Never Again: Investigating the Response of Muslim-Majority States to the International Criminal Court’s Arrest Warrants for Omar Hassan al-Bashir

Credit: International Digest, http://www.internationaldigest.org/category/cartoons/
Stephanie Gasior

Never Again: Investigating the Response of Muslim-Majority States to the International Criminal Court’s Arrest Warrants for Omar Hassan al-Bashir

Submitted to the Department of Political Science of Allegheny College in partial fulfillment of the requirements for the degree of Bachelor of Arts.

I hereby recognize and pledge to fulfill my responsibilities as defined in the Honor Code and to maintain the integrity of both myself and the College community as a whole.

(NAME PRINTED HERE)

(HONOR CODE SIGNATURE)

Approved by:

____________________________ (1st Reader’s Name)

____________________________ (2nd Reader’s Name)
Many Thanks To:

Jamie Havens: for constant support, listening to all of my new Comp theories and grievances, staying over Spring Break with me to Comp and re-write Disney lyrics in our “spare time,” and your willingness to put up with my messiness near each of my Comp deadlines. I am truly blessed to have such a wonderful friend and housemate as you.

Carolyn Kiliany: for your encouragement through my every stress, willingness to listen to Jamie and I jabber on about politics at awkward hours in the morning, rationality at my worst, late-night McDonald’s runs, and excellent dance moves in our kitchen. I cannot thank you enough for being such a caring, kind-hearted friend and housemate.

Megan Knox: for your every panicked phone call about your Comp, having an equally depressing topic to write on, Comp and lunch dates, and always being one of the most genuinely supportive people I know.

Lindsay Neff: for Panera and Nervous Dog dates, motivational text messages, your willingness to let me call and whine about anything, and sparring matches as to whether Wooster or Allegheny is the more meritorious of schools. May there be great celebration come Graduation once we are both complete!

The Gasior Family: for everything that you have done in support of my dreams. I could write pages on my every appreciation and memory, but clearly this Comp is long enough as is. I am blessed to have you to always turn to in any situation, as you not only keep me grounded but always push me to do better.

And Also To:

Allegheny College Library and Staff

Eta Beta Chapter of Alpha Delta Pi

Shanna Kirschner

Vika Gardner

Table of Contents
Introduction: Contextualizing the Genocide in Darfur

Chapter One: The Making of International Response to Genocide

Introduction
Responsibility to Protect
History of Sudan
History of the Genocide in Darfur
International Response to Darfur
The Rome Statute and the International Criminal Court
The International Criminal Court and Darfur
Overview of Responses and Methodology
Category One of Responses: Anti-Western, Pro-Sovereignty and Pro-Peace Process
Category Two of Responses: Pro-Sovereignty and Pro-Peace Process
Category Three of Responses: Anti-Western and Pro-Sovereignty
Category Four of Responses: Pro-Peace Process
Analysis and Conclusion

Chapter Two: Justice and Rhetoric Surrounding the ICC Arrest Warrants

Background
Islamic Discourses and Constructions of Justice
Iranian Rhetoric on Darfur: Ahmadinejad
Libyan Rhetoric on Darfur: Ettalhi
Libyan Rhetoric on Darfur: Dabbashi
Turkish Rhetoric on Darfur: Apakan
Rhetoric from the League of Arab States on Darfur
Analysis
Chapter Three: In-Group Elitism, Economics, and Sovereignty

Background
In-Group Elitism
Economics
State Sovereignty
Analysis

Conclusion: Future Prospects of the Responsibility to Protect and the International Criminal Court

Bibliography
Introduction:

Contextualizing the Genocide in Darfur

Due to the increasingly interdependent nature of the world, the effects of crimes against one’s own citizenry have begun to spread beyond one’s own borders into neighboring states and states involved in trade relationships. These states must pay attention to these crimes otherwise they suffer personal detriment such as environmental destruction, refugee influxes, and economic devastation. International treaties establish genocide, crimes against humanity, crimes of aggression, and war crimes as illegal actions requiring international attention and intervention. As a result, the international community is obligated to work together to ensure justice for victims.

Of the aforementioned crimes depicted by the international community as heinous and requiring international intervention, genocide is often recognized as being the worst violation against humankind. Genocide is defined by the Convention on Genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group” (United Nations General Assembly 1994). This definition is important because it is used by international organizations and judiciaries to hold perpetrators accountable for their actions.

Although genocide is not a new phenomenon, it is increasingly gaining international attention and concern, as evinced by the recent establishment of the International Criminal Court and the international passage of Responsibility to Protect. Genocides are not restricted to a region of the world, ethnicity, race, religion, or time period. Historically, genocides have been committed by the American government against the autochthonous peoples of North America, Ottomans against the Armenians, and Germans against perceived non-Aryans, among others. The locales, time periods, perpetrators, and victims of genocides all differ. As a result, the more

---

1 The word genocide was termed in 1946 by Raphael Lemkin, a Polish scholar, to describe what Churchill had previously described as “a crime without a name.” Lemkin argues that genocide is a crime in which “international society as such should be vitally interested.” (Lemkin 1946).
understanding we gain of the nature of genocide, potential causes, participation of regimes, and responses of non-involved states to the genocide, the better the international community will be able to respond to genocide in the future.

My thesis studies the responses of twelve Muslim-majority states to the genocide in Darfur and the International Criminal Court’s (ICC) attempt to begin criminal proceedings against President Omar Hassan al-Bashir of Sudan. The United Nations passed the Rome Statute in 2002, leading to the opening of the ICC in March 2003 (DeLaet 2006, 174). This statute established the ICC which was designed to enforce international human rights norms and prosecute offenders. As a newcomer to the international judicial sphere, the reputation of the ICC is dependent upon the first couple of cases pursued by the Court and the outcomes of these cases. Unless the Court delivers rulings that are favorable to international interest, the Court may not survive. Opposition parties, including states fearing intervention against their own governments, likely will not stand for a Court that does not meet their needs.

In order to ensure international acclaim for the Court, the Court must prove its impartiality in decision-making, willingness to make concessions, and ability to take on difficult cases. The Court should attempt to win a new set of allies with every case that it undertakes while simultaneously retaining previous allies in order to solidify its future. The justice dispensed by the Court must appeal to a wide audience, otherwise, the Court cannot be considered universal. As a world, we must remember that “we cannot continue to fail to prevent, to stop, and to punish the crime of genocide, massive crimes against humanity, and war crimes and then claim that we believe in human rights and dignity” (Dallair 2009, xxiii). We must use the ICC as an effective tool to be fair, equitable, and just in our treatment of every case of genocide and severe human rights violations, otherwise we continue risk the potential support of entire blocs of countries.

As the Court attempts to establish itself as a protector of human rights norms and enforcer of justice, it is important to examine why the ICC lacks support in its endeavors from one group in particular: Muslim-majority states. In approaching this topic, I take great care to avoid the paternalistic pitfalls often associated with the journalistic coverage of Darfur. Journalists and scholars accomplish little by asking: “do they [Muslim-majority
states] care about dead Muslims only when the killers are Israelis or Americans” and “where is the Arab press? Isn’t the murder of 300,000 or more Muslims almost as offensive as a Danish cartoon” (Kristof 2004; Kristof 2006). In covering this topic, I aim not to condemn a bloc of the world’s population under the guise of righteousness, but to advance the topic of genocide studies. Only respect and a genuine desire to understand can advance the fight for the ICC and human rights.

Throughout this thesis, I focus on the responses of twelve Muslim-majority states to the arrest warrants for President Bashir of Sudan on charges of war crimes, genocide, and crimes against humanity in Darfur. It was necessary to pare down the list of Muslim-majority states to twelve in order to focus individually on each state and create meaningful comparisons. The states that I have selected to study are: Algeria, Egypt, Iran, Jordan, Kuwait, Libya, Qatar, Saudi Arabia, Syria, Turkey, the United Arab Emirates, and Yemen. These states represent Asia, the Middle East, and Europe. Included in this group are Arab and non-Arab states, as well as states with a variety of governmental systems and levels of civilian freedom. These states differ in land sizes, population sizes, and historical relations with Sudan. As such, I believe that these twelve states create a representative sample of Muslim-majority states. Because I am not fluent in a language other than English, my research has been limited. However, I believe that I have created an accurate sample of material by using the United Nations, the ICC and its affiliates, as well as state websites.

This project began as way to understand why Muslim-majority states are often portrayed as the enemies of human rights. I had planned to look at the Organization of the Islamic Conference and dissect how the Organization’s actions failed to respond adequately to the genocide in Darfur. As a political scientist, I have been conditioned to look first at organizations and institutions, moving my way down the chain of command to individual choices. What I found with Darfur, however, was that the Organization of the Islamic Conference and the League of Arab States were merely acting at the behest of member states: little original thought or action occurred through these forums. In discovering this, I switched my research question to look at individual Muslim-majority states and how the rhetoric of officials defined a state’s response to the ICC.

---

2 The Court is currently hearing five cases and has opened a sixth case that will, likely, be heard. (International Criminal Court 2011 a).
3 The League of Arab States is the formal name for the Arab League. These terms are interchangeable.
I anticipated finding that these twelve states were scared into responding in a similar anti-arrest-warrant fashion. Thus, I hypothesized that these states chose to respond by condemning the ICC as a way to ensure that they protected their own governments from being targeted by the Court. In the process of trying to answer this question, I have been confronted with contradictory information, polemical statements, and a lack of available information in English at every turn. This difficulty has allowed me to be truly proud of the project I have produced: the labor I put in to make sense of these contradictions has created a well-thought out product that seeks to open the doors to a new conception of genocide and the ICC.

Since beginning this project, the potential implications of my research have grown considerably. Starting in January 2011, protests emerged in Tunisia and Egypt, echoing through much of the Middle East and culminating in a foreign intervention to protect the civilians of Libya in March 2011. Libya, however, has been an interesting case. Unlike the case of Sudan, the League of Arab States has admitted wrongdoing on the part of the Libyan government, supported intervention in Libya, and has not yet spoken against the potential ICC case against Qadhdhafi (Bronner and Sanger 2011; transliteration: Ayoub 1991). Furthermore, Qatar has participated in enforcing the no-fly zone over Libya and the United Arab Emirates is preparing to send a fleet of F-16s to patrol (DeYoung 2011). No such response occurred in Darfur. Today, looking back on my project and comparing Darfur to the current political situation in Libya, I see an interesting paradox that I hope others will choose to examine in the future: why have the responses of Muslim-majority states and organizations to these two humanitarian crises differed so dramatically?

On a fundamental level, these revolts influenced the substance of my project. Egyptian web-sites were shut off for a few days, blocking my access to certain materials. Information from some online sources was removed from public view. When I wrote my second chapter, the United Nations proved to be one of the few available sources of information regarding rhetoric on Darfur. The inaccessibility of government-sponsored information forced the topic of my second chapter to change entirely. If I, as a student in America, can be affected by the shut-off of internet in Egypt, then no state should be able to claim ignorance of the genocide in Darfur or any genocide in the future. The interconnectedness of our world is changing the face of conflict response, obligation to intervene in crisis, and notions of international justice.
This project is broken into three main chapters. Combined, these three chapters aim to discover why this bloc of Muslim-majority countries have, for the most part, chosen not to support the ICC’s arrest warrants for Bashir. My first chapter discusses the doctrine of Responsibility to Protect, the history of the genocide in Darfur, the Rome Statute and the ICC, and the four categories of state responses exemplified in official statements. This chapter ties together all of the aforementioned information, lays the groundwork for the understanding of the next two chapters, and contextualizes my project in modern discussions regarding justice and genocide. Using the information of my first chapter, my second chapter looks at examples of political speech by officials in these twelve states to determine if they have chosen not to support the ICC due to religious faith or connections. Specifically, I will look at constructions of the word “justice” and its derivatives “just” and “justly” in the Qur’an and as explained by religious scholars. I will then compare this understanding of justice to the uses of the same words in rhetoric by political officials regarding the genocide in Darfur. Finally, my third chapter will analyze the responses of these twelve states to determine the role that in-group elitism, economics, and sovereignty may have played in creating the similar responses of these states.

---

4 Moving throughout the remainder of this project, I will continue to use this transliteration of Qadhdhafi rather than following the many variances used in the news.

5 Justice is one of the most studied concepts in Islam because it is an objective incumbent upon every individual without being explicitly detailed, making it a particularly interesting way to look at the way speech reflects religion in these states. (Abu-Nimer 2003, 51).
Chapter One:
The Making of an International Response to Genocide

Introduction

In this chapter, I explore the history of the Darfur genocide and the ICC. These elements are bound together by the Responsibility to Protect, an international doctrine supporting human rights that developed at approximately the same time as the Darfur genocide. Ultimately, I look at the responses of twelve Muslim-majority states to the ICC’s arrest warrants for President Omar Hassan al-Bashir of Sudan and categorize these responses based on state choice to either support or not to support the arrest warrants.

Responsibility to Protect

Following the genocides of the twentieth century, the ideal of “Never Again” was transformed into the internationally accepted doctrine of Responsibility to Protect (R2P) (Badescu and Berghold 2009, 42). R2P was codified by the International Commission on Intervention and State Sovereignty (ICISS) in 2001 and approved by the United Nations in October 2005 (Badescu and Bergholm 2009, 42).5 Because the establishment of R2P was influenced by the genocides of the twentieth century, rhetoric in this document includes that “there must never again be mass killing or ethnic cleansing. There must be no more Rwandas,” (International Commission on Intervention and State Sovereignty 2001, 70). Hence, a defining characteristic of this document is the insistence that, through the implementation of certain policies and guidelines, genocide will become a mere memory.

R2P gives states an outline of the expectations of responsible sovereignty in an increasingly globalized world. ICISS portrays intervention as an aspect of responsible sovereignty, arguing that sovereignty is “a dual responsibility: externally—to respect the sovereignty of other states, and internally, to respect the dignity of all the people within the state” (International Commission on Intervention and State Sovereignty 2001, 8). A central characteristic of R2P is that, if a state fails to protect its citizens from targeted annihilation, members of the international community have the responsibility to intervene and rebuild. Restricted to genocide, war crimes, ethnic

5 ICISS was commissioned by the Canadian government on behalf of the United Nations in 2000 and completed in 2001, R2P is described in the 2005 World Outcome Summit Document which was accepted by the United Nations in October 2005 as General Assembly Resolution 60/1 (Beardsley 2009, 42). The 2005 World Outcome Summit Document provided the basis for later United
cleansing, and crimes against humanity, R2P is composed of three specific elements: responsibility to prevent, responsibility to react, and responsibility to rebuild (International Commission on Intervention and State Sovereignty 2001, XI, 33). While states are expected to prevent and intervene in crisis situations as per the Outcome Summit Document, they are not expected to rebuild countries destroyed due to humanitarian disasters such as tsunamis, earthquakes, or epidemics (Badescu and Bergholm 2009, 291).

ICISS and the Outcome Summit Doctrine paved the way for the international community to utilize the International Court of Justice and the ICC to prosecute those suspected of committing genocide, crimes against humanity, war crimes, or ethnic cleansing. The ICISS report states that “the establishment of the ICC is also to be welcomed as a measure to avoid the accusations of double standards, or ‘victor’s justice’…” (International Commission on Intervention and State Sovereignty 2001, 24). However, neither the International Court of Justice nor the ICC are able to mandate the rebuilding and development efforts proposed by ICISS, thus reinforcing a notion of justice that focuses on right and wrong rather than growth into social and economic wellbeing. This tension affects state perception of these courts in the prosecution of human rights crimes today, as do accusations of politicization.

**History of Sudan**

In order to understand the roots of the genocide in Darfur, one must have a basic knowledge of Sudanese history, especially in regards to the tension between North and South Sudan. No census has been taken in Sudan since 1956, but estimations are that 70 percent of the population self-identifies as Muslim and the remaining 30 percent of the population identifies as either practicing an African religion or Christianity (Human Rights Watch 2003, 44). The majority of the self-identifying Muslim population lives in the northern, richer part of the country while most Christians and believers in African religions live in the southern part Sudan (Human Rights Watch 2003, 44). Nonetheless, while religious difference separates the North and South, the reason for their division appears to be violent ethnic and cultural discrimination (Collins 2008, 137).

Discrimination against Southerners and other minorities within Sudan is not a recent phenomenon. The North and South were treated as two separate entities under British administration and were prohibited from

---

Nations resolutions, including Security Council (SC) Resolution 1706 on Darfur, thus clearly explaining the importance of the
interacting at any meaningful depth; the separation of these two regions appears to be one of the main causes of civil war in Sudan (Randeree 2010). Civil war ran from 1983 to 2005 and preceded the implementation of the President’s version of *shari’a* law (Collins 2008, 137 and 187). During the civil war, the presidency of Omar Hassan Al-Bashir was characterized by a lack of protection for human rights, the arbitrary dismissal of women from their jobs, disappearances, and torture (Collins 2008, 187-189). Today, conditions for the South appear to be improving, as a referendum election to determine potential independence for southern Sudan was held on 9 January 2011 through 16 January 2011 (8 February 2011). A total of 98.83 percent of voters overwhelmingly chose to establish an independent state for South Sudan, but it remains to be seen what the actual effects of this vote will be in terms of creating a peaceful future for Sudan (8 February 2011). Therefore, while the Darfur genocide will be discussed separate from other conditions in Sudan, the genocide in Darfur is not an aberration or anomaly: the genocide is the result of policies that reinforce division, violence, and government domination of individuals.

**The Genocide in Darfur**

Darfur has had a turbulent history due to state-sponsored discrimination against ethnic minorities, particularly in regards to land issues. This discrimination appears to be a main cause of the genocide. “The local grievance [within Darfur] focused on land and had a double background; its deep background was a colonial legacy of parceling Darfur between tribes, with some given homelands and others not; its immediate background was a four decades-long process of drought and desertification...” ultimately leading to the beginning of the genocide (Mamdani 2009, 4, emphasis in original).

Although land issues had been present for a long period of time previously, no violence occurred until 2003. On 26 February 2003, the Darfur Liberation Front (DLF) captured Jabal Marra’s capital city of Gulu and raided government posts (Collins 2008, 287.) Two weeks after the capture and raid of Gulu, the DLF changed their name to the Sudan Liberation Movement/Army (SLM/A) and captured Gulu again, “in a fierce firefight, killing 195 government soldiers…” (Collins 2008, 287). These attempts to capture Gulu call attention to the struggles of a people for land on which to obtain a livelihood and survive, an attempt that caused the violent intervention of the

Outcome Summit Document and ICISS (Badescu and Bergholm 2009, 291).
Government of Sudan (GoS). These beginnings eventually led to a full-scale conflict drawing the attention of Western media, the United States government, and eventually the United Nations.

Two major groups of actors compose the insurgency forces involved in the struggle against the GoS. The SLM/A is an insurgent in this struggle, as described in the previous paragraph. The Justice and Equality Movement (JEM) also plays an important role in opposing the GoS. JEM, unlike the SLM/A, is based in Islamist ideologies and seeks for all of Sudan “equal rights, basic services, and economic development in every region, from which political tyranny would be extirpated” (Collins 2008, 288). Composed of primarily non-Arab ethnic groups, these insurgent groups seek to gain recognition of the African heritage that put them at a disadvantage with the GoS (Mamdani 2009, 254).

The Sudanese government indirectly commanded three counterinsurgent forces. These counterinsurgency forces are primarily, although not completely, responsible for the genocide in Darfur. The counterinsurgency mounted by the GoS, is composed of the air force, additional armed forces, and groups of armed nomads known as the janjawid drawn from landless Arab tribes and Chadian immigrants (Mamdani 2009, 255-257). While the janjawid have been described as a state-supported “anti-social and outlaw phenomenon,” the additional armed forces are provided by individual tribes to be trained and controlled by the Sudanese government (Mamdani 2009, 257). Although portrayed as an “outlaw phenomenon” by Sudanese sources seeking to distance the GoS from responsibility, the government appears to be directly responsible for the financing of the janjawid as a part of their coalition against the insurgents (Prunier 2005, 98). The janjawid, air force, and additional armed forces directed by the GoS have not targeted their violence toward insurgents alone. Together, these forces have attacked and killed insurgents and civilians alike. President Bashir dissolved the Special Courts within the country which were specifically “designed to improve the human rights situation” in June 2003, thus ensuring that no entity within Sudan would be able to check his power and rule against his tactics or against those of the counterinsurgency forces (Prunier 2005, 98). Thus, although officials from the GoS are not conducting raids or rapes, these actions are condoned and encouraged by the government as a method of controlling the rebelling population.

---

7 The janjawid are fiscally supported by the government of Sudan, earning between $79-$117 a month as well as receiving “…regular army uniforms and… insignias of rank” (Prunier 2005, 98).
Darfur’s geographic location as part of the North, a region central to the Government’s power, appears to have made the territory particularly vulnerable to the government’s counterinsurgency forces. The insurgents were perceived as a threat to the government and “[their uprising] made them much more dangerous for the survival of Central Arab power than any threat by the Southerners,” thus creating a situation in which “the violence of the reaction was… in direct proportion to the degree of fear felt at the Centre” (Prunier 2005, 106). Violent tactics used by the government’s counterinsurgency forces led to the murder and mutilation of men, the rape of women, as well as the abduction and killing of children (Collins 2008, 289). These forces destroyed the livelihoods and prospects of civilians by burning villages, seizing livestock for themselves, as well as destroying fields and infrastructure within towns (Collins 2008, 289).

Although the genocide centered in Darfur, the violence was not restricted to Sudan. Incidents of the janjawiid crossing into Chadian camps for Darfur refugees to pursue and kill refugees began to be documented in 2004 (Collins 2008, 289). In addition to deaths caused by direct, combative violence within Sudan and the Chadian camps, a drought intensified food shortages caused by the genocide which dramatically increased the number of genocide-related deaths (Prunier 2005, 108). These deaths could have been partially prevented if the Sudanese government had not turned away external food aid (Prunier 2005, 108).

Darfur remains a volatile area in which the genocide continues to occur. While the mortality rate due to violence in Darfur dropped dramatically in 2005, reports of renewed violence steadily began to rise throughout 2010, leading to an estimated 32,000 new internally displaced persons between December 10 and December 30 alone (Mamdani 2009, 32; 30 December 2010). While both Chad and Qatar have held peace negotiations, no solution has yet been reached and the death toll continues to rise (30 December 2010).

Estimates regarding the death count in Darfur vary based upon the source. The United Nations estimates that approximately 300,000 people have died in the genocide since 2003, either as a result of violence or famine caused by the violence (30 December 2003). The GoS disputes this figure, arguing that a maximum of 10,000 individuals have died in the conflict (30 December 2010). The inability of government officials to determine the number of deaths has created an intellectual debate regarding the applicability of the term genocide as defined in the Convention on the Prevention and Punishment of Genocide. The debate regarding the legitimacy of the genocide
appears to have paralyzed the international community from intervening in Darfur, despite agreements reached in the United Nations regarding R2P.

**International Response to Darfur**

The plight of Darfur became nightly news in many parts of the world as well as a topic of frequent debate within the United Nations. While international attention was not drawn to the conflict immediately, “by late spring of 2004 the world media began to suspect that the ‘real story’ in the Sudan might not be the languishing peace talks in Kenya but the exploding violence in Darfur” (Grzyb 2009, viii). Once Mukesh Kapila, United Nations Humanitarian Coordinator for Sudan, stated that “the only difference between Rwanda and Darfur now is the numbers involved…” a frenzy of attention was drawn to the genocide, forcing the international community to become involved, as required by R2P (Totten 2005, 185).

As one might expect, the Government of Sudan rejected the negative coverage of Sudan. The Information Minister released a communiqué which says that “there is no rebellion in Darfur, just a local conflict among specific tribes. The government has never armed any militias. The propaganda in the West is trying to exaggerate what is happening” (Prunier 2005, 105). However, as shown elsewhere in this chapter, the Sudanese government provided financial support for counterinsurgency forces and, in some cases, training; the Information Minister’s statement is misleading, untruthful, and indicative of the types of statements released by the Sudanese government about Darfur. This communiqué demonstrates two common themes found in Sudanese communication regarding Darfur: a willingness to discount the conflict as tribal and unimportant as well as a desire to claim that the Western world, specifically the United States, exaggerated the depth of the violence.\(^\text{8}\) The Sudanese government also explains the genocide as “an attempt by the SPLA rebels and Americans aided by the Zionists to stir up trouble for a good Muslim regime” (Prunier 2005, 125). Thus, international media coverage of Darfur has differed greatly, perhaps explaining the immediate difference in international responses to the genocide.

As indicated previously, the media’s coverage of the genocide in Darfur incited public outrage at the government’s targeting of civilians. This public outrage led to the involvement of individual governments. The

---

\(^\text{8}\) Although I find the use of the phrase “the West,” to be general and often polemical, I use the phrase throughout my thesis to show a true representation of the speech and thought patterns used in discussion of this topic. In regards to this topic, Muslim-majority states most often to use this phrase to refer to the United States of America and its allies.
United States House of Representatives and Senate passed a joint resolution on 22 July 2004 declaring the conflict in Darfur a genocide perpetrated by the Sudanese government; this resolution and the accompanying statements by President Bush and Secretary of State Powell together represent the first time an individual state accused another of genocide (Mamdani 2009, 24-25). As noted above, Qatar and Chad have become involved in peace negotiations, but a solution has not yet been reached.

The United Nations and African Union also played a role in responding to the genocide in Darfur. The African Union arrived in Sudan in June 2004 to negotiate a Declaration of Peace but, lacking international financial support and equipment, the African Union Mission in Sudan (AMIS) failed to bring about peace in Sudan (Mamdani 2009, 39-40). Following AMIS’ failure, the United Nations became involved due to worried member-states and its own obligations under R2P. The United Nations passed a total of nine resolutions with “significant policy implications” for Darfur and the international community between July 2004 and July 2007 (Prendergast and Sullivan 2008). Amongst these nine resolutions, Security Council (SC) Resolution 1556 demands that the GoS end the use of the *janjaweed* as a private militia and embargo arms for all non-governmental entities in an attempt to take away the power of the *janjaweed* (Prendergast and Sullivan 2008). SC Resolution 1564 reiterates the demands of 1556 and establishes the “International Commission of Inquiry to report on violations of human rights and humanitarian law” (Prendergast and Sullivan 2008). While SC Resolutions 1556 and 1564 have not met their goals of disarming the *janjaweed* and reducing their power, these resolutions are important because they convey the message that the United Nations intends to uphold R2P and keep Sudan accountable for its actions. Furthermore, SC Resolution 1706 calls upon the international community, including Sudan, to remember their commitment to R2P in regards to Darfur (Prendergast and Sullivan 2008). For the purposes of my research, the most important of the United Nation’s resolutions on Darfur is SC Resolution 1593, which refers the Darfur genocide to the International Criminal Court (ICC) as suggested by the United Nations Commission of Inquiry on Darfur’s report (Prendergast and Sullivan 2008).

**The Rome Statute and the International Criminal Court**

With the passage of United Nation’s SC Resolution 1593, the ICC entered into its first significant conflict in regards to the disapproval of the international community. The ICC was established by the Rome Statute on 17 July
1998, was ratified on 11 April 2002, and entered into force on 1 July 2002 (DeLaet 2006, 173-174). The ICC has jurisdiction over situations in which a state fails to prosecute individuals for crimes of genocide, crimes against humanity, crimes of aggression, and war crimes; the Court can either choose to investigate a case on its own accord or receive a recommendation from the United Nations Security Council (DeLaet 2006, 174). The ICC has jurisdiction over many situations in which states would be encouraged to become involved in ending humanitarian crises according to R2P. Jurisdiction over the four crimes covered by the ICC is limited by the principle of complementarity, meaning that all crimes brought to the ICC must have occurred after 1 July 2002, a date perceived by non-supporters as arbitrary, artificial, and politically malleable (Glasius 2009, 501). Moreover, the ICC does not have the capacity to mandate the responsibility to rebuild or to encourage states to become involved in development, both of which are priorities of victims (Glasius 2009, 509-512).

In addition to questions of the Court’s jurisdiction over certain crimes, many criticisms of the Court’s impartiality have been levied by opponents. Since the doors of the court opened in 2003, an investigation have been launched in Libya and cases heard against human rights violations in Uganda, the Democratic Republic of the Congo, Sudan, the Central African Republic, and Kenya (International Criminal Court 2011 b). Of these, the case against Bashir was the first to meet with significant controversy on a global scale, as this case was the first instance of a sitting head of state issued an arrest warrant by the ICC for charges of genocide (Glasius 2009, 519). The lack of continental diversity amongst investigations creates room for an attack of the ICC based upon its perceived bias toward prosecuting African states; offenders from the United States, England, and Israel have been ignored by the ICC in place of the six aforementioned cases, all six of which are located in Africa.

**The International Criminal Court and Darfur**

Following the recommendation of the Security Council to investigate the atrocities in Darfur, the ICC opened an investigation in Darfur. The referral, however, was denounced by the GoS. Specifically, following the referral of the genocide to the ICC, President Bashir stated that “the referral [is] invalid and intended to serve Western and Zionist interests” (Chalk and Kelton 2009, 120). Bashir has not been the only political leader to

---

9 In fact, there is an almost-perfect crossover between the crimes that R2P establishes as needing immediate attention and the crimes that the ICC has jurisdiction over. Because the Convention on the Prevention and Punishment of Genocide lists ethnic cleansing as a
denounce the ICC, as evinced by speeches from leaders in numerous states including Iran, Libya, and Syria. Since
the initial announcements of the ICC opening a case on 6 June 2005, Bashir has attempted to force the case closed,
although no success has been had.¹⁰

Despite Sudanese objections to the ICC, the ICC continued to investigate human rights violations in Darfur,
ultimately issuing arrest warrants for Bashir and his compatriots. To date, the ICC has issued arrest warrants in
connection with the genocide in Darfur for Ahmad Harun, Ali Kushayb, and President Omar Hassan Al-Bashir but,
“none of the three outstanding arrest warrants have been executed as the Sudanese government has openly defied
and consistently refused to cooperate with the Court and the international community” (Coalition for the
International Criminal Court 2010).¹¹ Bashir’s first arrest warrant was issued on 4 March 2009 for five counts of
crimes against humanity including murder, extermination, forcible transfer, torture, and rape as well as two counts
of war crimes for intentionally targeting civilian populations and pillaging (International Criminal Court 2010). A
second arrest warrant was issued on 12 July 2010 for three counts of genocide including killing, inflicting serious
bodily and mental harm, and creating conditions of life that would cause the physical destruction of a people; this
second arrest warrant for Bashir was the first time that the ICC issued an arrest warrant for genocide (International
Criminal Court 2010; Coalition for the International Criminal Court 2010).

Overview of Responses and Methodology

Few Muslim-majority states have chosen to support the ICC’s arrest warrants for Bashir. The African Union,
Organization of the Islamic Conference, and Arab League have all vowed to oppose the ICC’s arrest warrants for
Bashir, perhaps fearing that a public trial will destroy the prospect for Sudanese peace (Özkan and Akgün 2010).
Since the arrest warrants for Bashir were issued, Bashir has visited Saudi Arabia, Libya, Egypt, Eritrea, Chad, and
Qatar (Phiri 2010). Bashir’s ability to travel to these six states was made possible by the choices and policies agreed
upon by states and organizations not to honor the arrest warrants (Phiri 2010). However, because Egypt is party to

¹⁰ Following the announcement of the case being opened, the GoS attempted to have the investigation cancelled by re-opening human rights
courts and immediately accusing 161 individuals of having committed minor crimes during the conflict; this attempt is widely viewed by
the international community as lacking seriousness about “ending impunity in Darfur and bringing justice to victims” (Chalk and Kelton
2009, 120; Baldo 2007).

¹¹ Subdivision of genocide, the reality is that the ICC actually lists an extra crime that R2P does not, perhaps due to the face that
intervention might, in some cases like Iraq, be considered a crime of aggression.
the Rome Statute and Chad is a signatory, a certain degree of cooperation should be expected from these two states; receiving Bashir within one’s borders without arrest does not meet these standards of cooperation (Coalition for the International Criminal Court 2009 a). Unlike Egypt, Chad, a signatory of the Rome Statute, is legally bound to “cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court” as well as assist in the apprehension and arrest of individuals wanted by the Court (United Nations 2002). Bashir’s evasion of the ICC with the aid of these states indicates that the international community has yet to reach an acceptable consensus on the issue of peace in Darfur and justice for victims.

Given the clear divide among responses, the remainder of this chapter focuses on the responses of specific Muslim-majority countries to the ICC’s arrest warrant for Bashir. For the purpose of this research, a Muslim-majority state will be defined as any state in which 50 percent or higher of all citizens self-identify as Muslim. The following states will be examined: Algeria, Egypt, Iran, Jordan, Kuwait, Libya, Qatar, Saudi Arabia, Syria, Turkey, the United Arab Emirates, and Yemen. These states are broken into four categories and analyzed based on their inclusion of each of the following elements: mentions to the severe human rights violations by the West, overt support for Sudanese sovereignty, and worries concerning the Sudanese peace process.

**Category One of Responses: Anti-Western, Pro-Sovereignty and Pro-Peace Process**

Iran’s approach to the arrest warrants for Bashir has been outspoken in regards to the politicization of the Court. Speaking to the Iranian press, Hassan Qashqavi, the spokesperson for the Foreign Ministry of Iran, states that “these courts make no response to the war crimes [committed] in Lebanon, Palestine, Afghanistan, and other countries, issuing such a warrant [for Bashir] is a blatant violation of international law and prejudice in the implementation of justice” (Tehran Times Political Desk 2009). Indeed, Qashqavi accuses the ICC of remaining silently supportive of the human rights violations committed by the Israeli government (Tehran Times Political Desk 2009). As a response to the politicization and selectivity of the Court, Qashqavi affirms that “we are telling the colonialists we are not succumbing; we are not submitting; we will not kneel; we are targeted because we refuse to submit” (Tehran Times Political Desk 2009). Qashqavi identifies the ICC arrest warrants as a Western and Zionist neo-colonialist plot against Sudanese sovereignty (Tehran Times Political Desk 2009).

---

11 Two suspects active in JEM and the SPLM/A, Abdallah Banda Abakaer Nourain, Saleh Mohammed Jerbo Jamus, voluntarily
In addition to the politicization of the Court, the Iranian government appears to be concerned about the peace process in Sudan. Iranian Foreign Minister Manouchehr Mottaki argues that the arrest warrant will not restore peace in Sudan and that, instead, the warrants will “have negative consequences for the peace process in Sudan” (Iran Raps ICC Prosecutor on al-Bashir Indictment). Mottaki also encourages Muslim-majority states to aid and run the negotiations between parties involved in the conflict in Darfur, perhaps as a way to dilute the influence of the Court and ensure that peace remains a priority (Iran Raps ICC Prosecutor on al-Bashir Indictment).

Statements made by public officials in Libya decry the arrest warrants for Bashir. Prime Minister Qadhdhafi explains that the decision to issue arrest warrants for Bashir was politically motivated by the West because “[the ICC] is against the countries colonized in the past and they want to re-colonize now. It is a practice of a new world terrorism that is not below the standard of the other terrorism” (28 March 2009). Libyan officials have also indicated that the ICC’s arrest warrants are “illegal and invalid” and have set a precedent that fails to take into consideration the need for peace in Sudan (Bakr and Shafi 2010, 13). Qadhdhafi explicates that the conflict in Darfur cannot be compared to the level of the atrocities committed by the West and its allies in Palestine, Iraq, and Afghanistan (Bakr and Shafi 2010, 13).

The positions held by politicians in Iran and Libya contain statements about the human rights violations of the West, the need to uphold Sudanese sovereignty, and the fear that the peace process will be impeded if Bashir is prosecuted. Iran and Libya exemplify two of the most outspoken positions regarding the ICC’s arrest warrants for Bashir in that they contain all three common elements of concern. Notably, both states speak of colonialism, perhaps due to their shared history of foreign administration. While their ethnic and religious compositions differ, the fact that both states hold all three aspects of disagreement is indicative of the salience of disagreement with the ICC’s arrest warrants for Bashir.

**Category Two of Responses: Pro-Sovereignty and Pro-Peace Process**

Algerian officials commenting on the arrest warrants for Bashir speak most extensively on issues of sovereignty and peace. Speaking at an Arab League Summit, Algerian Minister of Foreign Affairs, Mourad Medelci, appeared at the Court in 2010, but no official Court action has yet been taken (Coalition for the International Criminal Court 2010).
states that the arrest warrant “was an attack on the national sovereignty of Sudan[;]… [the fact that it] targets a Head of State who still exercises constitutional powers is totally contrary to international covenants and charters, and is based on a policy of double standards” (Coalition for the International Criminal Court 2009 b). Medelci moves on to ask: “why did this Court not move during the massacres committed and the destruction perpetrated by Israel in Lebanon and Gaza?” (Coalition for the International Criminal Court 2009 b). In addition to issues of sovereignty, Algerian officials have criticized the ICC for failing to allow Sudan to settle its problems internally and for failing to keep Sudanese peace and security as a top priority (Bakr and Shafi 2010, 16). Medelci’s support of Bashir and Sudanese peace is evident in his statement when he notes that “we are in solidarity with… Sudan… and praise our Brother H.E. President Hassan Omar al-Bashir in his efforts… to achieve a peace settlement [with Darfur]…” (Coalition for the International Criminal Court 2009 b). Medelci’s characterization of Bashir’s effort to create peace is far from the image portrayed by the ICC through its arrest warrant for Bashir and criticisms of his failure to end the genocide.

Like Algeria, Yemen appears to be primarily concerned with the preservation of Sudanese sovereignty. Specifically, the Yemeni government “regards the ICC action as a blatant interference in the internal affairs of a brother country, Sudan,” violating both Sudanese sovereignty and international law (Bakr and Shafi, 2010 14). The Yemeni government places importance on defending Sudanese peace in its discourse and mention that Sudan’s courts are equipped to host cases regarding Darfur (Bakr and Shafi 2010, 14). Yemen’s Shoura Council of the Islamic Islah party publicly emphasizes that “[Bashir’s arrest warrant] is a direct assault on Arab and Islamic nations,” thus supporting the overall position of the Yemeni government (Al-Omari 2010).

The rhetoric of Saudi officials focuses most prominently on Sudanese sovereignty. At the 2009 Arab League Summit, King Abdullah II notes a history of “external interference in key Arab affairs and issues,” including Darfur, leading to a need for Arab states to work together to “ensure Sudan’s security, unity, independence, and sovereignty” (Coalition for the International Criminal Court b 2009). Additionally, Saudi Foreign Minister Saud al-

---

12 Interestingly, Libya held this position before the ICC opened an investigation on Libya’s own war crimes in 2011. Since the opening of an investigation, one can reasonably expect the Libyan government to become increasingly outspoken regarding the colonial practices of the ICC and the illegality of the institution.
Faisal states that the arrest warrant was based purely on politics and “would not lead to stability in Sudan or solve the Darfur issue” (Charter 2009).

Government officials from Algeria, Saudi Arabia, and Yemen allude to the importance of Sudanese sovereignty and the peace process in their responses to the ICC’s arrest warrants for Bashir. Although the Algerian Foreign Minister mentions Lebanon and Gaza in passing, the focus is less on the atrocities than on the Court’s failure to administrate justice and support peace, thus influencing Algeria’s current perspective on the Court and Darfur. None of these states appear to support the ICC’s arrest warrants. All three states focus on issues of Sudanese sovereignty and Bashir’s attempts to create peace in Darfur currently to defend their positions.

Category Three of Responses: Anti-Western and Pro-Sovereignty

Turkey has been the least outspoken of the states in this thesis regarding the ICC. The majority of Turkish rhetoric exists due to a summit that was hosted within Turkish borders and to which Bashir was invited (9 November 2009). Forced to defend Turkey’s decision to extend an invitation to Bashir, Prime Minister Erdoğan’s commentary includes that “a Muslim cannot commit genocide” and “Gaza and Darfur should not be confused with each other. Fifteen-hundred people were killed in Gaza. If there was something like this in Darfur, we would follow that to the end...” (9 November 2009). Erdoğan’s commentary regarding the genocide in Darfur and Turkey’s willingness to host Bashir despite the ICC’s arrest warrants should be taken as a public protest of the ICC; these actions appear to exemplify a state which has little respect for the ICC in regards to Bashir. While Turkey has chosen, unlike other states, to remain as private as possible regarding official positions on Bashir, “Turkish officials have gone on the record, several times, saying that Sudan’s territorial integrity must be protected...” (Özkan and Akgün 2010).

The Syrian government has chosen not to support the ICC’s arrest warrant for Bashir, utilizing a variety of statements accusing the West of an elaborately constructed conspiracy. Syrian President Bashar al-Assad has declared his belief that the West has conspired with the ICC to destroy Sudan. Specifically, Al-Assad states that “the warrant issued by the International Criminal Court against an Arab president, under false pretexts, is the first step towards dividing Sudan in order to weaken it and then control its resources and divide them among a group of countries which seek to repeat the experiences of the [League of Nations] ‘mandate’ by using international
institutions as a pretext for reintroducing colonialism in a more modern form‖ (Coalition for the International Criminal Court b 2009).

Al-Assad’s commentary on the arrest warrants also includes statements regarding the politicization of the Court. Al-Assad explains that Syria “will discuss their [the West’s] fabricated accusations against Sudan, when those who committed atrocities and massacres in Palestine, Lebanon, and Iraq are arrested brought before the Court facing the charges, which are not fabricated but proven and documented” (Coalition for the International Criminal Court b 2009). In describing the ICC, Al-Assad indicates that, “what is happening to the Sudan now is yet another chapter in the process of intimidating the Arabs and not respecting the sovereignty of their states” (Coalition for the International Criminal Court b 2009). Thus, Al-Assad appears to have constructed a vision of the ICC as a servant of Western interests rather than an unbiased source for just decisions and punishments. The Syrian government has indicated fears that, if Bashir is brought to the Hague for a trial, the stability of Sudan will be undermined; as a result, the Syrian government has called upon the United Nations Security Council to use Article 16 of the Rome Statute to suspend ICC involvement in Darfur in order to preserve Sudanese stability (Bakr and Shafi 2010, 14-15).

This category of states is defined by a focus on the protection of Sudanese sovereignty and the condemnation of the human rights violations of the West in the rhetoric of public officials regarding the ICC’s arrest warrants for Bashir. For instance, by referencing the lack of justice for Palestine, Lebanon, and Iraq in regards to the West, Syria argues that Sudan’s sovereignty should not be violated and that, like these countries, Sudan should be treated like a victim of the West. Rhetoric from Turkey appears to follow this same model of speech in regards to Gaza being an underappreciated tragedy despite Turkish policy to be private about the genocide in Darfur.

**Category Four of Responses: Pro-Peace Process**

Qatari officials refer to the need for a peace process in Darfur to justify the state’s lack of support for the ICC’s arrest warrants for Bashir. Qatari Prime Minister Hamd Bin Jassem Bin Jabr al-Thani indicates that, although peace and justice are complimentary, the international community must first allow the peace negotiations hosted by Qatar in Doha to work effectively (Coalition for the International Criminal Court b 2009). In a separate instance, the Prime Minister explains that, despite international pressure not to host Bashir in Qatar, Bashir needs to make his own decision because his attendance would enhance the quality of the negotiations for all parties (Bakr and Shafi
Since the arrest warrants were issued, Qatar has pledged a total of $13.7 million of humanitarian aid to Darfur and has engaged in numerous development projects including constructing office buildings as a way to encourage peace (12 July 2010).

The United Arab Emirates’ official position is similar to that of Qatari officials in regards to Bashir’s arrest warrants. In asking the United Nations Security Council to invoke Article 16 of the Rome Statute to postpone Bashir’s arrest warrant, an unnamed Emirati official states that “[the] UAE is… worried about the ongoing political dialogue and efforts to reinvigorate the political process in Darfur in regards to the implementation of the peace agreement in Sudan” (5 March 2009). Additionally, both Saudi Arabia and the United Arab Emirates have offered to permanently host Bashir in order to shield him from arrest (Bakr and Shafi 2010, 15).

The Egyptian government has been politically active in finding a solution to the genocide in Darfur. Specifically, the Egyptian government has advocated the use of Article 16 of the Rome Statute to postpone Bashir’s arrest warrants, discussing the issue in press conferences and with General Assembly President Ban Ki Moon (Egypt State Information Service 2009). In fact, Egyptian officials have created a set of declarations as to how the state should deal with Bashir’s arrest warrants, including pressuring the United States to enact Article 16, holding an emergency Security Council meeting to discuss the possibility of utilizing Article 16, appealing to the Sudanese people to have faith in their government, and vowing to achieve Sudanese national reconciliation and stability (Bakr and Shafi 2010, 12).

Egypt’s advocacy for peace and eventual justice, however, has not encouraged the government to support the ICC at this time. People’s Assembly Speaker Fathi Sorour explains that “the warrant issued by the ICC for the arrest of Sudanese President Omar al-Bashir is a blow to international legitimacy and a threat to peace and security not only in Sudan but also in the entire Arab world” (Egypt State Information Service 2009). Sorour accuses the ICC and the United Nations Security Council of “turning a blind eye to the crimes committed by Israel in Gaza and by invasion armies in Afghanistan and Iraq” (Egypt State Information Service 2009).

Kuwait appears to be both overwhelmingly critical of the ICC and supportive of the Sudanese peace process. Similar to the rhetoric of Bashar al-Assad, Kuwait portrays the ICC’s arrest warrants for Bashir as a conspiracy meant to overthrow Arab states (Bakr and Shafi 2010, 15). Furthermore, Kuwaiti officials call on the ICC to
The Jordanian government’s official position on the ICC and its potential to vindicate Bashir legitimizes the Court as a non-politicized entity in which to entrust international justice, a contrast to states discussed previously. Because of Jordan’s unique position in supporting the ICC, Prince Zeid Bin Ra’ad encourages other Muslim-majority states to do the same by declaring that “Jordan calls all states, regional and international organizations to provide support to the court…. [Jordan also] stresses the need for full international cooperation with court since its work and success in achieving its goals are dependent on constructive cooperation from all states” (16 November 2008). One should note that, rather than referencing Jordan’s goals of industrialization or developing closer relationships with Western states, the rhetoric of Jordanian officials closely parallels that of other states in this category despite the difference in position on the arrest warrants.

Although the responses of each state in this category appear to be defined by states’ focus on peace-building in Darfur, states utilize this goal to defend two drastically different positions. Jordan, the only state in this study to reprioritize the peace process in Sudan and to support the efforts of Arab and African nations to resolve the crisis (Bakr and Shafi 2010, 15). As the Emir of Kuwait, Sheikh Sabah Al Ahmad Al Jabir Al Sabah, notes “we view that this decision [to issue arrest warrants] does not serve the Arab and African efforts for a solution to the situation in Darfur. We call upon the Security Council… to give a chance for peace efforts to achieve the desired results” (Coalition for the International Criminal Court 2009 b).

Unlike all aforementioned described states, Jordan is willing to enforce the ICC’s arrest warrants for Bashir. As King Abdullah II Ibn al-Hussein indicates, “we have no doubt that we must move and handle with utmost sincerity and responsibility… the crisis in Darfur and… the International Criminal Court, to ensure the security of Sudan, its unity, stability, and sovereignty” (Coalition for the International Criminal Court 2009 b). Jordanian officials voice the opinion that ICC-established justice is the only way to ensure Sudanese peace. As one anonymous official ponders while speaking to Al-Jarida newspaper, “we in Jordan wonder, how would we bring Israeli leaders to the ICC following the aggression on Gaza and demand non-execution of the court’s decisions?” (23 March 2009). Indeed, while Jordan is fulfilling its duties as a state party to the Rome Statute, various government officials continue to encourage Bashir “to present [evidence] to refute claims of the ICC” and, thus, prove his innocent to the Court (23 March 2009).
support the ICC, argues that peace in Sudan cannot be attained until legislative justice is pursued, an obvious contrast to other countries in this category. The more common position amongst these states is that the interference of the ICC in Darfur will impede the peace-building mission. Despite the differences in opinion, the number of states in this category indicates the salience of peace in creating a solution to the Darfur genocide and, thus, that the international community should grapple with this issue if it desires to gain support for the ICC’s arrest warrants for Bashir.

**Analysis and Conclusion**

Among these twelve countries exists a large number of important similarities, indicating patterns of response for Muslim-majority states to Bashir’s arrest warrants. Specifically, the tendency for the countries examined, with the exception of Jordan, was to refuse to support the ICC in its endeavors.\(^{13}\) Officials from these states most often specified their failure to comply as a concern for the arrest warrant’s impact on the peace process in Sudan, concerns for Sudanese sovereignty, an attempt to stand up for Muslim-majority countries against the West, or a combination of these reasons, thus creating four different categories of responses. Rhetoric from all of the states exemplified a minimum one of these criteria, perhaps indicating commonality of interests amongst these states. Numerous states compare the tragedy in Darfur to those perpetrated by Israel and the United States. However, every state, no matter the category, has been openly supportive of Bashir.

Given that every state has agreed to follow the doctrine of Responsibility to Protect, one must openly question the adherence of these states to the doctrine due to their failure to support the ICC’s arrest warrants for Bashir. As indicated previously in this chapter, states must seek international justice as a part of their R2P. However, Jordan is the only state to fulfill this aspect of the ideals of R2P. On the other hand, all twelve of these states have engaged in peace-building opportunities and rebuilding operations, an additional aspect of R2P. Thus, although the responses have differed, one would not be mistaken in identifying that the Muslim-majority countries examined here have acted on the recommendations of ICISS.

---

\(^{13}\) Although the vast majority of states discussed in this research have chosen not to support the ICC, citizenries in these states tend toward supporting the indictment of Bashir (Özkan and Akgün 2010, 150-151).
Chapter Two:
Justice and Rhetoric Surrounding the ICC Arrest Warrants

Background

This chapter focuses on the influence of Qur’anic portrayals of justice in shaping the discourses of Muslim-majority states regarding the International Criminal Court’s arrest warrants for President Bashir. Through the analysis of Islamic discourse, I will determine if the Qur’anic use of the words justice, just, and justly have affected the response of Muslim-majority countries to the ICC’s issuance of arrest warrants for Bashir. In order to do this, I will look at scholars’ interpretations of justice and compare these to the constructions of justice used in the rhetoric of Muslim-majority leaders.

In order to accomplish the goals of this chapter, I analyze transcripts from the 6028th meeting of the UN Security Council, the 11th Summit of the Organization of the Islamic Conference in Senegal, the 6230th meeting of the UN Security Council, and a letter written by the members of the League of Arab States to the United Nations. These sources were chosen to include a representative sample of different ethnic groups, states, and types of rhetoric used by governmental officials. Among the documents that I chose to analyze is a letter from the League of Arab States to the UN Security Council, a choice made so as to guarantee the widest possible variety of opinions. Additionally, I chose documents intended for a wide variety of audiences so as to ensure that my research was not hindered by audience-inspired bias. As a result, the documents and letters that I chose to analyze are a sample representative of the whole.

Although the rhetorical study of justice is perhaps a round-about way of analyzing the role of religion on states’ responses to the genocide in Darfur and the ICC, I believe that this will ultimately be the most effective way to approach this question. One should not discount the role of religion in defining state responses to the genocide

---

14 Islamic discourses run the full gamut of topics discussed in the Qur’an, hadith, Islamic scholarship and Islamic legal work; this chapter is the accumulation and application of Islamic discourses on justice. Although shaped by a number of external factors, Islamic discourses seek to understand the world and frame problems in a way that complements Islamic understanding. In studying Islamic discourses, one must remember that there is no one correct way to understand Islam. The number of ways in which one may construct conversations about problem-solving in accordance with Islamic ideals are numerous and ever-changing.
15 Two different speeches from the 6230th meeting of the UN Security Council were analyzed, one by a Turkish representative to the United Nations and the other by a Libyan representative.
because “ignoring religion means overlooking a potentially important variable in explaining politics” since religion is often an important aspect of national culture in Muslim-majority states (Gill 2001, 118). As indicated in the previous chapter, all twelve states responded with overarching themes in their rhetoric. Similar religious practices and beliefs could reasonably have played a role in the position formation of these twelve-states.

In order to answer this question, one cannot turn to hierarchical organizations as one might with Christianity studies; instead, one must turn to the one text understood as being authoritative: the Qur’an. Religious scholars play an invaluable role in framing the Qur’an, making the study of Qur’anic scholarship essential to grounding this research in reality. “Like homicide detectives, scholars of religion and politics need to understand motive, means, and opportunity,” in this case, placing the study of justice in the context of the Qur’an and in religious scholarship before proceeding to apply this to the genocide in Darfur. (Wald, Silverman, and Fridy 2005, 124).

**Islamic Discourses and Constructions of Justice**

The Qur’an uses three separate root words for justice and all three of these root words have divergent meanings and implications. As indicated by Majid Khadduri, “In the Qur’an there are over two hundred admonitions against injustice expressed in such words as zułm, ihtm, dalal, and others, and no less than almost a hundred expressions embodying the notion of justice, either directly in such words as ‘adl, qist, mizan, and others… or in a variety of indirect expressions” (Abu-Nimer 2003, 51). Given the wide variety of words employed in the Qur’an to describe justice, one must examine each of these roots in order to gain an understanding of the varying types of justice. ‘Adala, root *DL and ‘ADL, means “to proportion, to create in symmetry; to be just, to be equitable; to offer an equivalent; to swerve;… to ascribe equals to (God)” and “counterpoise, equivalent, justice, equity; (adv) justly, equitably” (Kassis 1983, 220-221). The root *QST is used in Qasata, meaning “one who swerves from justice, one who deviates,” Aqsat, meaning “more equitable,” Qist, meaning “justice,” and Aqsata, meaning “to act justly, to be just, one who is just” (Kassis 1983, 924-925). Indeed, “qist (the notion of dealing fairly with others, equity, fair play) is social justice in its broadest sense—first in our relationship to God and second in our relationship to

---

16 The League of Arab States includes ten of my twelve focus countries. The two missing states are Turkey and Iran, neither of which

*Wazana* and *Mizan*, both coming from the root *WZN*, mean “to weigh… weighing; weight, measure; … to weigh with justice… weighed, measured” and “balance, scales,” respectively.

Although these root words delineate different aspects of justice when read in their Arabic original, translation inadequately covers justice as portrayed in Arabic. Unfortunately, “the English language does not allow for a distinction that is easily made in say, Latin or German, between justice as a value, virtue, or principle… and as the adjudication of legal disputes,” thus making the demarcation of different types of justice in English both a complex and important endeavor (Krämer 2007, 28). Furthermore, as Wagner indicates, “the absence of a technical term for justice in the Qur’an allows for a conception of justice which transcends human language” (Brockopp 2011). The ambiguity of the term ‘justice’ leaves us to make estimations in order to understand God’s intentions. As such, the writing of religious scholars is an invaluable tool in helping humankind to understand the concept of justice and living justly.

Because justice is portrayed in numerous ways throughout the Qur’an using these three root words and is one of the most commonly referenced ideas in the Qur’an, one can infer that justice is, arguably, one of the most important concepts in the Qur’an. As explained by one scholar, “except for the existence of one God, no other religious moral principles are more emphasized in the Qur’an and the traditions than the principles of justice, uprightness, equity, and temperance” (Abu-Nimer 2003, 51). Moreover, “justice may be seen without oversimplification to the core value of Islamic ethics, for it runs like a binding thread throughout the Qur’an and the Prophetic traditions” (Hashmi 2001, 110). Justice, however, is not only a concern for religious officials and Islamic scholars; legal anthropologist Lawrence Rosen notes that “justice is the most essential, if indeterminate, of virtues for Muslims, because it keeps open the quest for equivalence, a quest seen as central to both human nature and revealed orderliness in the world of reason and passion” (Krämer 2007, 23). These scholars support their position regarding the importance of justice to God by citing that “you who believe, be steadfast in your devotion to God and witness impartially: do not let hatred of others lead you away from justice, but adhere to justice, for that is closer

---

are composed of primarily ethnic Arabs (14 June 2010).
awareness of God. Be mindful of God: God is well aware of all that you do” (5:8). Additionally, these scholars often note that “God commands justice… [and] doing good…” (16:90).

Considering the importance of justice as an idea in the Qur’an, what does this mean for believers? Based on the aforementioned Qur’anic verses as well as scholarly exegesis, one comes to the conclusion that justice is a requirement for all believing Muslims; the obligation of justice for Muslims appears to be one of the few aspects upon which scholars agree. As one scholar explains, “it is the Muslim’s duty to work for justice and reject oppression on both interpersonal and structural levels” (Abu-Nimer 2003, 49). If this is true, then since humankind has been appointed the vice-gerent of God, justice must be of primary concern to God. This view is validated by Farid ‘Abd Al-Khaliq who argues that justice is the “supreme value that ultimately ranks even above Islam” (Krämer 2007, 29). This perspective, although perhaps more radical than that of other scholars, indicates that if justice is not fulfilled, one is not truly meeting the expectations established by God in the Qur’an.

Although one knows that God expects humankind to establish justice on earth, the Qur’an does not explicitly describe how justice should be prioritized in one’s life or how one might conduct oneself justly. Thus, once again, one must turn to scholarly analysis and exegesis to answer this quandary: what are the expectations of a Muslim in regards to justice? A reasonable amount of extrapolation is necessary in order to analyze justice in the modern world because “there are no specific measures in the Qur’an or traditions that spell out how to establish justice on earth” (Abu-Nimer 2003, 51). Perspectives on justice have also varied throughout time. Because the Qur’an speaks predominately in metaphor, individuals can interpret justice as any of “a wide range of ideas and ideals, from straightness and evenness to fairness, equity, and impartiality, from the reciprocity of rights and duties to balance and harmony, the golden mean, and, quite simply, abiding by the law” (Krämer 2007, 24).

Despite the non-specific nature of justice, modern scholarship has begun to create an understanding of just conduct for believers. One main aspect of justice appears to be “to ‘witness’ God’s truth,” although to witness truth can be interpreted as anything from treating others as God would have willed to describing to others the glory of God (Hashmi 2001, 110). Rather than choosing to define witness as a description to others of the glory of God, scholarly writings seem to indicate that the broader idea of proper treatment of others is the better way to understand justice. For example, as Yamani explains, the idea behind property rights in Islam is “none shall suffer, none shall
cause hurt‖ (Yamani 2002, 5). The same concept appears to be true with the Islamic ideal of justice, as one know
that “justice is an absolute and not a relative value, a duty to be pursued among the believers and with the enemies,
too” (Abu-Nimer 2003, 52). Thus, God forbids unjust activities against any person, perhaps because all humans are
a reflection of God himself. As Muzzafar indicates, “upholding justice is undoubtedly one of the human being’s
primary duties. It is a duty that he must perform as the bearer of God’s trust…” (Muzzafar 2006, 215). Knowing the
importance of justice to God and having a general idea of what justice encompasses on the individual level, one
must wonder if these ideals be transmitted on a wider, community-based level.

Because individuals are called to establish justice on earth, one can reasonably super-impose this perspective
on the community, as a community is a group of individuals. Within the Qur’an, the idea of an Islamic community,
*umma*, is well-described as a “universal community intended to unite humankind in a system of common belief and
action” (Denny 2011). As I established previously, justice is one of the most important concepts in the Qur’an to
which every individual is called as a form of belief and submission to God. Thus, the community, as a group of
individuals, is also called to establish justice.

In the previous paragraph I established that, because individuals are called to justice, the collectivity is also
called to justice, but what might this mean in practice? Looking at the Qur’an, scholars note that “the Holy Qur’an
abounds with references to justice. Its importance is emphasized in a whole variety of human situations—
in interpersonal relationships, within the family, within the community, in the interaction between communities and
nations, in the interface between the human being and nature” (Muzzafar 2006, 214). Scholars also indicate,
especially at the community and state levels, that different types of justice should be emphasized: adjudicative
justice, retributive justice, distributive justice, and divine justice (Muzzafar 2006, 214-215). For instance,
humankind is expected to follow procedures established in the Qur’an in order to judge individuals fairly (65:2),
resolve conflict fairly and punish deeds equivalently (49:9), distribute goods fairly and honestly (83:3), and
ultimately remember that God will be the final judge at the End of Times (55:7-9). As such, “in modern writings
justice appears as the supreme and quintessential Islamic value, and the emphasis is usually on its legal, political,
and social dimensions…” (Krämer 2007, 27).
In terms of this discussion, the modern political state is expected to re-enforce justice within the community. “Leaders [of the state] have a particularly important role to play,” and must guide the state in making just decisions to benefit the community (Muzzafar 2006, 220). States concerned with upholding the Islamic ideals of justice must, for instance, establish “injunctions as al-zakah, the levy to purify wealth for the welfare of the poor, and al-awqaf, the estates in mortmain and their usage to assist the poor” (Abu-Nimer 2003, 53). States must also “ensure that no individuals are deprived of the opportunity to make use of their potential to the full; or else to prevent and root out the injustices caused by the wanton abuse of power” (Yamani 2002, 7). Thus, political leaders are expected to use their power as representatives of the state to benefit humankind and to establish justice. Political power, although not tangibly limited, is limited by one’s individual duty to establish justice. As a result, the state is required to act justly toward its own citizens as well as to individuals outside its boundaries. So, if a state is constrained by the Islamic ideals of justice in its interactions with and responses to other states, what might a just foreign policy look like?

Ultimately, Islamically just foreign policy is likely supportive of human rights and human needs. In short, the state should treat others abroad with the same amount of respect as the state is supposed to show its own citizenry. For instance, states might mobilize financial support for causes abroad; as one element of charitable giving as mandated by the Qur’an, states might engage in “protection of the environment, promotion of public health of the community at large [and abroad], or investment in sustained economic development” to “uphold the fundamental rights of all sorts of people,” and, hence, support justice (An-Na’im and Halim 2006, 8). Albeit controversial, supporting international standards of human rights abroad and within one’s own country is another important aspect of social justice (An-Na’im and Halim 2006, 18). Thus, as described in my first chapter, Responsibility to Protect does not appear to be contrary to any Islamic conception of justice. In light of all of this information regarding justice, how well do speeches and documents made by leaders of Muslim-majority states regarding the ICC follow this construction?

---

17 Islamically just foreign policy is not a well-studied subject, little scholarship exists beyond the state’s responsibilities to its own citizens

18 As indicated in by An-Na’im and Halim, the idea of human rights is not controversial for the average Sunni or Shi’a Muslim — the controversy holds with governments and state officials that choose not to support these international standards due to these being a colonial invasion of sovereignty or the fact that the West often fails to support these standards, too (An-Na’im and Halim 2006, 18).
Following the ICC’s issuance of arrest warrants for Bashir, one might expect certain rhetoric regarding justice from Muslim-majority political leaders. Casting aside what was established in my first chapter regarding the responses of these twelve states, one would expect these states to support the ICC’s effort to protect human life in Darfur, as the Qur’an explains that one should “give news of agonizing torment to those who ignore God’s revelations, who unjustifiably kill prophets, who kill those command that justice is done” (3:21). However, eleven of these twelve states have not supported the ICC’s arrest warrants for Bashir, thus invalidating my primary prediction of rhetoric on justice. As a result of state choices not to support the ICC, states might use the concepts of adjudicated and retributive justice, a concept accredited to Muzzafar earlier in this chapter, to justify their actions. Using adjudicated and retributive justice as their reasoning, these states may question the Court’s competency to fulfill a just settlement because God instructs believers: “if you do judge between them, judge justly: God loves the just” (5:42). Although difficult to assess in rhetorical analysis, concerns for adjudicated and retributive justice should not be a criticism of the West’s existence or the West’s failure to address its own human rights violations. For instance, this perspective, if existing in rhetoric, may reference the Day of Judgment.

**Iranian Rhetoric on Darfur: Ahmadinejad**

At the 11th Summit of the Organization of the Islamic Conference in Dakar, Senegal, President Ahmadinejad of Iran spoke primarily on the international community’s victimization of Muslim-majority states. Ahmadinejad uses the word justice, just, and justly a total of 12 times, but refers to Darfur only once (Ahmadinejad). In his speech, Ahmadinejad opens with explaining that “we have gathered here to discuss and make decisions about some of the most important global issues, specially those related to the World of Islam” (Ahmadinejad). Ahmadinejad proceeds to indicate that these important, global issues are “occupation, imposition of wars, organized and state terrorism, nuclear threats, lawbreaking, injustice, and discrimination” (Ahmadinejad). Presumably, one of these global issues is Darfur. Given these seven major problems, Ahmadinejad explains that the majority of these problems are perpetrated by the West and the Zionists in Palestine, Iraq, Afghanistan, and Lebanon; nowhere does the Iranian President confess the failure of Muslim-majority states to uphold justice in the world (Ahmadinejad).

---

19 Among the topics and tasks addressed at the Dakar Summit were: reviewing the OIC Charter, electing a new Secretary General, fixing membership criteria, “strengthening economic cooperation,” condemning Israeli violence against Palestine, the signing of a peace treaty between Chad and Sudan, and reaffirming Islamic values as a commitment to working together more closely. Intra and
Although Ahmadinejad places significant blame on Western powers for failing to support justice in the world, he condemns international institutions for their collaboration with the West. He portrays Iran and Sudan as the victims of a politicized Security Council which has utilized “fake and fabricated information” to violate international law (Ahmadinejad). In regards to the Security Council, the Iranian president explains that “all these [incidents] bear witness to the fact that the Security Council is not only unable to establish peace and security and administrate justice[,] but [it is] also an instrument for imposing the will of some bullying powers” (Ahmadinejad). Although Ahmadinejad does not detail who these bullying powers are, one can reasonably assume that he is referencing the Western world. Moreover, Ahmadinejad explains that the Security Council is “incapable of maintaining the rights of nations” (Ahmadinejad). Where he portrays the Security Council as defunct, Ahmadinejad explains that the Organization of the Islamic Conference is morally superiority because its members seek to “expand peace and security based on justice and [the] maintenance of human dignity” by acting in accordance with the shared values of the “Muslim Ummah” (Ahmadinejad). Finally, Ahmadinejad states that “the bullying powers” will not prevail and that “the great nation of Iran… will stand by the oppressed nations against the oppressors” (Ahmadinejad).

Ahmadinejad’s speech distorts the genocide in Darfur, presumably to portray a victimized Middle East. He downplays the genocide in Darfur as a falsehood created by the West and Zionists, similar to the international accusations against Iran for running an illegal nuclear program (Ahmadinejad). This portrayal of the genocide in Darfur may, perhaps, be due to the fact that Muslim-on-Muslim genocide does not fit Ahmadinejad’s perception of the world. He also decries the Security Council for failing to “administrate justice,” an indication that he does not use the non-political concept of justice portrayed in the Qur’an. If Ahmadinejad was using a Qur’anic construction of justice, then he would place higher importance on the responsibility of individuals to establish justice. While Ahmadinejad refers to “truth and justice” as well as “monotheism, justice and fraternity” ruling the earth, his use of the word justice is employed to attack the Western world (Ahmadinejad). His construction of justice in this speech is not employed to remind believers of the consequences of their actions, their requirement to uphold justice as a believer of God, or of their need to act with fairness. Instead, Ahmadinejad portrays a world in which Muslims are
surrounded by aggressors that fail to act with justice, but they themselves have no obligations or responsibility to treat others justly.

**Libyan Rhetoric on Darfur: Ettalhi**

The Libyan envoy to the United Nations, Giadalla Ettalhi, directly references the genocide in Darfur and the need for judicially-orchestrated justice in his remarks to the Security Council during the 6028th meeting. Alluding to Darfur, Ettalhi notes the importance of peace and justice in ending conflict, but explains his belief that “judicial justice can be achieved only in an environment of security and political stability” (Ettalhi). As such, Ettalhi indicates that ensuring security and political stability must be the international community’s first objective in regards to Darfur (Ettalhi).

Although Ettalhi does support the eventual involvement of the ICC in creating justice for Darfur, his support for the ICC’s involvement in Darfur is limited. Ettalhi comments that the Organization of the Islamic Conference, African Union, and the League of Arab States do not support the international community’s venture to impose judicial justice before ensuring Sudanese peace (Ettalhi). In regards to the ICC, Ettalhi remarks that “experience and a concern for justice have taught us that strong words… are not conducive to finding solutions or to creating an environment of cooperation and assistance with the Government of Sudan” (Ettalhi). Instead of the assisting and cooperating with the Government of Sudan, he explains that the strong words of ICC and UN have portrayed Sudan as a nation “whose sole concern is to obliterate its… people and its social fabric,” creating a contentious relationship between Sudan and these inter-governmental organizations (Ettalhi). In order to rectify this situation, Ettalhi proposes that Article 16 of the Rome Statute be activated by the Security Council so as to delay action against Bashir in order to allow the international community to focus on Sudan’s peace and security (Ettalhi). Once peace and security are established, Ettalhi indicates that the international community may refocus their attention to the pursuit of judicial justice and, until then, the international community should devote their attention to “ensuring justice and ending the humanitarian suffering in the region” (Ettalhi).

Ettalhi addresses the Darfur genocide and the victims’ need for justice, but his construction of justice is less Qur’anic than secular. He indicates that judicial justice cannot occur for Darfur until security and stability are
established, a notion that contradicts the Qur’an. Qur’anic portrayals of justice do not seem to support any delay in establishing justice. Instead of portraying justice as a temporary condition that rights the wrongs of the past through the use of the judicial system, the Qur’an portrays justice as a life-long quest for righteousness. Additionally, portrayals of justice in Qur’anic scholarship often do not include notions of the judiciary. Had Ettalhi’s rhetoric been inspired by the Qur’an, one could expect him to remark that individuals must selflessly serve their Muslim brothers, become involved in improving the conditions within Darfur, and stand up to oppressors. Ettalhi appears to place more importance on peace, security, and stability of the state rather than on justice for victims. Instead of advocating the pursuit of individuals to establish trustworthiness, honesty, equality, and fairness, Ettalhi’s construction of justice places the bulk of the responsibility on institutions and organizations. Thus, although the Libyan envoy professes dedication to the creation of justice in Darfur, his idea of justice differs from that of the Qur’an.

**Libyan Rhetoric on Darfur: Dabbashi**

Serving as Libya’s Permanent Representative to the UN, Ibrahim Omar Dabbashi’s speech on Darfur in front of the United Nations Security Council can be best characterized as inflammatory. In distinction to Ettalhi, Dabbashi’s references to justice are often more direct, frequently mentioning the need for an overarching Sudanese justice; like officials from most other states, he appears to make a concerted effort to avoid the categorization the violence in Darfur as genocide. Dabbashi opens his argument by explaining that the Libyan government has paid close attention to the situation in Darfur (United Nations Security Council 2009 a). Dabbashi indicates that Libya’s interest in Darfur has been “based on its eagerness to achieve peace and justice,” causing the nation to advocate for “peace, stability, and justice in Darfur” (United Nations Security Council 2009 a). In order to achieve these goals, he explains the position of the Libyan government that “there is no alternative to an active political process… [in] establish[ing] justice and national reconciliation in Darfur” (United Nations Security Council 2009 a).

Dabbashi’s speech displays the Libyan’s government’s failure to be patient and understanding of the actions committed by international institutions on behalf of Darfur. Speaking to the Security Council, Dabbashi condemns the ICC and Security Council for their actions, arguing that both institutions were wrong to issue arrest warrants against Bashir. Dabbashi makes this argument by indicating that Sudan is not party to the Rome Statute and that numerous international organizations have voiced concern for the peace process in Sudan should Bashir go on trial
at the ICC (United Nations Security Council 2009 a). Dabbashi implies that Prosecutor Ocampo is doing an injustice to Bashir and Sudan by “making and repeating accusations and allegations through press campaigns that go so far as to describe [Bashir]… as a fugitive from justice” (United Nations Security Council 2009 a). After criticizing the ICC, UN, and Ocampo, Dabbashi explains that “peace and justice are indivisible. But how can we achieve justice, especially in a society exhausted by conflict and numerous humanitarian tragedies? It can only be done through a political process” (United Nations Security Council 2009 a).

In analyzing Dabbashi’s rhetoric on Darfur, I have not found any evidence to indicate that the concept of Islamic justice has influenced the policies of the Libyan state or the rhetoric of Libyan officials. Dabbashi, like Ettalhi, favors the imposition of a political solution to the Darfur genocide before enacting judicial justice. As I showed previously, this policy does not support the idea of justice as established in the Qur’an or by religious scholars because justice is a life-long pursuit requiring immediate attention. Additionally, by asking for Article 16 to be enacted, Dabbashi is asking for justice to be delayed. Thus, Dabbashi indicates that justice is of lesser importance than peace, hence violating the Qur’anic principle that belief is to be coupled with a dedication to justice. By mentioning the lack of justice in Gaza and Afghanistan, Dabbashi indicates that justice can and should be delayed until other parts of the world are held accountable to their actions (United Nations Security Council 2009 a).

Dabbashi’s construction of justice fails to support the Qur’anic injunctions to end oppression. While Dabbashi advocates “bringing all parties together at the negotiating table in order to achieve a permanent settlement of the conflict and to put an end to the human suffering in Darfur,” he indicates that Libya’s interest is merely in ending the conflict rather than ensuring fairness or ending oppression (United Nations Security Council 2009 a). If Dabbashi was to follow the idea of justice that I outlined above, one might expect his rhetoric to place greater importance on the elimination of justice. This perspective is supported by the Qur’anic command that “if two groups of believers fight, you [believers] should try to reconcile them; if one of them is [clearly] oppressing the other, fight the oppressors until they submit to God’s command, then make a just and even-handed reconciliation between the two of them…” (49:9). Furthermore, Dabbashi implies that justice is judicially imposed, indivisible from peace, and is a temporary condition that may change at any point rather than an active pursuit leading to a certain level of expectations for humanity. Nowhere in his rhetoric does Ettalhi explain that justice is the responsibility of every
believer, as described in the Qur’an and by religious scholars. Thus, although Dabbashi mentions the need for justice for Darfur, he is more concerned about achieving just treatment for the whole of Sudan by the ICC and UN.

**Turkish Rhetoric on Darfur: Apakan**

Speaking at the 6230th meeting of the United Nations Security Council, Ertuğrıl Apakan, Turkey’s Permanent Representative to the United Nations, explained Turkey’s dedication to international justice. In his speech, Apakan pledges Turkey’s allegiance to the ideals of the International Criminal Court, explaining that “Turkey believes that in the years to come the ICC will have an important and complementary role to play in efforts to fight impunity with regard to the most serious crimes” (United Nations Security Council 2009 a). Apakan acknowledges that although creating a political solution for Darfur will not move quickly, the effects will carry important implications for regional and international security (United Nations Security Council 2009 a). Apakan also states that “a just and viable political settlement that addresses all of the rational grievances and expectations of the legitimate parties involved can also open a path to meaningful reconciliation and justice for all Sudanese people, including the people of Darfur” (United Nations Security Council 2009 a). However, in addition to remarking on the importance of creating a political solution for Darfur, Apakan remarks that Resolution 1593, which referred the genocide in Darfur to the ICC, is inherently flawed.

Like rhetoric from other officials, Apakan criticizes Resolution 1593 for its failure to bring about peace in Darfur. Apakan remarks that justice should not “be decoupled or pursued in isolation from the wider framework of the search for lasting peace and stability in Darfur,” as Resolution 1593 attempts to do (United Nations Security Council 2009 a). He describes that “finding a sustainable political settlement that takes into account the root causes of the conflict, addressing the humanitarian situation… and promoting… reconciliation and meaningful justice for Darfuris are… goals that need to be pursued together in Darfur” (United Nations Security Council 2009 a). For the international community, this may mean that Bashir should not be held accountable for his actions as long as Darfur is peacefully rebuilt to its previous conditions. Apakan later reiterates his demands regarding a political solution rather than judicial invasion, explaining that Turkey desires to see a “peaceful settlement” through “political dialogue” (United Nations Security Council 2009 a). Thus, Apakan’s argument is that, in order for justice to exist, a political settlement encompassing all involved parties must be established first.
Apakan’s argument parallels those of Ettalhi and Dabbashi in his explicit demand for a political solution to Darfur before attempting to establish justice. Like Ettalhi and Dabbashi, Apakan does not argue against the ICC as an institution. Instead, Apakan portrays justice through a modern lens, indicating that justice can only be established after peace and through legislative bodies rather than by individuals. However, his rhetoric does not indicate that the ICC should become involved in this case; by asking for a political solution, Apakan might be referring to a peace treaty—he leaves his expectations for the international community open-ended and unspecified.

As discussed previously, the Qur’anic perspective on justice requires every believing individual to strive for its establishment. Although Apakan refers to justice in its modern, judicial context, his references to peace appear to roughly align with the expectations of justice established in the Qur’an. For instance, Apakan favors mediation between involved parties leading to an eventual political settlement to address grievances and create reconciliation. Furthermore, he notes that “in working towards that goal [of a political settlement], it will be crucial to keep the bigger picture in focus and refrain from steps that could further aggravate the already complex situation” (United Nations Security Council 2009 a). Although Apakan implies that judicial justice will derail the process for peace, it appears that the “bigger picture” to which he refers may, in fact, be inclusive of many aspects of the Qur’anic portrayal of justice. Nonetheless, Apakan does not accentuate the responsibility of the international community of believers to aid Darfur, indicating that the Turkish government does not perceive their responsibilities to Sudan through a religious lens.

**Rhetoric from the League of Arab States on Darfur**

Following the issuance of the first arrest warrant for Bashir, the League of Arab States passed Resolution 7069 to air its disapproval of the ICC’s actions. As indicated within the Resolution, the League of Arab States “affirm[s] its solidarity with the Republic of Sudan in confronting any designs against its sovereignty, unity, and stability; its belief in the competence and independence of the [Sudanese] judiciary… as it was entrusted with… achieving justice” (United Nations Security Council 2009 b). The Resolution accuses the ICC and UN of politicizing “the principles of international justice” in order to “diminish [Sudan’s] sovereignty, unity, and stability,” especially in regards to the UN’s failure to activate Article 16 and uphold diplomatic immunity (United Nations Security Council 2009 b). Additionally, the Resolution explains the importance of the United Nations Security
Council in “maintaining civil peace and stability,” thus necessitating cooperation to reach a unified position (United Nations Security Council 2009 b). Finally, the League indicates the importance of achieving an effective political settlement in order to create peace and stability in of Sudan (United Nations Security Council 2009 b). The overwhelming message of this Resolution is that of condemnation for the United Nations for violating international principles and jeopardizing Sudan’s future.

Although this Resolution differs stylistically from other sources analyzed, ultimately, does not appear to utilize Qur’anic and scholarly-inspired discourse on justice to support its argument. Like Ahmadinejad and Al-Mohammad, the League’s Resolution places no priority on attaining any sort of judicial justice for Darfur. While the Resolution states that the ICC’s arrest warrants for Bashir disregard “the requirements for justice and the attainment of stability and peace in Sudan,” nowhere does the League explain the importance of justice for Sudan (United Nations Security Council 2009 b). Rather than supporting victims in Darfur or advocating for justice, the League appears to focus on attacking the UN and the ICC without offering solutions in order to achieve the political solution advanced by the League. Furthermore, the few instances of justice mentioned in this Resolution are coupled with references to local or international courts and kept separate from comments about peace and security. Thus, where the Qur’an portrays justice as a requirement of believers to establish condition of righteousness, good deeds, fairness, and equality, the League of Arab States clearly chooses to portray justice in the judicial framework of right and wrong.

Analysis

These five speeches and documents can be broken into two categories in order to gain greater perspective on the constructions of justice used by political leaders in rhetoric. The rhetoric used by Ahmadinejad and in Resolution 7069 composes the first category. These pieces are identified by an unconcerned attitude toward justice. Furthermore, these states are characterized by rhetoric that downplays the genocide by placing blame on other sources such as the ICC, UN Security Council, or the West for failure to enact Article 16. Rhetoric in this category insists that these institutions and entities have unfairly persecuted the Sudanese leadership.

The second category of rhetoric includes the speeches of Dabbashi, Ettalhi, and Apakan. These individuals explain that justice should be a priority of the international community, but should be postponed until peace is
established in Sudan. While speeches in this category may attack the decisions of the ICC or UN for failing to apply Article 16 of the Rome Statute, each of these individuals mentions the need for the existence of these institutions and recognizes the important role they may play in the future for creating reconciliation. The rhetoric used by political leaders in these speeches and documents seems to recognize the importance of peace and development in creating a political solution to the genocide in Darfur. Most of the individuals in this category use the term political solution or hint at their belief in developing a political solution to the genocide. The main difference between these two categories hinges on the idea of whether an international judiciary should become involved in the effort to create a political solution for Darfur.

One can see that the portrayals of justice in the selected speeches and documents examined above reflect modern constructions of justice more than Qur’anic constructions of justice. While each document and speech focuses on peace and stability, Qur’anic scholarship does not appear to place emphasis on either peace or stability as important aspects of justice. Moreover, the Qur’an and Qur’anic scholarship portray justice as an action that all believers must work toward in order to better the whole of society permanently, whereas the speeches and documents analyzed above display justice as a result of judicial action and as a seemingly impermanent condition. Additionally, where each of these sources imply that justice is a luxury for stable, peaceful societies, the Qur’an portrays justice as a necessity that leads to positive conditions in society. In order to establish justice as a condition of the modern society, Qur’anic portrayals of justice indicate that just treatment should include certain expectations of fairness, equality, kindness, and honesty. The expectations of treatment established in the Qur’an and Qur’anic scholarship as just, however, are missing from the discourses discussed. At a more basic level, these government officials do not mention either God or belief. As such, none of these examples of justice can be explained as Islamic discourses inspired by the Qur’an. Instead, the portrayals of justice in these speeches and documents are influenced by and indicative of modern conceptions of justice rather than Qur’anic constructions.

Conclusions

---

20 One should note that Muslim-majority countries have focused heavily on creating political solutions rather than imposing modern notions of justice, whereas Western countries seem to have done the opposite. While a perplexing thought and potential research question, there is no room in this project to examine this question.
Having determined that the Qur’an and Qur’anic scholarship played little role in the documents and speeches analyzed above, one can reasonably assume that Islamic discourses were not prevalent in rhetoric surrounding the ICC’s arrest warrants. Sources for this analysis came from a variety of sources both secular and not, including the United Nations, Organization of the Islamic Conference, and the League of Arab States. Given the variety of sources, one cannot argue that the lack of Islamic discourses is due to the use of secular sources. Furthermore, although a country can pick and choose the information released to the public, the United Nations is unable to make the same choices. Therefore, I believe that although I have used a small sample of rhetoric, the examples I have analyzed are representative of the whole.

In regard to the overarching question of this project, this discussion of Qur’anic, scholarly, and modern constructions of justice is important in helping to determine the role that religion has played in affecting countries’ responses to the ICC’s arrest warrants. There is little room to believe that religion has played a role in influencing these countries’ foreign policy regarding Bashir and the ICC, as rhetoric does not appear to include Qur’anic or scholarly constructions of justice. While one cannot know why religion has failed to affect the responses of Muslim-majority countries on this issue, there are many potential explanations. Nonetheless, although the reasoning is undetermined, religion does not appear to have played a role in the decision-making processes of Muslim-majority states in responding to the ICC’s arrest warrants for Bashir.

---

21 A full analysis of this question could, once again, be a separate project by itself, thus necessitating an extremely condensed set of potential explanations. Explanations proffered in the field include that Muslim-on-Muslim violence does not fit the ideal frame of oppression by Christians and Jews (Bayuni 2010), Muslims in Darfur being the “wrong kind” of Muslims for identifying as black instead of Arab (Husain 2009), and denial of the extent of the genocide (9 November 2009).
Chapter Three:
In-Group Elitism, Economics, and Sovereignty

Background

In this chapter, I link together the constructions of justice in political speeches with the responses of the twelve specified Muslim-majority states to the International Criminal Court’s arrest warrants. This chapter addresses three potential explanations for the rhetoric and responses of these states. As with the previous two chapters, the twelve states that I focus on are Algeria, Egypt, Iran, Jordan, Kuwait, Libya, Qatar, Saudi Arabia, Syria, Turkey, the United Arab Emirates, and Yemen. The three explanations that I examine for the responses of these states to the ICC’s arrest warrants for Bashir are in-group elitism and out-group xenophobia, economics, and the protection of state sovereignty. Although other explanations could be proffered, I have chosen to focus on the three explanations which seem the most plausible.\(^2\) In discussing each of these potential explanations, I provide a context for the discussion and assess the explanation’s validity. Ultimately, I choose one explanation that seems to cover each aspect of the debate.

In-Group Elitism

In-group elitism is distinguished by an overwhelming belief in a particular group’s superiority. Specifically, in regards to Darfur, this explanation identifies this bloc of twelve Muslim-majority states as an in-group whose beliefs in the bloc’s superiority and in the West’s inferiority have influenced their responses to the ICC’s arrest warrants for Bashir. By focusing on the solidarity of the group as well as the group’s feelings of superiority to other states in the international community, the group is able to construct itself as an in-group that should act similarly. States may align based on any number of perceived defining features, such as government type, history, religion, or primary ethnic group. Although other groups of states can be constructed as out-groups, the West is the most commonly referenced out-group. Out-group xenophobia sets the in-group in contrast to the out-group through references to real or perceived differences such as historical experience, culture, or international stature.

---
\(^2\) Other explanations offered include: racism, fears of refugee influx due to the collapse of stable government in Sudan, inherent objection to the existence of the ICC, a focus on the creation of peace between the North and South before Darfur, fears that judicial interference will create a never-ending polarization of the main groups, and a focus on internal state issues rather than those of Darfur. In order to consolidate my discussion and truly enter into the core of the issue, I have left these explanations out, but I hope for a future Senior Comprehensive Project to build on my foundation and dissect each of these reasons.
If this explanation correctly describes why these twelve states have not supported the ICC’s arrest warrants for Bashir, then one should expect references to the in-group’s superiority to permeate through the rhetoric of government officials. In particular, one might expect the twelve states in this study to construct themselves as morally superior to the West due to their history of negative interactions with the West. If in-group elitism is present and valid as an explanation for the responses of these twelve states, then one might expect to see the construction of the West as the polar opposite of, and morally inferior to, Muslim-majority states. One might also expect rhetoric to construct a set of commonalities in these twelve states as a way of creating a set of similar responses to the ICC’s arrest warrants. Furthermore, one might expect states to exhort others to be suspicious of the West’s motives due to common historical colonial experience. Although rhetorical styles employed by state officials from these twelve states may differ due to specific state interests and needs, an in-group elitist approach is based in the recognition of the group’s superiority to outsiders. An additional aspect of in-group elitism is the bloc’s prioritizing brotherhood and common experience over international human rights norms. Thus, while responses to the arrest warrant may differ, in-group elitism cannot be considered a plausible explanation unless rhetoric appears to draw all of these states together into a collective response based on similarities and against the inferiority of out-groups.

Historically speaking, the perspective of in-group elitism is supported by state attempts to dissolve boundaries and create a new union. In 1958, Syria and Egypt formed the United Arab Republic (UAR), Yemen later joined with the UAR to form the Union of Arab States, and Iraq and Jordan formed the Arab Union (Cotran 1959, 346). Additionally, in 1963, Egypt, Iraq, and Syria tried again to form a union (Hinnebusch 2009, 162). Therefore, of the twelve states in this study, five states have experience in union formation. While none of these attempts to create a union succeeded in the long-term, these attempts seem to indicate the ability of Muslim-majority states to transcend ethnic and cultural divides and, as result, group together based on “common threat… and similarity of regime type” (Hinnebusch 2009, 162). The collection of these states around perceived common interests and needs appears to be an example of in-group elitism. The historical incidence of union formation indicates that these Muslim-majority states have the capacity to respond to Darfur in a unified manner exemplifying in-group elitism.

Perhaps influenced by their historical success at in-group elitism, Muslim-majority states appear to have constructed the international response to Darfur as a threat that necessitated bloc solidarity. For the first time in
world history, the Darfur genocide prompted the United States Congress to pass a resolution accusing another state of inciting a genocide against its own people; specifically, this resolution decries the situation in Darfur as a genocide perpetuated by the Sudanese government, indicating tension between in and out groups (Mamdani 2009, 24-25). Additionally, this was the first time that the United Nations Security Council referred a sitting leader of a country to the ICC (Glasius 2009, 501). Neither the United States nor the United Nations seem to have paid attention to the fact that many Muslim-majority states were involved in attempting to resolve the genocide in Darfur. As the League of Arab States explains in a letter to the United Nations Security Council just after the issuance of arrest warrants for Bashir, “the issuance of the warrant pre-empts all African and Arab efforts to defuse the crisis, disregards the requirements for justice and the attainment of stability and peace in the Sudan, as well as the considerations involved in resolving the situation in Darfur…” (United Nations Security Council 2009 b). Within the letter, the members of the Arab League appear to indicate a feeling that their efforts to resolve the genocide were preempted and not rewarded, thus reinforcing the need for these twelve states to stand in solidarity and affirm the group’s superiority.

Building upon the history of the international community’s response to genocide discussed in my first chapter, one can see that in-group elitism appears to have manifested in many ways, including statements and actions meant to demonstrate the solidarity of Muslim-majority states. Within the United Nations Security Council, “the governments of Pakistan, Algeria, and Qatar … practiced identity-driven inter-elite solidarity with Khartoum by opposing coercive or mandatory action in the [Security] Council against Sudan, while they couched their arguments against such intervention… implying a defence [sic] of pluralist international order from self-interested and neocolonial Western intervention” (Mickler 2009, 269-270). 23 In-group elitist rhetoric appears to exist for other rotating Muslim-majority members of the United Nations, as well. Of the Muslim-majority states serving on the Security Council since the advent of the genocide, many refer to their relationship with Bashir and the Sudanese state as being close, brotherly, and based in a unique cultural bond—an indication that these states view themselves as an in-group. The Libyan delegate, Ibrahim Omar Dabbashi went so far as to state that “Libya has a geographical, humanitarian and cultural relationship with the Sudan—and in particular with Darfur” (United Nations Security
Thus, rhetoric indicates the presence of in-group elitism as a response to the genocide in Darfur and the history of Western intervention in Muslim-majority states.

The structure of the United Nations itself may contribute to in-group elitism as a self-protection mechanism for Muslim-majority states. While the West possesses three of the five permanent seats on the United Nations Security Council, no Muslim-majority state holds this rank. As such, “one of the main concerns of Arab states was that the veto power [of the five permanent members of the Security Council] would block the investigation and prosecution of their own nationals, thereby undermining the independence and legitimacy of the Court” (Roach 2005, 150). Whereas these three Western states have a measure of protection from the ICC due to their veto power, Muslim-majority states do not enjoy the same luxury. This point is important because, as explained in my first chapter, the United Nations Security Council has the power to recommend a case to the ICC.

This discomfort at the West’s relative power in the United Nations Security Council is exacerbated by the fact that the ICC has opened cases against individuals in six different states, none of which are Western. Instead, all six of these states are African, and two of these states are Muslim-majority (Pew Research Center). Although two states may sound insignificant, two states represent approximately four percent of Muslim majority states (Pew Research Center). Additionally, the ICC has not endeavored to open cases in any areas of concern for Muslim-majority states. The plight of Muslims in Iraq and Afghanistan has been largely ignored by the Court despite protest by Muslim-majority states. Because Muslim-majority states are disproportionately prosecuted by the ICC in comparison to the West and their concerns appear to be ignored, these states may have felt forced to stand in solidarity in order to provide resistance to being targeted despite internal views on the genocide and human rights.

The prevalence of spaces that are exclusively reserved for Muslim-majority states and state leaders such as the League of Arab States has allowed for the vocalization of opinions regarding the ICC without feeling targeted by the West. President Bashar al-Assad of Syria indicates that every Muslim-majority country is “called upon today not to criticize the warrant, not to characterize it… but to reject it categorically and to express absolute support for the Sudan at this stage of the confrontation in order to save it, and save our countries from the consequences” (Coalition for the International Criminal Court 2009 b). By constructing the rejection of the arrest warrants as a duty incumbent

---

23 Although I have not chosen to study Pakistan in this research, the limited number of states on the United Nations Security Council
upon every Muslim-majority state, al-Assad frames the Darfur genocide as an us-versus-them clash and indicates that Muslim-majority states must defend their group from the imposition of the West in the affairs of Muslim-majority states. Rather than supporting state sovereignty, al-Assad’s words are directed to encourage this bloc of states to respond in a similar way and to support Sudan. Complementing al-Assad’s assessment of state obligations regarding the arrest warrants, King Abdullah II of Saudi Arabia explains that “we are required now [in the face of the warrants]... to overcome our differences and unite our positions and efforts to confront regional and international interference in the internal affairs of some Arab countries” (Coalition for the International Criminal Court 2009 b). These statements of solidarity are representative of rhetoric employed by Muslim-majority state officials speaking about the genocide in Darfur and the arrest warrants. Hence, one can observe the degree to which Muslim-majority states attempted to create a unified position for every state in the bloc.

While statements of solidarity are an important aspect of in-group elitism, anti-Western rhetoric is an additional defining characteristic. As indicated by Prunier, “since the US occupation of Iraq, anti-American and anti-Western feelings in the Muslim world have developed to such a point that any Western political initiative is seen as underpinned by dark and heinous political plotting” (Prunier 2005, 110). In-group elitism has been affected by the policies of the United States toward Muslim-majority countries, creating suspicion that the ICC is “part of the US policy to destabilise [sic] Arab countries and control Arab resources” (Bakr and Shafi 2010, 10). Hence, the Global War on Terror has played a role in defining the importance of humanitarian intervention and shaping the perceptions of Muslim-majority countries about the West’s intentions. In particular, “there is also clear evidence that in the Darfur case the Sudanese government linked American activism in Darfur with its actions in Iraq, portraying it both as oil-oriented and anti-Islamic, and that this strategy helped to reinforce African and Middle Eastern hostility to the idea of Western enforcement [of R2P and humanitarian norms]” (Bellamy 2005, 39). This hostility to the West may have helped to solidify Muslim-majority states as a bloc with similar responses to the ICC’s arrest warrants. Until the ICC takes action against crimes that matter to the leaders of these 12 states, the ICC will not be respected as an important tool for problem-solving. As such, anti-Western rhetoric may be helping Muslim-majority states to solidify in-group elitism.

makes the study of every possible example important.
Examples of anti-Western rhetoric as an aspect of in-group elitism predominate in relation to the arrest warrants for Bashir. For example, Bashar al-Assad states that “we will discuss their [the West’s] fabricated accusations against Sudan, when those who committed atrocities and massacres in Palestine, Lebanon, and Iraq are arrested and brought before the court facing the same charges” (Coalition for the International Criminal Court 2009b). By dismissing the ICC as a tool of the West, al-Assad denies the legitimacy of both and indicates that the deaths of Muslims in Palestine, Lebanon, and Iraq are tragedies requiring immediate international attention. Al-Assad’s criticism of the Court and the West is adrift with bitterness, perhaps due to the fact that the Court has seized on instances of Muslims killing other Muslims rather than Westerners killing Muslims. In using this logic, al-Assad does not reject the use of the ICC as a problem-solving mechanism; rather, al-Assad and other leaders reject the politicization of justice by the ICC and United Nations. The perceived politicized nature of the Court appears to have been an important cause of the development of Muslim-majority solidarity, especially when combined with the history of union formation.

Al-Assad is not the only government official to condemn the ICC based on its perceived selectivity. Representative Dabbashi, condemns the ICC for taking action on Darfur when the plight of Palestinians and Afghanistanis have been largely ignored. Dabbashi argues that selective justice “makes the International Criminal Court nothing more than a tool manipulated by certain countries to further their policies” and indicates that the Prosecutor of the ICC has been complicit in politicizing justice (United Nations Security Council 2009a). Similarly, Iranian Foreign Minister Manouchehr Mottaki questions, “why do international bodies turn a blind eye to Israel’s acts of aggression in Palestine and Lebanon as well as US acts in Iraq and Afghanistan but Sudan has become an obsession for them?” (Iran Raps ICC Prosecutor on al-Bashir Indictment). These states seem approach the perceived politicization of justice by the ICC as a reason to stand in solidarity. Many Muslim-majority states refuse to participate in any further prosecution of a brother state until the system equally punishes violators from the West. Thus, the examples of anti-Western rhetoric from the twelve states in this study are linked together in their construction of the West as an incorrect, unethical other. This construction relies on the West’s failure to act on behalf of Muslims in Palestine, Iraq, Lebanon, and Afghanistan as well as its decision to tarnish the image of Sudan through the politicization of the ICC and UN.
Although bitterness and references to the politicization of justice are aspects of anti-Western rhetoric surrounding the genocide in Darfur, speeches by leaders of Muslim-majority countries often try to reject the West’s status as the supposed ethical leader of the world. Alluding to Darfur, President Ahmadinejad of Iran explains that “the real Holocaust has been going on for the last 60 years in Palestine. We recently witnessed what befell the people of Gaza: a nation was completely besieged economically and militarily and attacked by the Zionist executioners… [I]nstead of shouting at the criminals, the Secretary-General of the UN condemned the oppressed defenders of Palestine” (Ahmadinejad 2008). Ahmadinejad’s speech indicates his belief that the West has made a poorly informed choice in failing to protect Palestine. More importantly, however, Ahmadinejad seems to describe the West’s ethical logic as flawed in comparison to that of Muslim-majority states, thus invalidating the ICC’s arrest warrants for Bashir.

In attacking the West’s flaws morally, Ahmadinejad and other leaders of Muslim-majority states attempt to assert the moral supremacy of Muslim-majority states. This moral supremacy is an assertion of the superiority of the bloc to the West. Leaders of Muslim-majority states do not seem to perceive themselves as responsible for either the politicization of justice or for the needless murder of civilians in the way that they have condemned the West and Israel. Erdogan categorically lumps all Muslim-majority states together as superior to Western states due to his belief that “no Muslim could commit a genocide,” as well as the fact that Western states are responsible for the deaths in Afghanistan and Iraq (Özkan and Akgün 2010, 7). Erdogan’s commentary is representative of the overarching view of Muslim-majority states that the West is inferior to Muslim-majority states. All of these positions above are supportive of in-group elitism as an explanation for the responses of these states to the ICC’s arrest warrants for Bashir.

Unlike the other eleven states in this study, Jordan chose to support the ICC’s arrest warrants for Bashir, thus necessitating an examination of whether in-group elitism is a sufficient explanation for the Jordanian response. As established in the first chapter, an unnamed Jordanian official explained to a reporter that Jordan’s position on the ICC has been informed by a belief that, in order to bring Israeli officials to justice in the future, Muslim-majority states must help the Court to fulfill its agenda currently. This same official encourages Bashir “to present [evidence] to refute claims of the ICC” and re-establish the integrity of the Sudanese government (23 March 2009). Moreover,
King Abdullah II Ibn al-Hussein defends the Sudanese government, explaining that “concerning our Brother Sudan, we have no doubt that we must move and handle with the utmost awareness and responsibility, with the Crisis in Darfur and with the International Criminal Court…” (Coalition for the International Criminal Court 2009 b). Hence, while Jordanian rhetoric may not appear overly similar to that of the other eleven states, certain elements indicate core values that are consistent with in-group elitism. Specifically, Jordanian officials’ references to brotherhood, Israeli wrongdoing, and Sudanese righteousness indicate that Jordan may also be an example of in-group elitism.

While there is considerable support for the theory of in-group elitism, one should take note of the potential drawbacks of this explanation. Although the majority of these states profess an allegiance to cooperating only with other Muslim-majority states, many of these states have simultaneously attempted to better their relationships with the United States and other Western states. For instance, Libya has strived to “improve its relationship with the US, by allowing relief convoys to pass through its territory…” (Bakr and Shafi 2010, 10). In-group elitism struggles to explain these states’ desire to improve relations with the West while concurrently issuing derogatory statements about the West and its manipulation of the ICC. Furthermore, of these twelve states, Egypt, Jordan, Kuwait, Saudi Arabia, and Turkey have contributed to the United States’ Global War on Terror in a variety of ways such as commanding the International Security Assistance Force (Waslekar 2004, 2). Although one cannot know for sure, this split focus may be the result of an identity crisis for these states or indicative of the struggle between pragmatism and idealism within these states.

Economics

A second potential explanation for the similar responses of these twelve states to the ICC’s arrest warrants for Bashir is that these states responded in hopes of obtaining economic benefits for themselves. If economics have played a role in defining the responses of these twelve states, then one might expect to find oil concessions in Darfur, contracts for business development in Darfur, and contracts for development projects elsewhere in Sudan. Likewise, one might expect that states which have supported the ICC’s arrest warrants for Bashir may not have any significant stake in the Sudanese economy, thus making it financially feasible for these states to support the arrest warrants. Assessing the impact of economics on the responses of these states calls not for the analysis of political
In regards to economics, many Muslim-majority states have portrayed the genocide in Darfur as a result of economic instability rather than violent governmental policies, thus supporting their position that the arrest warrants against Bashir were unnecessary. Specifically, as explained in the Final Communiqué of the Organization of the Islamic Conference following the International Donors’ Conference on Development and Reconstruction of Darfur, “the current crisis there [in Darfur] is essentially a crisis of the lack of development, with a special stress on the importance of reaching a political settlement…” (21 March 2010). By blaming the death toll in Darfur on inadequate financial resources and a lack of regional development rather than Sudanese government policy, Muslim-majority states are able to justify their economic interactions with the Sudanese government as well as their investments in the rebuilding of Darfur. Muslim-majority leaders appear to portray the genocide as a crisis of development. As a result, these governments are able to claim a moral superiority to Western states due to their financial support of Darfur intended to improve the humanitarian conditions of residents.

Despite the instability of Sudan, countries and companies have become more willing to invest in the country in hopes of receiving high profit returns. As Prunier suggests, the genocide occurred at an inopportune moment because “this was just at the time when the world, from charitable organizations to hardboiled businessmen, was looking at Sudan as potentially the next profitable investment on the continent” (Prunier 2005, 129). However, it appears that timing may not have dissuaded Muslim-majority states from taking advantage of the numerous potential industries in Sudan. Sudan “has significant natural wealth and potential, ranging from gold and iron ore deposits, to agriculture, fisheries, oil and gas, and tourism” (Ismail 2010, 6, emphasis in original). Today, Sudan ships 37.2 million tons of fish to Saudi Arabia per year and allows Yemeni and Turkish companies to mine throughout Sudan (Ismail 2010, 12). The abundance of natural resources has encouraged Muslim-majority states to view investment in Sudan as a potentially profitable opportunity. As a result, the lure of profits may have affected the responses of these states to the ICC’s arrest warrants more than the instability and death toll.

As one might expect, investment in Sudanese oil fields has been an attractive venture for many states. Oil composes about 45 percent of the Sudanese economy, raises roughly $546.1 million US dollars of revenue per year,
and serves as the “main motor behind the growth of the [Sudanese] economy” (Human Rights Watch 2003, 346-347). Sudanese oil reserves are approximated between 563 million and 5 billion barrels—an amount below the 674 billion barrels boasted by the oil rich states of Saudi Arabia, Iran, Iraq, the United Arab Emirates, Kuwait, and Qatar (Morse 2005). Nonetheless, Sudan is now Africa’s seventh largest producer of oil (Morse 2005). China, Malaysia, France, Qatar, Russia, Canada, and Sweden have taken the lead in Sudanese oil extraction thus far (Williams and Bellamy 2005, 37). These states who have invested in oil extraction, including Qatar, all have an interest in preserving the stability of the current Sudanese government. Other Muslim-majority states looking to become involved in Sudanese oil extraction in the future may have been motivated by these statistics to reject the arrest warrants.

The vested interest of these investor states in the preservation of the Sudanese government may have persuaded state officials to denounce the arrest warrants against Bashir. For instance, Blocks 3 and 7 of the Sudanese oil fields are being developed by a consortium of companies including the China National Petroleum Company, Petronas Nasional Berhal of Malaysia, China’s Sinopec, and Al Thani Emirates Petroleum Corporation (Total 2009).24 Approximately 200,000 barrels of oil a day are sent to Khartoum through an oil pipeline that the consortium financed, receiving, in return, profits sent back to the home country of each of the project’s investors (Total 2009). Since the beginning of the Darfur genocide, the Sudanese government has been increasing oil exploration efforts, offering two contracts “to a Yemeni-Saudi Arabian team which has begun drilling north of where most of the fighting is Darfur is happening” (Brenjo 2006). The Yemeni-Saudi Arabian team “agreed in November [2006] to spend $43 million for drilling rights to 125,000 square miles. The largely uninhabited area, known as Block 12a, is north of where much of Darfur’s fighting is occurring” (Sanders 2007). Al-Qahtani & Sons, an oil extraction company based in Saudi Arabia, is entitled to 33 percent of the profits from Block 12a and Ansan Wikfs Hadramaut Limited, a Yemeni company, earns 20 percent of the profits (European Commission on Oil in Sudan 2007). The scramble to find oil in Darfur has accelerated due to the secession of the oil-rich South Sudan in summer 2011 (Sanders 2007).

24 Sudan is divided into 23 different blocks of oil for companies to develop. Blocks 3 and 7 are located in South Eastern Sudan, meaning that the distance from Darfur has allowed companies involved in these blocks to continue their oil production relatively safely (Total 2009).
Although oil is a profitable venture for states and companies, the construction and development sector within Sudan is another growing opportunity for Muslim-majority states in which to invest. Qatar has been particularly active in construction and development, sponsoring the Al Difaf project which “stretches over 200,000 square metres [sic] and will comprise of offices, residential and retail units in addition to a five-star hotel” (12 July 2010). This endeavor is not without benefit to Qatar: “in an economic environment that many Western governments find inhospitable, it is conservatively estimated that Qatar has pledged to invest billions of dollars in Sudan,” thus leading to major development contracts for Qatari companies that benefit both Sudan and Qatar (12 July 2010).

In addition to these development projects, states have hosted conferences with the objective of creating a more stable, financially successful Darfur. “Total pledges announced during the [International Donors’] Conference on Development and Reconstruction of Darfur] was US$850 million donated by the Islamic Development Bank, Qatar, Algeria, Turkey, Brazil, [and] Morocco…” all with the goal of rebuilding Darfur and aiding Darfur’s economic development (21 March 2010). For states, these donations frequently lead to contracts as well as to the potential establishment of a trade partnership with Sudan. Potential construction and development projects may motivate states to reject the arrest warrants either permanently or until contracts can be secured from the Sudanese government.

As a result of these industries and possibilities for economic growth within Sudan, Muslim-majority states may have chosen to support Bashir in order to gain access to new markets. A sense of obligation due to inter-regional ties may also have played a role in deciding the responses of Muslim-majority states to the ICC’s arrest warrants. A Muslim-majority state belonging to the League of Arab States or Organization of the Islamic Conference might be ostracized economically for its failure to follow official group policy regarding Darfur and the ICC, thus restricting access to current markets and trade partners. Using Turkey as a case-study, scholars indicate that “economic and political relations have developed so much that Turkey cannot ignore the Arab world’s policy on Darfur, as Sudan is an important part of the Arab world” (Özkan and Akgün 2010, 8). If Turkey had not supported Bashir, then one might expect that Turkey’s trade relations with Muslim-majority states would decrease. This same reasoning likely holds true for the other eleven states in this project. Thus, the globalization of trade may be an important factor impacting the decision-making processes of these twelve states.
Although there is some support for an economics-based explanation for state responses to the ICC’s arrest warrants for Bashir, many areas of disconnect also exist. One might construct the support of these Muslim-majority states for development in Darfur as an example of in-group elitism. As the Syrian representative to the League of States explains, “we cannot give up on Darfur because if we do, others—including Israel—would try to fill the vacuum” (Ezzat 2010). This representative’s statement indicates that Muslim-majority states are fearful of the West’s potential influence in Sudan. Specifically, these states fear that, if they do not support Darfur economically and Bashir politically, the wrong entities, the West and Israel, may gain influence in Darfur. This fear of Western influence in Darfur seems to align more closely with in-group elitism than economics. In regards to the arrest warrants, this may mean that these Muslim-majority states are pressured to construct the genocide as a development crisis, denounce the ICC, and support Bashir as a method of gaining entry in Darfur to support fellow Muslims—a position that, although on the surface appears to be based in economics, may be indicative of in-group elitism. Additionally, conferences such as the International Donors’ Conference on Development and Reconstruction of Darfur may also be a way to confirm solidarity with fellow Muslims and Sudan as well. Furthermore, the use of economic involvement in Darfur as a point of moral righteousness over the West may indicate in-group elitism rather than an actual concern for economics.

Looking at the participation of certain countries in development enterprises, one can see that there is limited number state involvement. This, too, seems to imply that the economics explanation is incorrect. In terms of oil, “the [Sudanese] government is interested in more cooperation with China, the biggest foreign investor in Sudan’s energy industry” (Mazan 2010). Realistically, Muslim-majority states have little chance of competition with China in terms of the size of their economies. Given that Qatar, Yemen, and Saudi Arabia are the only three states in this study with a stake in Sudanese oil, it appears oil is not the reason for the other eight states’ failure to support the arrest warrants. Turkey, Yemen, and Saudi Arabia are active in other aspects of the Sudanese economy including fishing and mining, but it remains that only four of the states in this study have any substantive, documented role in sectors of the Sudanese economy. Although other Muslim-majority states may want to become involved in the Sudanese economy in the future, the current involvement of four Muslim-majority states should not be considered representative of the whole. This explanation also fails to explain why Jordan’s response to the arrest warrants
differed so dramatically from that of the eleven other states, as Jordan has neither investments nor professed intentions to expand its companies into Sudan. One might expect the states with a stake in the Sudanese economy to oppose the arrest warrants, but this perspective is unable to explain why the Jordanian government was the only state to support the ICC’s warrants.

The explanation of economics has also been unable to predict the positions of non-Muslim-majority states regarding the ICC’s arrest warrants for Bashir. Canada, a state involved in oil extraction within Sudan, has supported the referral of Bashir to the ICC (Cotler 2005). Following the outbreak of genocide in 2003, the Canadian company, Talisman, which owned the rights to 25 percent of Blocks 1, 2, and 4, sold off its concessions, forwent all potential profits from oil, and left Sudan; this explanation of economics would not have predicted that the Canadian state would act in this fashion (Human Rights Watch 2003, 33). In fact, “international human rights pressure contributed greatly to the pressure for Talisman to leave Sudan” (Human Rights Watch 2003, 49). Sweden, another state with contracts to extract oil in Sudan, has also indicated its support for the ICC’s arrest warrants for Bashir (Carlsson 2007). Similar to Talisman, the Swedish company Lundin Oil sold off its 40.375 percent share of profits in Block 5A, to retain only their concession to 24.5 percent in block 5B (Human Rights Watch 2003, 25). Additionally, although France has been involved in oil extraction within Sudan, France’s support for the ICC’s arrest warrants for Bashir has led French government officials to try to persuade other states to refuse entry to Bashir (1 December 2010). Furthermore, France’s involvement in the multinational corporation, TotalFinaElf, owner of a large concession in Block 5, has caused the corporation to halt development until warfare in Darfur ceases (Human Rights Watch 2003, 33-34). Economics do not appear to have deterred these three states from supporting the arrest warrants for Bashir. Because these three states have supported the ICC’s arrest warrants for Bashir despite potential economic losses, this rationale, when combined with the reasoning above, does not seem to adequately explain the responses of these twelve Muslim-majority states. As a result, I do not find economics to be a convincing explanation for the response of these twelve states to the ICC’s arrest warrants for Bashir.

State Sovereignty

In addition to in-group elitism and economics, the preservation of individual state sovereignty may be an explanation for the responses of these twelve states to the ICC’s arrest warrants for Bashir. Inherent in this
explanation is the idea that these governments band together due to their similarity in authoritarianism and repression rather than a genuine concern for one another. This explanation differs from in-group elitism because in-group elitism is based in the idea that an attack against one state is an attack against all, whereas the protection of state sovereignty brings together a loose cooperation of state leaders that each seeks to defend their own governance. Furthermore, the explanation of sovereignty is different than in-group elitism because in-group elitism is based in the idea of a superior in-group where the sovereignty explanation is characterized by fear of the other due to threats to one’s governmental structure.

If this explanation is correct, then one might expect to see patterns of state repression of dissidence, rhetoric downplaying the importance of human rights in favor of state unity, the dismissal of the ICC as an instrument of global governance, and the cooperation of states due to fear of governmental change rather than common interest. This fear of violations of a state’s sovereignty may show itself in references to renewed colonialism. If sovereignty is an adequate explanation for the response of these twelve states, then these states will have defended Bashir not out of genuine concern for the well-being of a fellow Muslim state or economic interests, but as a way to protect one’s own state leadership. As with in-group elitism, there may be disparaging references to the West, but these references are based in the idea that the West is a threat to one’s ruling leaders rather than the idea that Western states are part of an inferior out-group.

The construction of sovereignty employed by these twelve states appears to reject the authority of the International Criminal Court in that these states are seemingly unsupportive of the Court’s power to indict any member of a state’s government for perceived crimes against humanity. Since the creation of the ICC, many repressive African leaders have viewed the ICC as ‘a threat’ to their governmental systems, thus likely motivating their choice not to support the arrest warrants against Bashir (Cilliers, Gumedze, and Mbadlanyana 2009, 64). This reasoning is applicable to Muslim-majority states in that, according to Freedom House, most of these states represent a similar level of repressiveness to that displayed by African governments (Freedom House 2010). Hence, these states, both African and Muslim-majority, may have chosen not to support the ICC’s arrest warrants as a method of self-protection.
If this reasoning is true, then state officials aim to prevent international condemnation for their own actions by constructing an argument that shows their habitual disapproval of ICC interference in state affairs. “[Arab states] feared that the ICC would be used as a tool of Western interests and that their nationals and government officials might one day be shipped to ICC investigation and prosecution” during the drafting process of the Rome Statute (Wippman 2004, 162). This fear of the Court did not prevent states from attempting to draw the Statute so as to “minimize the risk to themselves, while affording an opportunity for attacking Israeli occupation practices” (Wippman 2004, 162). These states’ policies regarding the ICC may have been influenced by their fear of “being the targets of criticism for their own repressive domestic governance or human rights abuses” (Mickler 2009, 272). The fear of international criticism for human rights abuses and repressive governance may have encouraged Muslim-majority states to “[resist] an emerging norm of humanitarian intervention” and, thus, slander the international community for its efforts to violate state sovereignty (Mickler 2009, 272). States may have used the issuance of Bashir’s arrest warrants as an opportunity to protest the ICC and humanitarian intervention.

State leaders have posited that the existence of the ICC and the enforcement of these human rights policies constitute a violation of a state’s ability to govern its own people. States may be unsupportive of the ICC because the Court can “interfere in domestic legal matters,” and, hence, impede on state sovereignty (Roach 2005, 148). For example, in drafting the Rome Statute, many Muslim-majority and Catholic-majority states voiced opposition to a clause regarding forced pregnancy, fearing that they would be required to pass laws legalizing abortion (Roach 2005, 148). The same states that resisted these clauses that might force the passage of certain laws legalizing abortion appear to avoid enforcing the arrest warrants for Bashir. Presumably, these states have no desire to be bound by the negative effects of the Court, such as costly trials and poor public image—a reality that became clear as the arrest warrants for Bashir were the first for a sitting head of state. The condemnation of the ICC for interfering in state affairs and attempting to limit state sovereignty may be attributed to officials’ internal

25 A comparison can be drawn to the United States, which also refused to ratify the Rome Statute for fear that “1) the ICC could expose U.S. citizens to being sanctioned for crimes not recognized by U.S. law, 2) the ICC could threaten U.S. sovereignty to prosecute its own criminals, 3) the ICC undermines the ability of the U.S. government to fight the war of terror, and 4) the ICC is subject to abuse because it is not controlled by a system of careful checks and balances” (Wellner 2002, 697-698).
26 Today, this appears especially true due to the emergence of popular grassroots revolts against repressive in Algeria, Egypt, Iran, Libya, Syria, and Yemen throughout the early part of 2011. Libya’s in particular has been filled with bloodshed and international condemnation for government policy.
27 Previously, all arrest warrants were issued against rebel leaders (Glasuis 2009, 497).
recognition that they “have something to hide or to be ashamed about in terms of their own internal behavior” (Cilliers, Gumedze, and Mbadlanyana 2009, 64-65). Feelings of shame for human rights violations may have been exacerbated by the ICC’s arrest warrants for Bashir, thus encouraging states to reject these warrants are invalid.

Muslim-majority states have accused the Court of violating Sudanese sovereignty by taking action against a sitting head of state—an action prohibited by international treaties and certain rulings by international courts. Because the Rome Statute states that “the ICC has no right to prosecute citizens of states which have not ratified the Rome Statute,” these Muslim-majority states often describe the ICC as failing to respect both its own limitations and the right of states to sovereignty (Bakr and Shafi 2010). Noting that Sudan is not party to the Rome Statute, the members of the League of Arab States “demanded the cessation of measures [ie: issuing arrest warrants] taken by the first Pre-Trial Chamber to the ICC” and affirmed the use of the “independent and qualified Sudanese judiciary” in establishing justice and truth (Coalition for the International Criminal Court 2009 b). The League of Arab States argues that the ICC’s decision to issue arrest warrants against Bashir “sets a dangerous precedent targeting a head of state who still exercises his position and it breaches the Geneva Convention of 1961 and customary international law” (Coalition for the International Criminal Court 2009 b). Hence, states are concerned about the ICC’s arrest warrants for Bashir not because of perceptions of Bashir as a member of an in-group member-state, but because the leaders of other states may face the same penalty. This explanation is bolstered by the presence of authoritarian governance and lack of support for citizen freedom within these twelve states.

Although authoritarian governmental structures are, in principle, supportive of the state sovereignty explanation, this raises its own set of complications. Of the twelve states studied in this thesis, only Kuwait and Turkey were ranked as “partly free” by the 2010 Freedom House survey; the other ten states were ranked as ‘not free’ (Freedom House 2010). Thus, if any states were to cooperate with the ICC, one should expect cooperation from Kuwait and Turkey because of their relative political openness. Instead, Jordan, a state ranked as ‘not free,’ has been the only state to support the ICC in any way following the issuance of arrest warrants. Jordan’s support of the ICC does not appear to fit this pattern, perhaps indicating that sovereignty is not the best explanation for the responses of these twelve states. Additionally, as discussed in relation to in-group elitism, the rhetoric of numerous
state officials points toward feelings of brotherhood and obligation to help. If these states were acting on behalf of state sovereignty, then one would not expect the prevalence of this type of rhetoric.

Perhaps most importantly, the sovereignty explanation makes little sense in regards to Darfur due to the explanation’s reliance on the International Criminal Court. Although many scholars have tried to portray the ICC as counter to the ideals of Muslim-majority states, the fact remains that numerous Muslim-majority states were not only involved with the drafting of the Rome Statute, but held leadership roles at the Rome Conference. Even if these states chose not to ratify the Rome Statute due to fears of the Court limiting their sovereignty, these states still intend to reap the benefits of the ICC. By referring Israel’s occupation of Palestine to the Court, these states affirm the Court’s legitimacy by demonstrating their faith that the Court will make the right decisions. If a case against Israel or the United States was to be considered by the Court, these Muslim-majority states would almost certainly support the Court, an indication that sovereignty does not motivate these states to reject the ICC’s arrest warrants for Bashir. As a result, this particular drawback can be better explained by in-group elitism due to the conditional contention of Muslim-majority states to the Court depending on who is on trial.

Analysis

Of these three potential explanations, only one adequately summarizes the reason for the responses of these twelve states to the ICC’s arrest warrants for Bashir. Although in-group elitism is not without its own shortcomings, I have found this explanation to be the most versatile and inclusive response. In-group elitism explains the prevalence of rhetoric regarding brotherhood as well as the condemnation of the ICC for being politicized. Furthermore, this perspective ably responds to rhetoric criticizing the West for its human rights violations against Muslims in Muslim-majority states. While Jordanian officials’ decision to support the ICC cannot be accurately explained by either sovereignty or economics, in-group elitism has the flexibility to respond to and situate Jordan’s official response within the same context as the other eleven states. Based on the analyses above, in-group elitism appears to be the best explanation for the responses of these twelve states to the ICC’s arrest warrants for Bashir.

---

28 Delegates from Algeria, Egypt and Iran were all elected as Vice-Presidents of the Rome Conference. The Syrian delegate was involved on the Drafting Committee, which was chaired by the Egyptian delegate. All twelve states in this study attended the Conference. (United Nations General Assembly 1998).
Conclusion:

Future Prospects of the Responsibility to Protect and the International Criminal Court

This project discussed the responses of Algeria, Egypt, Iran, Jordan, Kuwait, Libya, Qatar, Saudi Arabia, Syria, Turkey, the United Arab Emirates, and Yemen to the ICC’s arrest warrants for President Bashir of Sudan. I expected to find that this bloc failed to support the ICC’s arrest warrants due to a fear that their own governmental structures and policies might make them vulnerable to prosecution by the Court in the future. But, as my project progressed, I reached a different conclusion with potentially serious implications for state and international policy.

In my first chapter, after explaining the Responsibility to Protect, the history of the genocide in Darfur, the Rome Statute, and the ICC, I divided these twelve states into categories based on their responses to Darfur and the ICC’s arrest warrants. Libya and Iran were placed into the same category because both speak of the West’s human rights violations, the need to protect Sudanese sovereignty, and fear for the Sudanese peace process if justice is pursued through the ICC. Rhetoric from Algeria, Saudi Arabia, and Yemen contain references to Sudanese sovereignty and the peace process, but few references to the West’s human rights violations. Turkish and Syrian officials rely on sovereignty and the West’s human rights violations to formulate their positions regarding Bashir. Official statements from Egypt, Jordan, Kuwait, Qatar, and the United Arab Emirates all appear to focus primarily on the need to build peace in Darfur. Out of these twelve states, although Jordan has been the only state to outwardly support the International Criminal Court, the Jordanian government still displays solidarity with Bashir via statements expressing belief that Bashir will be acquitted by the Court if he appears.

In my second chapter, I looked at verses in the Qur’an that pertain to justice and explained the Qur’anic and scholarly meanings of the word. I found that the idea of justice in Islam is one in which individuals, communities, and states are obligated as an act of worship to fight for the well-being of all; the Islamic idea of justice is supportive, at least conceptually, of the doctrine of Responsibility to Protect. I also analyzed rhetoric from various
ambassadors to the United Nations as well as President Ahmadinejad of Iran and the League of Arab States. In my analysis, I discovered that none of these sources seemed to follow the Qur’anic portrayal of justice. Instead, these documents all used justice in its modern, judicial connotation. This fact indicates that religion may not have played a role in defining the responses of these twelve states to International Criminal Court’s arrest warrants for Bashir.

Given that religion does not appear to be an adequate explanation for the responses of these twelve states, my third chapter examines in-group elitism, economics, and sovereignty as three other potential explanations behind the responses of these Muslim-majority states. Discussing in-group elitism, I explained that these states seem to have bound together due to the construction of a common historical experience and nemesis. These states seem to affirm their solidarity through the use of anti-Western rhetoric and by the International Criminal Court as a tool of the Western world. My second explanation, economics, relies on oil profits and profits raised from the development sector in Sudan; this explanation holds that states have chosen not to support the International Criminal Court in order to maximize their own economic potential and to help develop the Sudanese economy. My third explanation of the protection of state sovereignty, as I indicated in my introduction, was the explanation that I had originally anticipated being correct. This explanation posits that states have chosen not to get involved as a way to prevent the establishment of a dangerous precedent that may endanger their own governmental structure in the future. Ultimately, I decided that in-group elitism appeared to explain the responses of these twelve states most accurately, especially considering that Jordan’s position could not be explained by either of the other two explanations.

I believe that this project may be useful in helping to predict the future of R2P. Today, R2P is under fire internationally as a violation of state sovereignty; as human rights advocates, we must seek to understand the criticism of government officials if we want to change this mentality. My thesis aims to achieve this goal. I have discovered in my research for this project that some, if not many, blocs of states view R2P as nothing more than a Western attempt to control the world. As a Canadian columnist writes, R2P is “rooted in Western guilt over the failure to prevent genocide in Rwanda. R2P is the moral underpinning of the war in Libya, and it’s the reason why people such as Paul Martin, Roméo Dallaire, Mr. Rae and Mr. Axworthy have been so amazingly eager for us to rush into battle” (Wente 2011). She also notes that “the war in Libya is a creation of the liberal intellectuals – just as the war in Iraq was a creation of the neo-conservatives” and also that “the delusions of the R2P crowd aren’t all that
different from the delusions of the neo-cons, who thought they could march into Iraq, decapitate the dictator, and help the cheering throngs embrace democracy. Has the past decade taught these people nothing?” (Wente 2011). This perspective underpins the genocide in Darfur, but that does not mean that R2P needs to be portrayed this way in the future. As we move forward, if we want R2P to succeed, we need to combat this viewpoint and show the worth of every individual country. The mutual participation of Arab and non-Arab states in the Libyan mission is, perhaps, the first step to attaining a well-supported and enforced Responsibility to Protect.

I believe that my research has unearthed a set of triggers that influenced these states to fail to support the arrest warrants issued by the International Criminal Court. With any luck, as genocide and humanitarian crises continue to be studied in the future, a set of policies will be instituted to encourage Muslim-majority states to support the International Criminal Court’s prosecution of human rights violators. I am not so naïve to say that genocide will no longer occur in the future or that the current system of justice is blind to bias, but I hope to live to see a world in which prosecution in the International Criminal Court is the norm for genocidal regimes and war criminals. Thus, this project might be one with great meaning: justice for lives.

Thus far, Muslim-majority and African states have refused to support the International Criminal Court due to perceived unfair targeting based on regional bias. Perhaps these states are correct: the International Criminal Court needs to show a devotion to justice impervious to the permanent members of the United Nations Security Council. Human rights violators should be treated equitably by the International Criminal Court; no citizenry should fail to see justice and reparation. Darfur’s citizens deserve to see justice just as much as Palestinians and Iraqis. In studying Darfur and the International Criminal Court so closely over the past year, I have learned one lesson that I believe holds true for life: cooperation and concessions must be made so that every individual may find his or her own worth within the system. Everyone should feel like they will not be subject to unfair bias at the International Criminal Court, otherwise the Court will likely be considered a sham in the future. Unless standards are equitably enforced and punishments are considered reasonably fair, no one has any motivation to participate.

As I indicated in my introduction, the responses of Muslim-majority states to the revolt in Libya are proving to be an interesting contrast to that of Darfur. Where Muslim-majority states condemned the West for its involvement and interference in Darfur, the situation does not appear to be the same in Libya. If these states
continue to support the international community’s efforts to protect civilians in Libya, then perhaps Responsibility to Protect has, unexpectedly, gained traction within the region. We cannot know this yet. Until we see how Muslim-majority states respond to the almost-guaranteed action of the International Criminal Court, everything remains open to speculation. Nonetheless, a well-functioning, impartial International Criminal Court will play a central role in any new international human rights regime. The first step in creating this international human rights regime is to increase international support for the Court.

Today, the International Criminal Court appears to be making a number of steps that Muslim-majority states have demanded throughout the process of criminal action against Bashir. The International Criminal Court and United Nations Development Programme recently affirmed “the domestic capacity of states to prosecute serious crimes of international concern” (International Criminal Court 2011 b). The International Criminal Court has recently attempted to bolster the Trust Fund for Victims (TFV), as evinced by a £500,000 donation made by the United Kingdom (International Criminal Court 2011 c). Although the TFV is currently active only in the Democratic Republic of the Congo, northern Uganda, and the Central African Republic, efforts are being made to expand outwards so that victims in all six societies affected by the human rights violations addressed by the International Criminal Court can receive reparations and general assistance (International Criminal Court 2011 c). The International Criminal Court has not denied the possibility of investigating crimes perpetrated by Israel or the United States against Muslims in the Middle East, although it has not affirmed the possibility, either. One would hope that as the International Criminal Court continues to mature and develop, it will continue to respond to the specific desires and needs of Muslim-majority states in order to gain their support.

In order to prevent situations of genocide-denial similar to that of Darfur as a function of in-group elitism in the future, there are a number of actions that should be taken. As the world continues to globalize, the West must strive to create better connections with Muslim-majority states so as to prevent future instances of these states determining their actions in contrast to the West’s. While a history of colonialism cannot be reversed, apologies and restitution can be made. Furthermore, if the United Nations Security Council were to be redesigned, these states would no longer feel as under-valued and unimportant in the global decision-making process. Additionally, by either revoking the permanency of certain states on the United Nations Security Council or extending permanency to more
states, the ICC may gain more approval as well. Finally, as the ICC matures, the Court must prove that it will stand up to bullies seeking to politicize justice. As such, the Court must be willing to take on cases outside of Africa, fighting injustice wherever it may occur no matter if the pockets of leaders are deep-seated. If the international community addresses the concerns of Muslim-majority states and tries to take action to meet the needs of these states, not only will Muslim-majority states be more willing to cooperate and support just enterprises in other states, but the notion of Responsibility to Protect will begin to take root.
Bibliography


Sudan Media to International Pressure” in The World and Darfur, ed. Amanda F, Gryzb. Canada: 
McGill-Queen’s University Press.

Charter, David. 2 April 2009. “Sudanese President’s Pilgrimage to Mecca Defies the International Criminal 
Court.” The Australian. Accessed on 19 January 2011 at 
1225697638093.


Coalition for the International Criminal Court (b). 31 March 2009. “Excerpts from the Arab League Summit 
Statements Doha, Qatar.” Accessed on 6 April 2011 at 


University Press.

Canada: Thomson Wadsworth.


March 2011 at http://www.washingtonpost.com/world/us-allies-ponder-arming-libyan-
rebels/2011/03/25/AFJP9mYB_story.html.


European Commission on Oil in Sudan. 2007. “European Commission on Oil in Sudan.” Accessed on 3 April 


Waslekar, Sundeeep. 14 December 2004. “War on Terror: Clash of Civilizations or Civilization Versus Chaos?”


