

In response to the decision by the International Criminal Court to issue a warrant for the arrest of Sudanese President Omar Hassan al-Bashir, Sudan expelled over 10 aid groups, which has affected the International Rescue Committee, CARE, Oxfam Great Britain, Save the Children and Doctors without Borders, among others.¹ The inevitable devastating effect of this expulsion on the 4.7 million Sudanese people relying on foreign assistance for food, shelter and protection from fighting between rebels and government-backed forces has sparked the reoccurring debate over the feasibility of implementing a no-fly zone over Darfur. The debate over a no-fly zone has been ongoing since 2004. A no-fly zone has been previously authorized by the UN Security Council in various operations including, Bosnia (March 1993-1995), Iraq (May 1991-December 1996), by NATO forces during the Kosovo intervention and by United States Air Force (USAF) during operations in Iraq and Somalia.² As a result, much of the analysis in this article about the feasibility of the no-fly zone is based on previous debates on the issue.

As a preliminary element, it is important to define a no-fly zone and explain its general purpose. A no-fly-zone is described as a “physical area of a nation that is patrolled using [the] air power of another sovereign state or coalition.”³ If authorized in Darfur, a no-fly zone may entail either a prohibition on all aircraft or only unauthorized aircraft, such as those used in offensive military operations.⁴ Most supporters of a no-fly zone expect NATO to take on the leadership of such an operation and assume that NATO can rely on the French airfields and aircraft in neighbouring countries.⁵ The primary purpose served by a no-fly zone is to “deny an enemy the use of a designated airspace or monitor enemy ground positions and movements within or just outside it in order to act against emerging threats, either alone or in cooperation with friendly forces.”⁶ In the particular case of Darfur, the purpose of the no-fly zone would be

¹ Merrill A. McPeak and Kurt Bassuener, “Grounding Sudan’s Killers,” *The Washington Post*, March 5, 2009, A19 <www.washingtonpost.com>.

² Elvir Camdzic and John H. Weiss, “Implementing a No-Fly Zone in Darfur: Options and Arguments,” Third Report, August 2007 at p. 5.

³ Elvir Camdzic and John H. Weiss, “Implementing a No-Fly Zone in Darfur: Options and Arguments,” Third Report, August 2007 at p. 4. [This report, based on research in unclassified written sources as well as interviews with fourteen high-ranking military and civilian experts, assesses the possible contributions of a no-fly zone to the resolution of the Darfur question.]

⁴ John Prendergast and Julia Spiegel, “Khartoum Bombs and the World Debates: How to Confront Aerial Attacks in Darfur, *Enough – the Project to End Genocide and Crimes against Humanity*, 4 <www.enoughproject.org>.

⁵ John Prendergast and Julia Spiegel, “Khartoum Bombs and the World Debates: How to Confront Aerial Attacks in Darfur, *Enough – the Project to End Genocide and Crimes against Humanity*, 4 <www.enoughproject.org>.

⁶ Elvir Camdzic and John H. Weiss, “Implementing a No-Fly Zone in Darfur: Options and Arguments,” Third Report, August 2007 at p. 4.

to debilitate the Sudanese air force and thereby limit the freedom of the government to use air power to terrorize its people. In turn, supporters of a no-fly zone anticipate that such an operation would give Western Darfur greater leverage over Khartoum to negotiate entry of a stronger UN ground force.⁷

The debate surrounding the no-fly zone is divisive. On one hand, former US President George W. Bush, President Barack Obama, former Prime Minister Tony Blair, the members of Parliament and Congress of both Europe and the United States, along with Darfur advocacy groups like the *Save Darfur Coalition*, support such an initiative and have called for the military enforcement of a no-fly zone in the past. On the other hand, many relief organizations such as Doctors without Borders and Action Contre la Faim (ACF) are opposed to the implementation of a no-fly zone for fear of losing access to Darfur. In this paper I will summarize the arguments emerging from the two camps leading this debate.

THE CASE AGAINST A MILITARILY-ENFORCED NO-FLY ZONE

There are numerous reasons for opposing the implementation of no-fly zone over Darfur. Many have argued that although the proposition is appealing and can garner a certain degree of political support, there are many obstacles facing its enforcement. First, Darfur's size and the shortage of planes to monitor the ban would make a no-fly zone a major logistical problem. In comparison to both Iraq and Kosovo, the size of the territory that the no-fly zone would cover, specifically 500,000 –square-km, is significantly larger, which makes the plan highly unfeasible.⁸ Second, the implementation of a no-fly zone will require the cooperation of both Chad and France to use their airfields, and there is no guarantee that this will happen. Even if these two countries acquiesce to the operation, carrying out a no-fly zone operation from the eastern Chadian airstrip of Abéché could aggravate the proxy war between the governments of Chad and Sudan and hinder the possibility for the two countries to engage in peace processes and improve security.⁹ French General Henri Bentegeat, head of the EU Military Committee, stated that at least 60 combat aircraft would be required to fulfill such a task. Aside from this demand, additional issues would arise concerning the problems in distinguishing between Sudanese, UN

⁷ Tom Kuntz, "A no-fly zone for Sudan," *The New York Times*, March 5, 2008, Idea of the Day <<http://ideas.blogs.nytimes.com/2009/03/05/a-no-fly-zone-for-sudan/?emc=eta1>>.

⁸ Julie Flint, "Darfur's Outdated Script," *The International Herald Tribune*, July 9, 2007 <<http://www.iht.com/articles/2007/07/09/opinion/edflint.php?page=1>>.

⁹ John Prendergast and Julia Spiegel, "Khartoum Bombs and the World Debates: How to Confront Aerial Attacks in Darfur, *Enough – the Project to End Genocide and Crimes against Humanity*, 4 <www.enoughproject.org>.

and other aircraft.¹⁰ Third, while bombing is being used by Khartoum as a military strategy, the majority of the attacks occur on the ground. It was reported in the *International Herald Tribune* that a no-fly zone would not address the reality that the greatest threat to civilians in Darfur comes on the ground and not from the air.¹¹ It was also reported that at the height of the conflict in 2003-2004, the worst violence in Darfur was caused by coordinated ground and air attacks against villages accused of supporting the rebels and in 2007 violence against the people of Darfur was caused by battles on the ground between Arab militias fighting one another over land and by attacks by rebels not aligned with the government.¹² Sudanese foreign ministry spokesman, Ali al-Sadig, supported this assertion in his a statement that a no-fly zone would be “impractical and useless ... because the Sudanese armed forces were not using aircraft in their ongoing struggle against rebel groups in Darfur.”¹³ For this reason, many have argued that a militarily enforced no fly-zone would do little to alleviate the atrocities committed by ground forces and that it would only weaken a very small sector of Kahrtoom’s military force. Lastly, the consequences of a militarily enforced no-fly zone would further jeopardize the lives and security of the people in Darfur. Relief groups providing aid to people in Darfur have argued that the creation of a no-fly zone would amount to a declaration of war, which might causes the Sudanese government to ground all aid agency flights (which has already occurred) and further limit humanitarian efforts.¹⁴ This is a legitimate concern, considering that 90% of all flights in Darfur are used by the United Nations and African Union to provide aid to millions of vulnerable people in Darfur. In light of the recent expulsion of aid groups from Darfur, the implementation of a no-fly zone might cause the government of Sudan to escalate ground attacks as a retaliatory move. Such action would further constrain humanitarian efforts and leave the international community unprepared to deal with the situation of destitute people living in Darfur.

THE CASE FOR A MILITARILY-ENFROCED NO-FLY ZONE

¹⁰ Daniel Van Oudenaren, “Darfur no-fly zone impossible says top EU soldier – Sudan criticizes US VP contenders Palin, Biden over Darfur flight ban,” *Sudan Watch*, October 6, 2008 <<http://sudanwatch.blogspot.com/2008/10/darfur-no-fly-zone-impossible-says-top.html>>.

¹¹ Julie Flint, “Darfur’s Outdated Script,” *The International Herald Tribune*, July 9, 2007 <<http://www.iht.com/articles/2007/07/09/opinion/edflint.php?page=1>>.

¹² Julie Flint, “Darfur’s Outdated Script,” *The International Herald Tribune*, July 9, 2007 <<http://www.iht.com/articles/2007/07/09/opinion/edflint.php?page=1>>.

¹³ Daniel Van Oudenaren, “Darfur no-fly zone impossible says top EU soldier – Sudan criticizes US VP contenders Palin, Biden over Darfur flight ban,” *Sudan Watch*, October 6, 2008 <<http://sudanwatch.blogspot.com/2008/10/darfur-no-fly-zone-impossible-says-top.html>>.

¹⁴ John Prendergast and Julia Spiegel, “Khartoum Bombs and the World Debates: How to Confront Aerial Attacks in Darfur, *Enough – the Project to End Genocide and Crimes against Humanity*, 5 <www.enoughproject.org>.

While French General Bentegeat claims that a no-fly zone is unfeasible, General Merrill McPeak, former U.S. Air Force Chief of Staff and advisor to the Obama presidential campaign, disagrees for various reasons. First, a militarily enforced no-fly zone is an appropriate response given that the persistent bombing of civilian targets and rebel meeting locations by the Sudanese government air force has played a key role in Khartoum's destruction and displacement policy within Darfur.¹⁵ Therefore, establishing a fly-zone is the most effective way of deterring further atrocities from taking place. Second, France's airbases in Abéché and N'Djamena in Chad would be capable of supporting such an operation.¹⁶ Moreover, the infrastructure policy needed in Chad is supported by the France's government. Both President Nicholas Sarkozy and Foreign Minister Bernard Kouchner have continuously called for more effective action on Darfur. Second, the operational impediment presented by the size of Darfur's geographic area can be averted through the use of air refuelling.¹⁷ Third, in comparison to the 60 aircrafts suggested by General Bentegeat, McPeak notes that 12-18 fighter aircrafts, accompanied by "tankers and an Airborne Warning and Control System to provide surveillance and command and control" would be sufficient to implement a strong no-fly operation.¹⁸ Lastly, McPeak is assured that NATO airpower supersedes Sudan's combat aviation and air defence capabilities. The positions of the United States and other supports of a no-fly zone in Darfur are clearly reflected in the statement by McPeak, "the problem is not one of capability or availability of requisite airpower. It remains, as it has for three years now, one of political will."¹⁹

In accordance with the U.N. adopted "responsibility to protect" doctrine, it has been suggested that the "balance of consequences" test must be applied in order to make a reasonable determination in relation to the feasibility of a no-fly zone operation, the goals such an operation is meant to serve and the likelihood that these goals will be achieved by military means.²⁰

¹⁵ John Prendergast and Julia Spiegel, "Khartoum Bombs and the World Debates: How to Confront Aerial Attacks in Darfur, *Enough – the Project to End Genocide and Crimes against Humanity*, 3 <www.enoughproject.org>.

¹⁶ Merrill A. McPeak, "A No-Fly Zone could break the Darfur log-jam," in Elvir Camdzic and John H. Weiss, "Implementing a No-Fly Zone in Darfur: Options and Arguments," Third Report, August 2007 at Appendix A.

¹⁷ Merrill A. McPeak, "A No-Fly Zone could break the Darfur log-jam," in Elvir Camdzic and John H. Weiss, "Implementing a No-Fly Zone in Darfur: Options and Arguments," Third Report, August 2007 at Appendix A.

¹⁸ John Prendergast and Julia Spiegel, "Khartoum Bombs and the World Debates: How to Confront Aerial Attacks in Darfur, *Enough – the Project to End Genocide and Crimes against Humanity*, 4 <www.enoughproject.org>.

¹⁹ Merrill A. McPeak, "A No-Fly Zone could break the Darfur log-jam," in Elvir Camdzic and John H. Weiss, "Implementing a No-Fly Zone in Darfur: Options and Arguments," Third Report, August 2007 at Appendix A.

²⁰ John Prendergast and Julia Spiegel, "Khartoum Bombs and the World Debates: How to Confront Aerial Attacks in Darfur, *Enough – the Project to End Genocide and Crimes against Humanity*, 5 <www.enoughproject.org>.