20THE%20 SUDAN%201998.pdf (accessed 23 June 2012).

The Economist (London), 14 March 2002. 'News Report: Mugabe's Smash-and-Grab -- A Coup by Any Other Name'. Internet: http://www.economist.com/node/1034280 (accessed 2 June 2008).

The Guardian Online (London), 29 January 2005. 'News Report: Warning on Zimbabwe Food Crisis'. Internet: http://www.theguardian.com/world/2005/jan/29/zimbabwe (accessed 25 June 2013).

The Guardian Online (London), 7 June 2008. 'News Report: Mugabe Turns the Screw on Opposition'. Internet: http://www.theguardian.com/world/2008/jun/07/Zimbabwe (accessed 18 December 2014).

The Guardian Online (London), 5 December 2014. 'News Report: ICC Drops Murder and Rape Charges against Kenyan President'. Internet: http://www.theguardian.com/world/ 2014/dec/05/crimes-humanity-charges-kenya-president-dropped-uhuru-kenyatta (accessed 18 December 2014).

The New York Times (New York), 5 March 2008. 'News Report: China's Role in Sudan'. Internet: http://www.nytimes.com/2008/03/05/opinion/l05darfur.html?_r=0 (accessed 23 November 2012).

The Somali Press.com, 4 August 2008. 'News Report: International Relations of Zimbabwe'. Internet: http://www.somalipress.com/zimbabwe-overview/international-relations-zimbab we-1134.html (accessed 13 May 2010).

The White House. 2012. *Fact Sheet: A Comprehensive Strategy and New Tools to Prevent and Respond to Atrocities.* Washington, D.C: Office of the Press Secretary, 23 April. Internet:https://www.whitehouse.gov/the-press-office/2012/04/23/fact-sheet-comprehensive-strategy-and-new-tools-prevent-and-respond-atro.(accessed 19 July 2013).

The Zimbabwean (Harare), 29 May 2011. 'Army General, Nyikayaramba vows not to salute Tsvangirai'. Internet: http://www.thezimbabwean.co/2011/05/army-general-nyikayaramba-vows-not-to-salute-tsvangirai/ (accessed 12 May 2012).

Théroux-Bénoni, L.A. 2013. *Enhancing Africa's Responsiveness to Crisis Situations?* Pretoria: Institute for Security Studies. Internet: http://www.issafrica.org/iss-today/en hancing-africas-responsiveness-to-crisis-situations (accessed 17 June 2014).

Tibaijuka, A.K. 2005. *Report of the Fact-Finding Mission to Zimbabwe to Assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlements Issues in Zimbabwe*. New York: UN Department of Political Affairs.

Tietel, R.G. 2000. *Transitional Justice*. Oxford: Oxford University Press.

Todd, J.G. 2007. *Through the Darkness: A Life in Zimbabwe*. Harare: Zebra Press.

Toje, A. 2008. 'The Consensus Expectation Gap: Explaining Europe's Ineffective Foreign Policy'. *Security Dialogue*, 39 (1), pp. 121-141.

Traub, J. 2010. *Unwilling and Unable: The Failed Response to the Atrocities in Darfur.* Australia: Global Centre for the Responsibility to Protect: Occasional Paper Series.

Tsunga, A. and Mugabe, T. 2004. *Zim NGO Bill: Dangerous for Human Rights Defenders*. Harare: Zimbabwe Lawyers for Human Rights. Internet: http://archive.kubatana.net/ html /archive/r/040728zlhr.asp?sector=HR (accessed 23 October 2010).

Tubiana, J. 2008. *The Chad-Sudan Proxy War and the 'Darfurisation' of Chad: Myths and Reality*. Smalls Arms Survey, HSBA Working Paper No. 12. Geneva: Graduate Institute of International Studies. Internet: http://www.smallarmssurveysudan.org/fileadmin/docs/ working-papers/HSBA-WP-12-Chad-Sudan-Proxy-War.pdf (accessed 15 March 2012).

Turocy, T.L. and Von Stengel, B. 2001. *Game Theory*. Paper prepared for the Encyclopaedia of Information Systems. London: London School of Economics Academic Press.

Tutu, D. 2008. 'Taking the Responsibility to Protect', *The New York Times*, 9 November 2008. Internet: http://www.nytimes.com/2008/02/19/opinion/19iht-edtutu.1.10186157.ht ml?r=0 (accessed 21 June 2010).

Union of the Arab League (UAL). 2009. *Twenty-First Regular Session, Doha Summit: The Doha Declaration Issued by the Heads of States Regarding the Position of the Arab League on Their Rejection of the Warrant of Arrest against Sudanese President Omar al-Bashir by the International Criminal Court (ICC), Doha-Qatar, 30-31 March*. Internet: http://www.qatarconferences.org/summit/english/news_website_details.php?id=39 (accessed 10 July 2011).

United Nations (UN). 2004(a). *Press Briefing on Humanitarian Crisis in Darfur, Sudan, 2 April*. Internet: http://www.un.org/press/en/2004/egelandbrf.DOC.htm (accessed 26 November 2010).

United Nations (UN). 2004(b). *Sudan has Failed to Disarm Militias or Prevent More Attacks in Darfur: UN Envoy*. New York: UN News Centre, 5 October. Internet: http://www.un.org/apps/news/story.asp?NewsID=12134&Cr=sudan&Cr1 (accessed 21 October 2012).

United Nations (UN). 2004(c). *Security Council Declares Intention to Consider Sanctions to Obtain Sudan's Full Compliance with Security, Disarmament Obligations on Darfur, Security Council Resolution 1564, 18 September 2004*. Internet: http://www.un.org/press/en/2004/sc 8191.doc.htm (accessed 27 June 2012).

United Nations (UN). 2005(a). *Report of the Commission of Inquiry on Darfur to the United Nations Secretary-General Pursuant to Security Council Resolution 1564 of 18 September 2005, Geneva, 25 January*. Internet: http://www.un.org/news/dh/sudan/com _inq_darfur.pdf (accessed 12 July 2010).

United Nations (UN). 2005(b). *Press Release: Security Council Refers Situation in Darfur, Sudan to Prosecutor of International Criminal Court, SC/8351, 31 March*. Internet: http://www.un.org/press/en/2005/sc8351.doc.htm (accessed 12 July 2010).

United Nations (UN). 2005(c). *Report of the Fact-Finding Mission to Zimbabwe to Assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlements Issues in Zimbabwe, Mrs. Anna Kajumulo Tibaijuka*. New York: UN Department of Public Information.

United Nations (UN) News Centre. 2005. *'Sudan's Special Court on Darfur Crimes Not Satisfactory', UN Genocide Expert Says, 16 December*. Internet: http://www.un.org/apps/news/story.asp?NewsID=16966&Cr=Sudan&Cr1=Darfur#.U7PoBpSSxic (accessed 11 March 2010).

United Nations Security Council (UNSC). 2006. *Security Council Expands Mandate of UN Mission in Sudan to include Darfur, Adopting Resolution 1706 By Vote of 12 in favour, with 3 abstaining, Press Release, 31 August*. Internet: http://www. un.org/press/en/2006/sc8821.doc.htm (accessed 12 July 2011).

United Nations Coordination for Humanitarian Affairs (UNOCHA). 2006. *Sudan Humanitarian Overview* 2(4), 1 Apr - 1 May. Internet: http://reliefweb.int/report/sudan/sudan-humanitarian-overview-vol-2-issue-4-01-apr-01-may-2006 (accessed 15 June 2011).

United Nations (UN). 2006. *Press Release: Human Rights Council Notes with Concern Serious Human Rights and Humanitarian Situation in Darfur, Geneva, 28 November*. Internet: http://reliefweb.int/report/sudan/human-rights-council-notes-concern-serious-hu   man-rights-and-humanitarian-situation (accessed 10 July 2010).

United Nations (UN). 2008. *Press Release: United Nations Secretary General, Ban Ki-moon, Addressing the African Union, Addis Ababa, Ethiopia, SG/SM/11396-AFR/1651, 31 July*. Internet: http://www.org/press/en/2008/sgsm11396.doc.htm (accessed 19 March 2010).

United Nations (UN). 2008. *Report of the Secretary-General on the Deployment of the African Union-United Nations Hybrid Operation in Darfur, S/2008/781, 12 December*. Internet: http://www.un.org/en/peacekeeping/missions/unamid/reports.shtml (accessed 12 May 2010).

United Nations Committee on Economic and Social Rights (UNCESCR). 1995. *State Party Report: Zimbabwe, 25 September*. Internet: http://www.refworld.org/country/CESCR/ ZWE/0.html (accessed 27 November 2009).

United Nations Development Programme (UNDP). 1994. *Human Development Report, 1994: New Dimensions of Human Security*. Technical Report. New York: UNDP.

United Nations Development Programme (UNDP). 2002. *Zimbabwe Land Reform and Resettlement: Assessment and Suggested Framework for the Future Interim Mission Report, Harare-Zimbabwe, January*. Internet: http://eisa.org.za/PDF/zimlandreform.pdf (accessed 28 June 2010).

United Nations General Assembly (UNGA). 2009. *Delegates Weigh Legal Merits of Responsibility to Protect Concept as General Assembly Concludes Debate, Sixty-Third General Assembly, 28 July*. Internet: http://www.un.org/press/en/2009/ga10850.doc.htm (accessed 11 October 2011).

United Nations General Assembly (UNGA). 2009. *The Responsibility to Protect: Resolution A/RES/63/308, Adopted by the General Assembly, 7 October* (Adopted without Vote). Internet: http://www.refworld.org/docid/4ad6d1fd2.html (accessed 15 June 2011).

United Nations General Assembly (UNGA). 2010. *Early-Warning, Assessment, and the Responsibility to Protect Report of the Secretary-General, A/64/864, 14 July*. Internet: http://www.responsibilitytoprotect.org/N1045020(1).pdf (accessed 16 July 2013).

United Nations General Assembly (UNGA). 2010. *General Assembly Reaffirms Strong, Ongoing Support for Kimberley Process Targeting Global Trade in 'Blood Diamonds' by*

One of Four Resolutions, Sixty-Fifth General Assembly Plenary GA/11039, September. Internet: http://www.un.org/press/en/2010/ga11039.doc.htm (accessed 23 May 2012).

United Nations General Assembly (UNGA). 2011. *The Role of Regional and Sub-Regional Arrangements in Implementing the Responsibility to Protect, A/65/877-S/2011/393, September.* Internet: http://www.un.org/en/ga/president/65/initiatives/Report%20of%20 the%20SG%20to%0MS.pdf (accessed 12 July 2012).

United Nations Commission on Human Rights (UNCHR). 2005. *Report of the Independent Expert on the Situation of Human Rights in the Sudan, Emmanuel Akwei Addo, E/CN.4/2005/11, 28 February.* Internet: http://www.darfurcentre.ch/images/DRDC/AU-UN-Reports/UN_Reports/HRS_ reports/Report_ Situation_of_HR_ Sudan.Independent_ Expert_E.CN.4.2005.11.pdf (accessed 10 July 2012).

United Nations High Commissioner for Human Rights (UNHCHR). 2005. *Access to Justice for Sexual Violence Victims: Report of the United Nations High Commissioner for Human Rights, Geneva, 29 July.* Internet: http://www.ohchr.org/Documents/Countries/ darfur29july05.pdf (accessed 17 May 2010).

United Nations High Commissioner for Refugees (UNHCR). 2012. *Appointment of the First Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo de Greiff, Colombia, 1 May.* Internet: http://www.ohchr.org/EN/ Issues/TruthJusticeReparation/Pages/Index.aspx (accessed 20 June 2013).

United Nations High Commissioner for Refugees (UNHCR). 2012. *The Independent International Commission of Inquiry on the Syrian Arab Republic, Established Pursuant to Security Council Resolutions S-17/1, 19/22 and 21/26, Adopted at its 17th Special Session, 20 December.* Internet: http://www.ohchr.org/Documents/Countries/SY/Col SyriaDecember2012.pdf (accessed 22 May 2013).

United Nations Security Council (UNSC). 2005. *Resolution 1591, 2005, Adopted by the Security Council at its 5153rd Meeting, S/RES/1591, 29 March.* Internet: http://www.un. org/ga/search/view_doc.asp?symbol=S/RES/1591%20(2005) (accessed 9 June 2010).

United Nations Security Council (UNSC). 2004(a). *Resolution 1556, 2004, Adopted by the Security Council at its 5015th Meeting, S/RES/1556, 30 July.* Internet: http://www.sipri. org/databases/embargoes/un_arms_embargoes/sudan/1556 (accessed 5 August 2012).

United Nations Security Council (UNSC). 2004(b). *Resolution 1547, Adopted by the Security Council at its 4988th Meeting, S/RES/1547, 11 June.* Internet: http://www.operationspaix. net/DATA/DOCUMENT/7829~v~Resolution_du_Conseil_de_securite_concernant_la_si tuation_au_Soudan_S_RES_1547_.pdf (accessed 28 July 2012).

United Nations Security Council (UNSC). 2004(c). *Resolution 1564 on Darfur, Sudan, Adopted by the Security Council at its 5040th Meeting, S/RES/1564, 18 September.* Internet:

http://www.responsibilitytoprotect.org/files/SC_Res1564_18Sep2004.pdf (accessed 27 May 2011).

United Nations Security Council (UNSC). 2005. *Resolution 1593, Adopted by the Security Council at its 5158ᵗʰ Meeting, S/RES/1593, 31 March*. Internet: http://www.icc-cpi.int/nr/rdonlyres/85febd1a-29f8-4ec4-9566-48edf55cc587/283244/n0529273.pdf (accessed 28 July 2012).

United Nations Security Council (UNSC). 2006(a). *Resolution 1679, Adopted by the Security Council at its 5439ᵗʰ Meeting, S/RES/1679, 16 May*. Internet: http://www.worldlii. org/int/other/UNSC/2006/28.pdf (accessed 11 October 2012).

United Nations Security Council (UNSC). 2006(b). *Press Release: Security Council Expands Mandate of UN Mission in Sudan to Include Darfur, Adopting Resolution 1706 by Vote of 12 in Favour, with 3 Abstaining, 31 August*. Internet: http://www.un.org/press/en/ 2006/sc8821.doc.htm (accessed 12 July 2011).

United Nations Security Council (UNSC). 2008. *Security Council Fails to Adopt Sanctions against Zimbabwe Leadership as Two Permanent Members Cast Negative Votes: Report of the UNSC 5933ʳᵈ Meeting, SC/9396, 11 July*. Internet: http://www.un.org/News/Press /docs/2008/sc9396.doc.htm (accessed 23 November 2010).

United Nations Security Council (UNSC). 2012. *Sudan/Darfur: Security Council Report, January, Monthly Forecast*. Internet: http://www.securitycouncilreport.org/monthly-fore cast/2012-01/lookup_ c_glKWLeMTIsG_ b_7916239.php (accessed 19 June 2013).

United States (US) 108ᵗʰ Congress, 2ⁿᵈ Session. 2004. *Declaring Genocide in Darfur, Sudan, H.Con.Res.467, 24 June*. Internet: https://www.congress.gov/bill/108th-congress/house-concurrent-resolution/467/summary/00 (accessed 16 May 2011).

United States (US) Executive Order 13412. 2006. *The President's Executive Order Blocking Property of and Prohibiting Transactions with the Government of Sudan, October 13*. Internet: http://www.treasury.gov/resource-center/sanctions/Documents/13412.pdf (accessed 26 May 2011).

Valentino, B. 2004. Final solutions: mass killing and genocide in the twentieth century. Conwell: Cornell University Press.

Vambe, V. (ed.) 2008. *The Hidden Dimensions of Operation Murambatsvina in Zimbabwe.* Harare: Weaver Press. pp. 105-117.

Van Wyk, J. 2002. 'The Saga Continues: The Zimbabwe Issue in South Africa's Foreign Policy'. *Alternatives: Turkish Journal of International Relations*, 1 (4), pp. 176-231.

Verwey, D.W. 1998. 'Humanitarian Intervention in the 1990s and Beyond: An International Law Perspective', in Pieterse, J.N. (ed). *World Orders in the Making: Humanitarian Intervention and Beyond*. New York: St. Martin's Press, pp. 180-210.

Walzer, M. 2000. *Arguing about War*. New Haven (CT): Yale University Press.

Warden, M. 2008. 'Overview: China's Race Reform', in Warden, M. (ed). *China's Great Leap: The Beijing Games and Olympian Human Rights Challenges*. New York: Seven Stories Press.

Weber, A. 2010. *Bridging the Gap between Narratives and Practices: The Role of the Arab League in Darfur*. German Institute for International and Security Affairs. Internet: http://www.fridge.org (accessed 15 March 2010).

Weiss, T.G. 2004. 'The Sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era'. *Security Dialogue*, 35 (2), pp. 135-153.

Weiss, T.G. 2006. 'R2P after 9/11 and the World Summit'. *Wisconsin International Law Journal*, 24 (3), pp. 741-760.

Weiss, T.G. 2011. 'Whither R2P?', in Weiss, T.G. *et al. The Responsibility to Protect: Challenges and Opportunities in Light of the Libyan Intervention*. e-International Relations, November. Internet: http://www.e-ir.info/wp-content/uploads/R2P.pdf (accessed 29 February 2012).

Weiss, T. G. and Hubert, D. 2001. *The Responsibility to Protect: Research, Bibliography, Background*: *Supplementary Volume to the Report of the International Commission on Intervention and State Sovereignty*. Ottawa: International Development Research Centre.

Weiss, T.G. and Campbell, K. 1991. 'Military Humanitarianism'. *Survival*, 33 (5), pp. 452-454.

Welsh, J. 2011. 'Civilian Protection in Libya: Putting Coercion and Controversy Back into RtoP'. *Ethics and International Affairs*, 25 (3), pp. 255-262.
.
Welz, M. 2010. 'Zimbabwe's Inclusive Government: Some Observations on its First 100 Days', in Chan, S. and Primorac, R. (eds). *The Round Table: The Commonwealth Journal of International Affairs*, 99 (411), pp. 605-619.

Wendt, A.E. 1987. 'The Agent-Structure Problem in International Relations Theory'. *International Organisation*, 41 (3), pp. 335-370.

Weschler, J. 2010. *UN Responses to the Darfur crisis*. Madrid: Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE), March. Internet: http://fride.org/down load/OP_UN_Responses_Darfur.pdf (accessed 14 February 2011).

Westgate, M. 2007. *Operation Murambatsvina: A Crime against Humanity -- An Independent Legal Opinion Whether the 2005 Operation Murambatsvina Forced Evictions Constituted a Crime against Humanity under the Rome Statute*. Harare: Zimbabwe Lawyers for Human Rights.

Wheeler, N.J. 2001. 'Legitimising Humanitarian Intervention: Principles and Procedures'. *Melbourne Journal of International Law*, 2 (2), pp. 505-566.

Wheeler, N.J. 2002. *Saving Strangers: Humanitarian Intervention in International Society*. New York: Oxford University Press.

Wheeler, N.J. 2005. 'Strangers in Peril'. *World Today*, 61 (8/9), pp. 35-36.

Wheeler, N.J. 2009. 'The Responsibility to Protect -- "Precious Commitments" or a "Promise Unfinished?": "Speaking R2P" and the Prevention of Mass Atrocities'. *Global Responsibility to Protect*, 1 (1), pp. 114-132.

Wheeler, N.J. 2012. 'Victory for Common Humanity? The Responsibility to Protect after the 2005 World Summit'. *Journal of International Law and International Relations*, Symposium Issue, 2 (1), pp. 95-107.

Wight, M. 1960. 'Why is There No International Theory? *International Relations*, 2 (1), pp. 35-48.

Wildenthal, L. 2002. *Argument and Change in World Politics: Ethics*, *Decolonisation, and Humanitarian Intervention*. Cambridge: Cambridge University Press.

Williams, P.D. 2006. 'Military Response to Mass Killing: The United Nations (UN) Mission in Sudan'. *International Peacekeeping*, 13 (2), pp. 168-183.

Williams, P.D. and Bellamy, A.J. 2005. 'The Responsibility to Protect and the Crisis in Darfur'. *Security Dialogue*, 36 (1), pp. 27-47.

Williams, P.D. and Bellamy, A.J. 2012. 'Principles, Politics and Prudence: Libya, the Responsibility to Protect, and the Use of Military Force'. *Global Governance*, 18 (3), pp. 273-297.

Williams, P.D. 2009. 'The Responsibility to Protect: Norm Localisation and African International Society'. *Global Responsibility to Protect*, 1 (3), pp. 392-416.

Williamson, C.A. 2006. 'Justice Empowered or Justice Hampered: The ICC in Darfur'. *African Security Review*, 15 (1), pp. 15-24.

Woodside, D. 2004. 'Mandate Unclear as AU Head for Darfur', *Business Day* (Johannes-burg), 29 October 2004. Internet: http://allafrica.com/stories/200410290161.html (access-ed 11 June 2013).

Woocher, L. 2006. *Developing a Strategy, Methods and Tools for Genocide Early Warning.* Paper Prepared for Office of the Special Adviser to the UN Secretary-General on the Prevention of Genocide: Columbia University: Centre for International Conflict Resolution, 26 September. Internet: http://www.un.org/en/preventgenocide/adviser/pdf/Woocher%20Early%20warning%20report,%202006-11-10.pdf (accessed 17 July 2013).

World Health Organisation (WHO). 2009. *Cholera in Zimbabwe – Update 3: Epidemic and Pandemic Alert and Response, March.* Internet: http://www.who.int/csr/don/2009_03_23/en/index.html (accessed 4 May 2010).

World Summit Outcome Document. 2005. *Resolution Adopted by the United Nations General Assembly, A/RES/60/1, 24 October.* Internet: http://www.un.org/womenwatch/ods/A-RES-60-1-E.pdf (accessed 10 July 2008).

World without Genocide. 2013. *Darfur Genocide.* St. Paul (Minnesota): William Mitchell College of Law. Internet: http://worldwithoutgenocide.org/genocides-and-conflicts/darfur-genocide (accessed 20 May 2013).

Xinhua News Agency (Beijing), 12 February 2011. 'News Report: China Urges West to Lift Sanctions against Zimbabwe'. Internet: http://news.xinhuanet.com/english2010/china/2011-02/12/c_13728225.htm (accessed 8 August 2012).

Zimbabwe Democracy and Economic Recovery (ZEDERA) Act. 2001. *Public Law*, 107 (99), 21 December. Internet: http://www.gpo.gov/fdsys/pkg/PLAW-107publ99/pdf (accessed 28 September 2010).

Zimbabwe Election Support Network (ZESN). 2008. *Report on the Zimbabwe 29 March Harmonised Election, and the 27 June 2008 Presidential Run-Off.* Internet: http://nehandaradio.com/wp-contentuploads/2010/05/zesn-march-2008-election-report.pdf (accessed 21 June 2012).

Zimbabwe Herald (Harare), 23 May 2005. 'News Report: Clean-Up Commendable'.

Zimbabwe Human Rights Forum (ZHRF). 1998. *Human Rights, Troubled Times: An Initial Report on Human Rights Abuses During and After Food Riots in January 1998.* Harare: ZHRF.

Zimbabwe Independent (Harare), 23 May 2008. 'News Report: Mugabe Orders "Warlike" Campaign'.

Zimbabwe Lawyers for Human Rights (ZLHR). 2007. *Continued Harassment of Human Rights Defenders, Update, 17 February.* Harare: ZLHR.

Zimbabwe Lawyers for Human Rights (ZLHR). 2010. *History of Organisation and its Vision and Objectives.* Harare: ZLHR. Internet: http://www.jus.uio.no/smr/english/research/projects/ripoca/workshop-april-2010/zimbabwe-layers.pdf (accessed 12 November 2011).

Zimmermann, A. and Bäumler, J. 2010. Current Challenges facing the African Court on Human and Peoples' Rights. *Kas International Reports 7*. pp. 38-53.
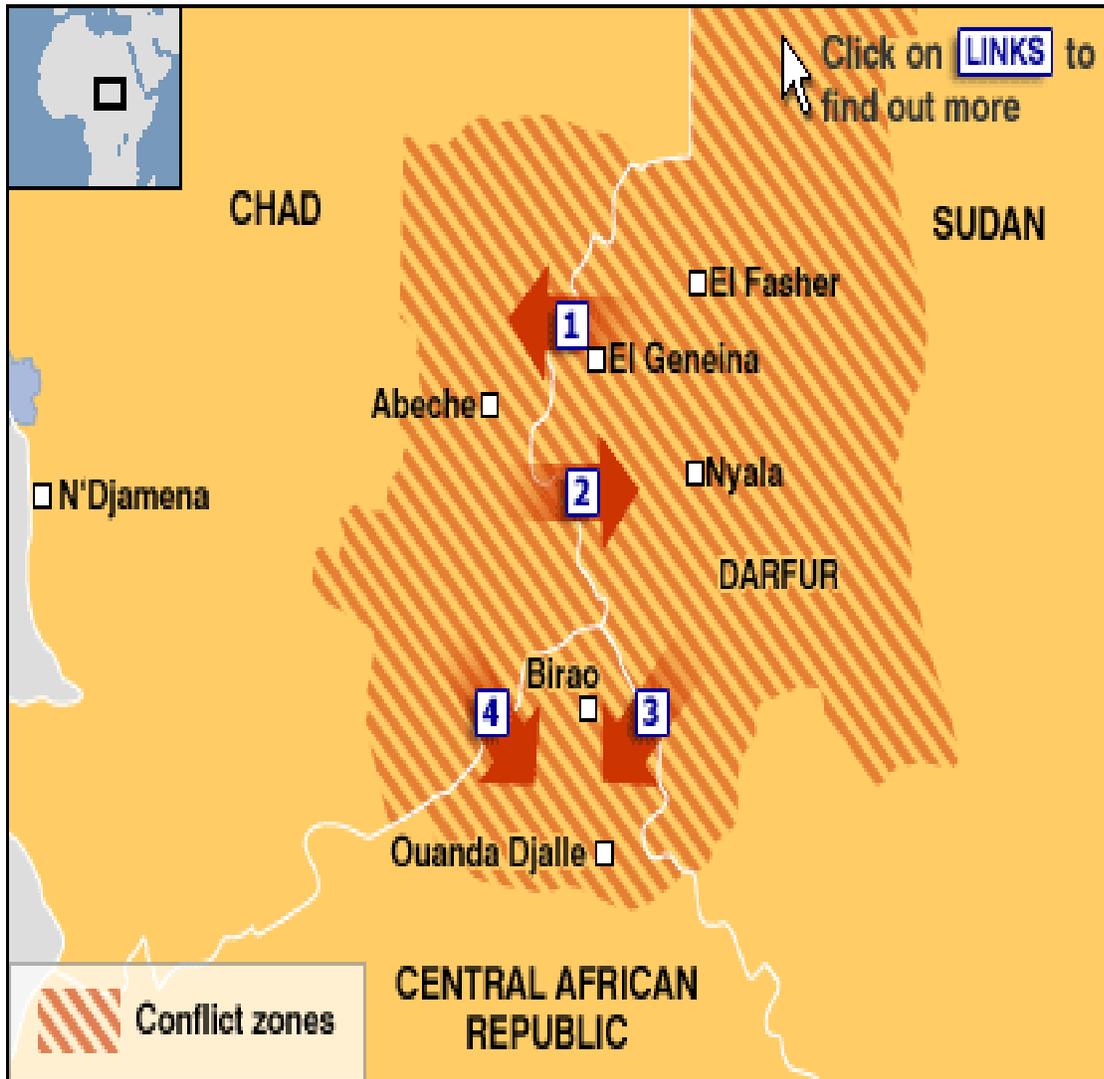
APPENDICES

Appendix 1: Geo-political Map of Zimbabwe

Source: https://www.google.co.za/search?q=ocha+zimbabwe+maps&espv-of-zimbabwe-provinces%252F5%3B327%3B349

Appendix 2: Conflict Map of Darfur

Source: http://news.bbc.co.uk/2/hi/africa/6213202.stm#3