

## ACTIVISM AND DARFUR: SLOWLY DRIVING POLICY CHANGE

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After more than four years of unrelenting violence in Darfur and eastern Chad, and faced with overwhelming suffering, it can be easier to quantify rather than qualify the nature of what is occurring. At least 200,000 people are dead and 2.5 million people are displaced in this isolated pocket of Africa.<sup>1</sup> But consider these statistics in a more familiar context: imagine every resident of New Orleans wiped off the map. Or picture the population of Houston, the United States' fourth largest city, living in refugee camps, sleeping in makeshift shelters made of plastic sheeting, and subsisting on international handouts—some for more than four years.

The basic synopsis of what has happened in Darfur is well known. In mid-2003, the government of Sudan responded to a rebel insurgency by arming, training, and unleashing ethnically-based militias known as the Janjaweed to kill, rape, displace, and loot civilians with impunity.<sup>2</sup> The government systematically targeted specific ethnic groups—the Fur, Zaghawa, and Mas-saleit—and sought to create conditions on the ground that would slowly destroy a way of life that has existed for centuries.<sup>3</sup>

Unlike the Rwanda genocide ten years earlier, where the

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1. See *U.N. Chief Visits Sudan to Prepare Ground for Darfur Relief Mission*, INDEPENDENT (London), Sept. 3, 2007, at 20.

2. See Sandeep Gopalan, *From Darfur to Sinai to Kashmir: Ethno-Religious Conflicts and Legalization*, 55 BUFF. L. REV. 403, 432-33 (2007).

3. See HUMAN RIGHTS WATCH, TARGETING THE FUR: MASS KILLINGS IN DARFUR 3

slaughter was committed in the short span of one hundred days, the genocide in Darfur has unfolded over many months and has been well-documented by human rights organizations, humanitarian workers, and journalists.<sup>4</sup> In the wake of Rwanda, the international community focused on so-called “early warning” mechanisms—tools with which to identify nascent crises before they become full-blown catastrophes.<sup>5</sup> For Darfur, early warning worked—non-governmental organizations in particular identified the crisis early, provided clear policy prescriptions, and advocated them directly to policymakers and through the media.<sup>6</sup> However, the optimistic notion that an early warning would be heeded—and effective action taken—is seriously misguided.

Like Rwanda, genocide in Darfur and the international community’s feckless response could have generated a profound sense of hopelessness and apathy among Americans, but it did not. Americans from all walks of life have recognized a shared humanity with the people of Darfur and are taking concrete

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(2005), *available at* <http://www.hrw.org/backgrounder/africa/darfur0105/darfur0105.pdf>.

4. See MICHAEL CLOUGH, HUMAN RIGHTS WATCH, *DARFUR: WHOSE RESPONSIBILITY TO PROTECT?* 1 (2005), *available at* <http://www.responsibilitytoprotect.org/index.php?module=uploads&func=download&fileId=42> (discussing how United Nations (U.N.) Member States responded to rising human rights abuses in Darfur with humanitarian action, missions, calls for negotiations and other types of assistance); Ernest Harsch, *Preventing Genocide: From Rhetoric to Action: U.N. Special Adviser Urges Firm Measures Against Darfur Slaughter*, 20 AFR. RENEWAL 3 (2006), *available at* [www.un.org/ecosocdev/geninfo/afrec/vol20no1/AR-April-2006.pdf](http://www.un.org/ecosocdev/geninfo/afrec/vol20no1/AR-April-2006.pdf) (comparing responses by U.N. to genocides in Sudan and Rwanda). The Darfur crisis has also been the focus of considerable attention and advocacy efforts by numerous human rights organizations, such as the Save Darfur Coalition and its organizational members. See generally Save Darfur, <http://www.savedarfur.org> (last visited Feb. 7, 2008).

5. See Harsch, *supra* note 4 (outlining U.N. Secretary-General Kofi Annan’s 2004 plan of action to prevent future genocides, which involved four main areas of activity: preventing armed conflict, protecting civilians, ending impunity, and ensuring early warnings and swift action).

6. In June 2003, for example, the International Crisis Group published a report stating that:

The nascent armed rebellion in Darfur, now at risk of escalation, has shocked much of Sudan. The concerns of communities in this region—particularly the Fur, Zaghawa, Massaleit, and other African peoples of western Sudan—mirror not only the situation in the Three Areas and the South, but also that of the Beja in eastern Sudan and the Nubians in northern Sudan. A threatened massive military response by the government in Darfur would take a tremendous toll on the civilian population while only deepening resentment.

INT’L CRISIS GROUP, AFRICA REPORT NO. 14: SUDAN’S OTHER WARS 1 (2003), *available at* <http://www.crisisgroup.org/home/index.cfm?id=1808&l=1>.

steps to end the killing and press for lasting peace in all of Sudan.<sup>7</sup> Indeed, the correlation between citizen activism and U.S. action is striking. Most of the measures that elected officials have taken—both the Bush Administration and members of Congress—have come as a direct result of mounting pressure from American citizens.<sup>8</sup> The louder activists get, the greater the political cost for failing to act. Make no mistake, activism is making a difference for Darfur, and strengthening the growing Darfur constituency should be a priority for anyone who cares about how the United States responds when genocide and crimes against humanity occur anywhere in the world.

### I. THE BIRTH OF A MOVEMENT

The significant disconnect between political rhetoric and international action gave rise to a groundswell of frustration in the United States and around the world from those expecting a more robust international response to the crisis in Darfur. In the United States, one of the key triggers came on September 9, 2004, when then Secretary of State Colin L. Powell, speaking before the U.S. Senate Foreign Relations Committee, declared that the atrocities in Darfur constituted genocide.<sup>9</sup>

Lawyers at the U.S. State Department made this legal determination following a State Department investigation in eastern Chad, where researchers conducted interviews with 1,136 recent refugees from Darfur.<sup>10</sup> The refugees had fled the initial onslaught of the Sudanese military and Janjaweed militias, and testified to their experience during the attacks. Having assessed the State Department's data and consulting with State Department lawyers, Powell stated: "[W]e concluded, I concluded, that genocide has been committed in Darfur and that the Govern-

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7. See Richard Allen Greene, *Americans Take Up Darfur's Cause*, BBC News (U.K.), Nov. 20, 2006, available at <http://news.bbc.co.uk/2/hi/africa/6156610.stm>.

8. See CLOUGH, *supra* note 4, at 7 (discussing the role of the United States in Darfur and the belief that the Bush Administration made ending the Sudanese civil war a top foreign policy priority in 2001-2002 due to pressure from conservative religious activists).

9. See *Current Situation in Sudan and Prospects for Peace: Hearing Before the S. Foreign Relations Comm.*, 108th Cong. (2004) (statement of Colin L. Powell, Sec'y of State of the United States) [hereinafter *Hearing on Situation in Sudan*].

10. See *generally* BUREAU OF DEMOCRACY, HUMAN RIGHTS, & LABOR & BUREAU OF INTELLIGENCE & RESEARCH, U.S. DEP'T OF STATE, DOCUMENTING ATROCITIES IN DARFUR (2004).

ment of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring.”<sup>11</sup>

Powell thus became the first U.S. government official to declare that genocide had indeed been occurring in Darfur, and the first U.S. official in history to make a genocide determination while atrocities were ongoing.<sup>12</sup> Although estimates vary, experts agree that hundreds of thousands have been killed in Darfur, 2.5 million—approximately one-third of Darfur’s entire population—remain internally displaced, and another 235,000 live as refugees in camps in eastern Chad.<sup>13</sup>

Powell’s public pronouncement immediately raised the profile of the conflict in Darfur and with it an expectation that, as per Article 1 of the Convention on the Prevention and Punishment of the Crime of Genocide, that the invocation of the term would trigger additional actions by the U.S. government (and, perhaps, other nations and international bodies around the world) “to prevent and to punish.”<sup>14</sup> That was, after all, the purpose of Raphael Lemkin’s lifelong struggle to coin a term that would define this most heinous of crimes against humanity.<sup>15</sup> But Powell qualified his words in that same testimony, stating:

Mr. Chairman, some seem to have been waiting for this determination of genocide to take action. In fact, however, no new action is dictated by this determination. We have been doing everything we can to get the Sudanese government to act responsibly. So let us not be too preoccupied with this designation.<sup>16</sup>

With those words, a movement was born. The notion that

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11. *Hearing on Situation in Sudan*, *supra* note 9.

12. See Scott Straus, *Darfur and the Genocide Debate*, 84 FOREIGN AFF. 123, 123 (2005).

13. See Alfred de Montesquiou, *African Union Force Ineffective, Complain Refugees in Darfur*, WASH. POST, Oct. 16, 2006, at A15 (reporting that 2.5 million people are internally displaced in Sudan); see also Department for International Development, Humanitarian Update—July 2007: Chad, [http://www.dfid.gov.uk/emergencies/humanitarian\\_update.asp#Chad](http://www.dfid.gov.uk/emergencies/humanitarian_update.asp#Chad) (last visited Feb. 7, 2008) (noting that there are over 235,000 Darfur refugees in Eastern Chad).

14. Article 1 of the Convention on the Prevention and Punishment of Genocide reads: “The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.” Convention on the Prevention and Punishment of the Crime of Genocide art. 1, Dec. 9, 1948, 78 U.N.T.S. 277, 280.

15. See SAMANTHA POWER, “A PROBLEM FROM HELL”: AMERICA AND THE AGE OF GENOCIDE 17-30 (2002).

16. *Hearing on Situation in Sudan*, *supra* note 9.

Powell and others within the U.S. government could on the one hand acknowledge that genocide was taking place, and on the other, reject the notion that greater action therefore was warranted, ignited a moral outrage across the United States and beyond.

## II. THE FOUNDATIONS OF A MOVEMENT

As the situation on the ground in Darfur worsened, public frustration fueled what was then a budding grassroots movement—based largely in the United States but increasingly active in other parts of the world—of citizens pressing for a more robust political response from the world's leaders. The movement had a theoretical and intellectual underpinning in two sources: an emerging doctrine called the “responsibility to protect” and a Pulitzer Prize winning examination of how the United States responded to genocide throughout the twentieth century.<sup>17</sup>

The responsibility to protect emerged in the aftermath of mass atrocities in Rwanda, Bosnia and Kosovo, crises which sparked a heated controversy between supporters of a “right of humanitarian intervention” and those who argued that state sovereignty, as recognized in the United Nations (“U.N.”) Charter, precluded any intervention in the internal affairs of a country.<sup>18</sup> The responsibility to protect, initially formulated in a 2001 report by the International Commission on Intervention and State Sovereignty (“ICISS”), aimed at bridging this divide between those in favor of humanitarian intervention and those who believed sovereignty remained paramount.<sup>19</sup>

The responsibility to protect essentially argues that sovereign states, and the international community as a whole, have a responsibility to protect civilians from mass atrocity crimes. If a government is unable or unwilling to ensure the security of its own people, regional states and the international community therefore bear responsibility for protecting those civilians.<sup>20</sup> Fur-

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17. See generally Power, *supra* note 15.

18. See, e.g., Carsten Stahn, *Responsibility to Protect: Political Rhetoric or Emerging Legal Norm*, 101 AM. J. INT'L L. 99 (2007).

19. INT'L COMM'N ON INTERVENTION & STATE SOVEREIGNTY [ICISS], THE RESPONSIBILITY TO PROTECT: REPORT OF THE INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY (2001) [hereinafter ICISS REPORT], available at <http://www.iciss.ca/pdf/Commission-Report.pdf>.

20. See generally Stahn, *supra* note 18.

ther, the doctrine defines this responsibility more broadly than the simplistic (and inherently divisive) question of whether or not to intervene militarily to prevent crimes against humanity.<sup>21</sup>

The three international responsibilities are the following:

1. *The responsibility to prevent*: To address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk.
2. *The responsibility to react*: To respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention.
3. *The responsibility to rebuild*: To provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert.<sup>22</sup>

By adopting the responsibility to protect as a platform from which to address the difficult question of exactly *how* the international community should respond to the crisis in Darfur, activists established themselves at the forefront of a broader movement to prevent genocide and crimes against humanity wherever they occur. Moreover, Darfur activists avoided the potentially fatal trap of arguing for military intervention as the only way to prevent atrocities and protect civilians; no credible activist voice has pressed for a non-consensual military intervention in Darfur.<sup>23</sup>

The second intellectual leg that the Darfur activist move-

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21. See ICISS REPORT, *supra* note 19, at 17-18.

22. *Id.* Just a few years after the ICISS Report, the responsibility to protect became a central theme in the Secretary-General's recommendations to the U.N. See The Secretary General, *In Larger Freedom: Towards Development, Security and Human Rights for All*, U.N. Doc. A/59/2005 (Mar. 21 2005), The Secretary General, High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, delivered to the General Assembly, U.N. Doc. A/59/565 (Dec. 2, 2004). The report *In Larger Freedom: Towards Development, Security and Human Rights for All* was unanimously accepted by Heads of State and Government at the September 2005 World Summit session of the U.N. General Assembly.

23. See INT'L CRISIS GROUP, A STRATEGY FOR COMPREHENSIVE PEACE IN SUDAN 13-15 (2007) (outlining various international strategy objectives for Darfur), *available at* [http://www.crisisgroup.org/library/documents/africa/horn\\_of\\_africa/130\\_a\\_strategy\\_for\\_comprehensive\\_peace\\_in\\_sudan.pdf](http://www.crisisgroup.org/library/documents/africa/horn_of_africa/130_a_strategy_for_comprehensive_peace_in_sudan.pdf); *see also* JOHN PRENDERGAST & COLIN THOMAS-JENSEN, ENOUGH: AN AXIS OF PEACE FOR DARFUR: THE UNITED STATES, FRANCE, AND CHINA 4-5 (June 2007) (promoting the "3Ps" crisis response framework of peacekeeping, protection, and punishment over non-consensual military intervention in Darfur) *available at* [http://www.enoughproject.org/files/reports/axis\\_of\\_peace\\_paper.pdf](http://www.enoughproject.org/files/reports/axis_of_peace_paper.pdf).

ment stands on is the thesis put forward in Samantha Power's 2003 book *A Problem From Hell: America and the Age of Genocide*.<sup>24</sup> Power forcefully and convincingly argues that the U.S. government has failed to respond aggressively to genocide throughout the twentieth century—from the Turkish genocide of Armenians to the tragedies of the Balkans and Rwanda in the 1990s—because there has not been an effective political cost for inaction.<sup>25</sup> Policymakers are stirred to action by a compelling national interest or domestic political considerations, and in the absence of either, as was the case most vividly and dreadfully in Rwanda, the U.S. government simply will not make full use of all of its capabilities—diplomatic or military—to stop crimes against humanity or genocide. The Darfur activist movement is a response to this basic dilemma, and, as discussed below, focused activism is affecting policy change.

### III. THE GROWTH OF A MOVEMENT

Over the last five years, what started as a few students, religious leaders, and members of Congress has grown into a broad-based nationwide campaign on Darfur.<sup>26</sup> People with diverse political, religious, cultural and ethnic affiliations have joined together in an effort to end the Darfur crisis.<sup>27</sup> One of the greatest driving forces has been the student movement, or STAND,<sup>28</sup> which formed at Georgetown University in 2004, just a few weeks after President George W. Bush called Darfur “genocide,” and one year after the fighting broke out in Darfur. Since then, it has grown into an international network of student activists, with over 700 chapters around the world.

The Save Darfur Coalition,<sup>29</sup> formed in mid-2004, is an alliance of more than 180 faith-based advocacy and human rights organizations with more than one-million activists and 1000 community groups working to end the atrocities in Darfur.

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24. See generally POWER, *supra* note 15.

25. See *id.* at 503-10.

26. See JOHN PRENDERGAST ET AL., ENOUGH, DON'T QUIT NOW: BRINGING THE DARFUR GENOCIDE TO AN END 1 (2007), available at [http://www.enoughproject.org/files/reports/dontquitb\\_20071203.pdf](http://www.enoughproject.org/files/reports/dontquitb_20071203.pdf).

27. See *id.*

28. For more information, see STAND—A Student Anti-Genocide Coalition, <http://www.standnow.org> (last visited Feb. 7, 2008).

29. For more information see Save Darfur, <http://www.SaveDarfur.org> (last visited Feb. 7, 2008).

Other groups such as ENOUGH, the Genocide Intervention Network and the Sudan Divestment Task Force<sup>30</sup> have also been collaborating to educate a growing number of Americans about the issue and promote practical policy solutions to the crisis in Darfur.

The movement is not confined to the United States. Citizens around the world have helped to galvanize a number of key international players—most prominently China, France, and Great Britain—to play more assertive and collaborative roles in finding a resolution to the Darfur crisis.<sup>31</sup>

China has a strong tradition of not interfering in the domestic politics of any country, particularly those in which it has deep economic ties, such as Sudan. Yet advocacy campaigns based in the United States and Europe have successfully pressured China to play a more constructive role *vis-à-vis* Sudan.<sup>32</sup> The global campaign to tie the Chinese government and its multi-billion dollar investments in the Sudanese oil sector to the atrocities in Darfur has reverberated in Beijing. Recently, Dream for Darfur—a leading activist group bringing pressure to bear on China—issued a report that grades sponsors of the 2008 Olympics in Beijing on what actions they have taken to approach China over its role in Darfur.<sup>33</sup> This public name-and-shame, as well as other activist and celebrity pressure (including Stephen Spielberg, who recently resigned as artistic adviser for the 2008 Beijing Olympic Games' opening ceremonies)<sup>34</sup> on the Chinese government in relation to the upcoming Olympic Games, drove the Beijing government to play a much more active behind-the-scenes role in pressing the Sudanese government to comply with its international obligations. China's quiet pressure on the Khar-toum regime, for example, led Sudan to officially accept a joint

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30. For more information on these groups, please see their respective websites. See Enough, The Project to End Genocide and Crimes Against Humanity, <http://www.enoughproject.org> (last visited Feb. 7, 2008); Genocide Intervention Network, <http://www.genocideintervention.net> (last visited Feb. 7, 2008); Sudan Divestment Task Force, <http://www.sudandivestment.org> (last visited Feb. 7, 2008).

31. See JOHN PRENDERGAST ET AL., *supra* note 26, at 2.

32. See *id.*

33. See Olympic Dream for Darfur, <http://www.dreamfordarfur.org/> (last visited Feb. 7, 2008); see also JOHN PRENDERGAST ET AL., *supra* note 26, at 2.

34. See James Bone, *Spielberg Pulls Out of Olympics in Protest at China's Policy on Darfur*, TIMES (London), Feb. 13, 2008, at 3.



African Union ("A.U.")/U.N. peacekeeping force for Darfur.<sup>35</sup>

As a result of pressure from their citizens, the French and British Governments have also taken more diplomatic action on the Darfur crisis. The French pressure group *Urgence Darfour* worked tirelessly to put Darfur on the agenda for candidates in France's most recent presidential election.<sup>36</sup> Upon taking office in May 2007, French President Nicolas Sarkozy promptly pledged to work to bring the Darfur crisis to an end, convened a ministerial summit to discuss a coordinated international approach, and sent his foreign minister to the region to break the impasse over separate peacekeeping deployments to Darfur and eastern Chad. France will now spearhead the deployment of a joint U.N.-European Union ("E.U.") mission to protect civilians and humanitarians in eastern Chad. In Great Britain, activists led by organizations such as Aegis Trust and Crisis Action have put pressure on former British Prime Minister Tony Blair and his successor Gordon Brown to take a leading role in international efforts on Darfur.<sup>37</sup> Shortly after Brown took office, he and Sarkozy penned a joint opinion piece in *The Times* of London underscoring their commitment to the issue and outlining steps they plan to take jointly to press for a solution.<sup>38</sup>

In the United States, as outlined below, both the legislative and executive branches have taken action in the past three years

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35. JOHN PRENDERGAST ET AL., *supra* note 26, at 2. Unfortunately, China has not sustained that pressure and the Sudanese government continues to erect bureaucratic roadblocks to the force's full deployment. *See id.*

36. *See generally* Collectif Urgence Darfour, <http://www.urgencedarfur.info/> (last visited Feb. 7, 2008).

37. *See* CRISIS ACTION, REPORT ON RECENT ACTIVITIES (JULY-SEPTEMBER 2006) with Accounts 2005-2006 at 4 (2006), available at <http://crisisaction.org/docs/Quarterly%20Report.pdf>; James Smith, Aegis Trust, *Yes, There Really is a Way to Help Darfur*, *TIMES* (London), Dec. 9, 2006, at 23 (pressuring Prime Minister Blair to act on his words and have Great Britain assist in Darfur); Aegis Trust, Darfur (Sept. 17, 2007), [http://www.aegistrust.org/index.php?option=com\\_content&task=view&id=175&Itemid=183](http://www.aegistrust.org/index.php?option=com_content&task=view&id=175&Itemid=183) (praising Gordon Brown for his involvement in Darfur, but reiterating there is still work for him to do); Aegis Trust, Worldwide Protests Demand Action to Protect Darfur (Sept. 17, 2007), [http://www.aegistrust.org/index.php?option=com\\_content&task=view&id=665&Itemid=88](http://www.aegistrust.org/index.php?option=com_content&task=view&id=665&Itemid=88) (discussing how Gordon Brown is committed to solving the Darfur crisis); James Smith, Aegis Trust, Blair Statement on Darfur: Too Many Words, Too Little Action (Dec. 09, 2006), [http://www.aegistrust.org/index.php?option=com\\_content&task=view&id=555&Itemid=88](http://www.aegistrust.org/index.php?option=com_content&task=view&id=555&Itemid=88) (calling for Prime Minister Blair to take action in the Darfur crisis).

38. *See* Gordon Brown & Nicolas Sarkozy, *We are Pushing and Pushing to Save the Darfuris*, *TIMES* (London), Aug. 31, 2007, at 19.

as a direct result of pressure from U.S. citizens. Although most within the movement have never been to Darfur—most have never even met a person from Darfur—they write letters, participate in demonstrations, and become what Samantha Power terms “upstanders” in the face of the most horrific crimes against humanity.<sup>39</sup> Over the last four years, this movement has become a formidable force for change in helping to press U.S. leadership to aggressively pursue a three-pronged multilateral approach to end the Darfur crisis: serious peace negotiations, protection of innocent civilians, and accountability for those most responsible for crimes against humanity.<sup>40</sup>

### A. *Negotiating Peace*

In the summer of 2006, activists and key leaders within the U.S. Congress finally succeeded in pressing the White House to appoint a Special Envoy for Sudan, Andrew Natsios, to be the point-person for U.S. efforts on Darfur.<sup>41</sup> After a false start in early November 2007, following a failed peace agreement signed in May 2006, the mediators are making adjustments and assessing options for a more effective approach, and activists have maintained the steady drumbeat of support for a credible peace process in Darfur.<sup>42</sup> Beijing has appointed an experienced diplomat in Africa, Liu Guojin, as its special envoy to Darfur, despite its general distaste for envoys of this nature.<sup>43</sup> This decision was almost certainly a result of global activist pressure. Since assuming his post in May, Liu has visited Sudan several times and traveled to Sirte, Libya, for the peace talks.

In a related move, activists and their congressional allies also pressured the United States to name an envoy to support

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39. See generally POWER, *supra* note 15.

40. See ROGER WINTER & JOHN PRENDERGAST, ENOUGH, AN ALL-SUDAN SOLUTION: LINKING DARFUR AND THE SOUTH 6 (2007), available at [http://www.enoughproject.org/files/reports/allsudan\\_20071114.pdf](http://www.enoughproject.org/files/reports/allsudan_20071114.pdf).

41. See Press Release, SEAN MCCORMACK, U.S. DEP'T OF STATE, APPOINTMENT OF ANDREW NATSIOS AS THE PRESIDENT'S SPECIAL ENVOY FOR SUDAN (Sept. 19, 2006), available at <http://www.state.gov/r/pa/prs/ps/2006/72830.htm>.

42. See COLIN THOMAS-JENSEN & JOHN PRENDERGAST, ENOUGH, A STRATEGY FOR SUCCESS IN SIRTE 1 (2007), available at <http://www.enoughproject.org/files/reports/sirte%20final1.pdf>.

43. See *China appoints envoy for Darfur*, BBC NEWS, May 10, 2007, available at <http://news.bbc.co.uk/2/hi/africa/6641929.stm>.

peace negotiations to end the conflict in northern Uganda.<sup>44</sup> Activists are also beginning to develop important ties between the Darfur movement and the constituencies that helped to focus U.S. government attention on implementing Sudan's 2005 Comprehensive Peace Agreement ("CPA"), a U.S.-backed deal that halted the destructive war that raged through Southern Sudan from 1983, killing two million and displacing nearly five million more.

### B. *Protecting Civilians*

In July 2007, the U.N. Security Council unanimously authorized the deployment of a U.N.-("A.U.") hybrid force for Darfur, known as UNAMID, and the Sudanese regime accepted.<sup>45</sup> This was an extraordinary accomplishment, brought about in part because of global activist efforts in countries throughout the world, including the thirty-five countries that held "Global Day for Darfur" rallies in the spring of 2007.<sup>46</sup> Steady pressure from activist organizations has also helped keep funding available for the African Union Mission in Sudan ("AMIS") (though it must be noted that the United States and others have failed miserably to endow AMIS with the capabilities to fulfill its mandate).

### C. *Promoting Accountability*

Activist pressure also resulted in the United States stepping aside and allowing the U.N. Security Council to pass a resolution referring select participants in the atrocities in Darfur to the International Criminal Court ("ICC").<sup>47</sup> This resolution gave the ICC authority to investigate and prosecute those most responsible for human rights violations committed in Darfur. Additionally, the Bush administration responded to intense congressional and activist pressure by expanding sanctions on transactions involving the Sudanese oil sector, signaling that the protracted pe-

44. The Ugandan rebel Lord's Resistance Army has, like the Janjaweed, committed serious atrocities against civilians and served as a proxy for Khartoum. See JOHN PRENDERGAST, ENOUGH, WHAT TO DO ABOUT JOSEPH KONY (2007), available at [http://www.enoughproject.org/files/reports/kony\\_20071029.pdf](http://www.enoughproject.org/files/reports/kony_20071029.pdf).

45. See S.C. Res. 1769, ¶ 1, U.N. Doc. S/RES/1769 (July 31, 2007); see also U.N. DEP'T OF PUBLIC INFO., PEACE & SEC. SECTION, UNITED NATIONS AND DARFUR FACT SHEET (2007), available at [http://www.un.org/News/dh/infocus/sudan/fact\\_sheet.pdf](http://www.un.org/News/dh/infocus/sudan/fact_sheet.pdf).

46. See *World Rallies for Darfur Action*, BBC NEWS (U.K.), Apr. 29, 2007, available at <http://news.bbc.co.uk/2/hi/africa/6604555.stm>.

47. See S.C. Res. 1593, U.N. Doc. S/RES/1593 (Mar. 31, 2005).

riod of “all bark and no bite” was over for U.S. policy toward Darfur.<sup>48</sup> Although these sanctions must become multilateral through the U.N. Security Council to be maximally effective, the U.S. government’s measures are a step in the right direction. These expanded sanctions were announced shortly after Darfur activists in the United States participated in over 450 “Global Days for Darfur” events in forty-seven states, calling for action to stop the genocide.<sup>49</sup>

Activists have also effected policy change within state governments, universities, and private companies. The Sudan Divestment Taskforce has spearheaded the most effective divestment campaign since the anti-apartheid divestment movement aimed at South Africa in the 1980s and early 1990s.<sup>50</sup> The efforts have targeted endowments, public pensions, and mutual funds that indirectly benefit from genocide. Twenty-two U.S. states—both large and small—have divested thus far. Fifty-eight universities have divested, and forty-seven more have active ongoing campaigns aimed at cleaning their endowments of stocks underwriting genocidal policies; fifteen countries have initiated targeted Sudan divestment campaigns;<sup>51</sup> and Fidelity, one of the largest mutual fund companies in the United States, has sold more than ninety percent of its holdings in PetroChina, an oil sector company with close ties to the Sudanese government, in response to a major activist campaign.<sup>52</sup>

48. . See JOHN PRENDERGAST ET AL., *supra* note 26, at 3; see also Kirit Radia, *Bush Announces More Sanctions for Sudan*, ABC NEWS, May 29, 2007, available at <http://abcnews.go.com/US/story?id=3220915>.

49. See JOHN PRENDERGAST ET AL., *supra* note 26, at 3; Press Release, Save Darfur Coal., Peace and Protection for Darfur Civilians Urged at over 500 U.S. Events as Part of “Global Days” (May 4, 2007), available at [http://www.savedarfur.org/newsroom/releases/peace\\_and\\_protection\\_for\\_darfur\\_civilians\\_urged\\_at\\_over\\_500\\_us\\_events\\_as\\_pa/](http://www.savedarfur.org/newsroom/releases/peace_and_protection_for_darfur_civilians_urged_at_over_500_us_events_as_pa/).

50. See JOHN PRENDERGAST ET AL., *supra* note 26, at 3; see also Martin Plaut, *Darfur Campaign Cuts Sudan Money*, BBC NEWS (U.K.), Oct. 7, 2006, available at <http://news.bbc.co.uk/2/hi/africa/5416272.stm> (stating that “[t]he campaign is run by the Sudan Divestment Task Force” and “[i]t is beginning to gain the kind of momentum it took anti-apartheid pressure groups 20 years to achieve”). For further information on the Sudan Divestment Task Force, see Sudan Divestment Task Force, <http://www.sudandivestment.org/home.asp> (last visited Feb. 7, 2008).

51. The countries are: Australia, Belgium, Canada, Germany, Ireland, Italy, Japan, Netherlands, New Zealand, Norway, South Africa, Sweden, Switzerland, the United Kingdom, and the United States. See Sudan Divestment Task Force, Divestment Statistics, <http://www.sudandivestment.org/statistics.asp> (last visited Feb. 7, 2008).

52. See Muralikumar Anantharaman, *Fidelity’s PetroChina Stake Sale Shows Campaign*

Warren Buffet's Berkshire Hathaway followed suit after being targeted at his shareholder meeting, selling one hundred percent of his PetroChina holdings.<sup>53</sup> Following weeks of engagement with the Sudan Divestment Taskforce, La Mancha Resources, a Canadian mining company and the primary foreign player in Sudan's mineral extraction industry, committed to refrain from new investment in Sudan until a peacekeeping force consistent with U.N. Security Council Resolution 1769 has been deployed in Darfur with the full compliance and cooperation of the Sudanese government—even though all of its operations are on the opposite side of Sudan.<sup>54</sup> In addition, the company's president met with Dr. Awad Ahmed al Jaz, Sudan's Minister of Energy and Mining, to discuss Darfur and encourage the Sudanese government to allow deployment of the U.N.-led peacekeeping force.<sup>55</sup>

Divestment efforts are coming full circle, as well. The U.S. Congress is nearing passage of the Sudan Accountability and Divestment Act,<sup>56</sup> a vehicle for getting foreign companies operating in Sudan to suspend or change their Sudanese business operations or risk losing their contracts with the U.S. government. The cumulative effects of these divestment efforts are political as much as economic, as it casts Sudan and the companies that sup-

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Power, REUTERS, May 23, 2007, available at <http://www.reuters.com/article/reutersEdge/idUSN2325531920070523>. But see Ross Kerber, *Fidelity Says it Did Not Divest for Darfur*, BOSTON GLOBE, May 17, 2007, at D1.

53. See *Buffet Says Berkshire Hathaway Has Sold Last of PetroChina Shares*, INT'L HERALD TRIB., Oct. 18, 2007, available at <http://www.ihf.com/articles/ap/2007/10/18/business/NA-FIN-US-Berkshire-PetroChina.php>.

54. See *Combating Genocide in Darfur—The Role of Divestment and Other Policy Tools: Hearing Before the S. Committee on Banking, Housing, & Urban Affairs*, 110th Cong. (2007) (statement of Adam Sterling, Director, Sudan Divestment Task Force), available at [http://banking.senate.gov/\\_files/sterling.pdf](http://banking.senate.gov/_files/sterling.pdf); see also LA MANCHA RESOURCES INC., POLICY ON ONGOING OPERATIONS AND INVESTMENT IN SUDAN (2007), available at <http://www.lamancharesources.com/2/Sudan%20Policy%20-%20v11-v2.pdf>.

55. For more information on La Mancha Resource's divestment actions, see *Combating Genocide in Darfur—The Role of Divestment and Other Policy Tools*, *supra* note 53.

56. The U.S. Senate passed the bill by unanimous consent on December 12, 2007, and the House of Representatives is expected to quickly pass the Senate version of the bill. President Bush and his administration, however, have strongly opposed this legislation to date, arguing that now is not the right time to pressure the Sudanese government and that the bill would interfere with presidential foreign policy. See Susan Cornwell, *U.S. Senate Passes Sudan Divestment Bill*, REUTERS (U.K.), Dec. 13, 2007, available at <http://uk.reuters.com/article/oilRpt/idUKN0540239220071213>.

port it as pariahs that must change their behavior or be denied international investment capital.

#### IV. *TOWARD A PERMANENT CONSTITUENCY*

Although the Darfur advocacy movement has made commendable strides, the large disconnect between the moral imperative in Darfur and the action needed to resolve the crisis remains. This not only involves pressing for a more robust diplomatic response today, but investing in institutional development to more effectively prevent similar atrocities from unfolding in the future. Ultimately, the movement needs to build a broad-based permanent constituency of citizens pressing for an end to genocide and crimes against humanity. After the Holocaust, Rwanda, and Srebrenica, small waves of advocacy efforts came and went, but each time, activists had to reinvent the wheel. The current movement, which is far stronger and broader than any of its predecessors, has the opportunity to make this a permanent effort to not only respond to Darfur and other similarly egregious crises, but to build institutional capacity and will to prevent future outbreaks of mass atrocities.

#### V. *THE WAY FORWARD*

In the current struggle regarding the situation in Darfur, activists have played a critical role in helping to change or influence a number of the key policies that are critical prerequisites for ending the crisis in Darfur in the areas of peace, protection, and punishment. Yet serious challenges and obstacles remain. First and foremost, China, France, Great Britain and the United States must do much more diplomatically to pressure the Sudanese government to stop undermining domestic and international efforts to pursue peace and protection in Darfur. Again, a few steps have been made in the right direction, but these four key countries have not put Darfur center stage; not unilaterally, not through regional partnerships, and not at the United Nations Security Council, where it arguably matters most.

Secondly, on peace: To create the missing and essential point of coordinated leverage on the parties involved in peace efforts, the United States, with full-backing from the White House, must establish a full-time diplomatic team in the region, headed by the White House envoy, with two deputies—one for

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Darfur and one for the South—to maintain consistent, high-level pressure on implementation of the CPA and driving forward a peace process for Darfur. The United States must enlist similar commitments from its allies—especially the United Kingdom and France—as well as China to demonstrate international consensus and commitment for a peaceful political transition in Sudan.

Third, on protection: The United States should work with the E.U., U.N. and A.U. to ensure the deployment of the civilian protection force for Darfur authorized by Security Council Resolution 1769 and the E.U. force set to deploy to eastern Chad. The Permanent members of the U.N. Security Council must demonstrate their commitment by devoting air assets and providing operation support for UNAMID. A similar effort is needed to support the E.U.'s force in Chad to ensure that the force has the capacity to respond quickly and effectively to attacks against civilians.

Fourth, on punishment: To build leverage for peace and protection, it is crucial that any party who undermines efforts to promote peace and protect civilians face repercussions. Specifically, the United States, France and the United Kingdom should be prepared to lead efforts in the U.N. Security Council to impose immediate and specific measures against any government, militia or rebel official who obstructs the deployment of the hybrid force, undermines the forward movement of the peace process or is responsible for attacks against civilian populations. Additional assistance should also be given to the ICC to execute indictments, support the prosecution of those indicted, and help accelerate the Court's preparation of additional cases against senior Sudanese officials responsible for crimes against humanity. The United States should also consult with the U.N., E.U. and A.U. about strategies for apprehending indictees so prosecutions can begin. Activists must continue to ramp up advocacy efforts aimed at pressuring China in the build-up to the Olympics, including intensified divestment focused on Chinese companies.

*CONCLUSION*

Change takes time. In social and political movements throughout history—be it the civil rights movement in the United States, the anti-apartheid movement in South Africa, or

worldwide efforts to end colonialism and slavery in Africa and elsewhere—gains were rarely instantaneous or immediately tangible. But with time and momentum, they achieved what most people during those eras believed to be unachievable. Similarly, most experts saw no end in sight for the horrific wars plaguing Liberia, Sierra Leone, Angola, and Burundi ten years ago. Today those countries are at peace, growing economically, and healing the scars of the past. With the help of a movement that is getting larger and smarter as time progresses, Sudan, too, can join the ranks of the many post-conflict countries in Africa and around the world.