
Darfur: Management of a Genocidal Crisis

Summary report

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Preventing Genocide and Crimes Against Humanity

The Aegis Trust, founded in 2000, developed from the work of the Holocaust Centre in Nottinghamshire, (opened in 1995). Aegis addresses causes and consequences of genocide and crimes against humanity. It works closely with survivors, educationalists, academics and policy makers in areas relating to genocide education, research and prevention.

The role of the UK Holocaust Centre and the genocide memorials in Rwanda are important to the work of Aegis. They are a reminder of the terrible consequences that ensue when the world does not prevent genocide. They also give dignity to the victims and provide a voice for survivors, who are often overlooked. This helps reverse some of the dehumanisation that takes place during genocide and contributes to rehabilitation. It recognises that the legacy of genocide continues long after the killing stops.



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Cover photo: A woman in Breidjing Refugee Camp, eastern Chad, July 2004. Her husband had been killed six months earlier. © James M. Smith, Aegis Trust

SECTION 1

Naming the Crisis: Policy Implications

While it is the view of the Aegis Trust that the events in Darfur during this year amount to genocide under the UN Genocide Convention, we recognise that getting wound up in legal debates about definitions while people perish may not help the management of the crisis. Saving lives should take priority over achieving a legal consensus.

The evidence is quite clear: somebody wants to 'get rid' of Africans¹ from Darfur.

Calling a crisis 'genocide' ought to create certain obligations to respond. However, if we cannot agree that genocide itself is happening then it will be helpful to use the term 'genocidal' to convey the character of the situation and as a management term.

The International Commission of Inquiry² is likely to apply one of the following labels to the crisis in Darfur:

- Crimes against humanity
- Genocide
- Ethnic cleansing

1.1 Crimes against Humanity

Crimes against humanity are defined in the Principles of the Nuremberg Tribunal as:

Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.³

¹ Using the term 'African' may be misleading. See Section 2.3 for clarification.

² The International Commission of Inquiry was called for by Resolution 1564 to investigate reports of violations of international law, establish whether acts of genocide had taken place and identify the perpetrators with a view to holding those responsible accountable.

³ Principles of the Nuremberg Tribunal (1950). Principle VI. This definition is expanded on in the Rome Statute of the International Criminal Court as quoted in the full report.

1.2 Genocide

The UN Convention on the Prevention and Punishment of the Crime of Genocide allows states to prevent genocide.

The Convention creates a huge moral and political obligation to prevent genocide. This was recognised by the fifty five member states who signed the Stockholm Declaration in January 2004.⁴ It is not specific about how states can prevent genocide, as the mechanisms to commit the crime may vary, but it does set a legal framework to enable them to do so, using whatever organs of the UN are necessary.

This applies even to **attempts** to commit genocide or to **complicity** in genocide.

1.3 Ethnic Cleansing

This term causes many of us – the media, policy people and NGOs – to breathe a sigh of relief, as if it is not so urgent. 'It's OK, its not genocide after all; it's just ethnic cleansing.'

However, ethnic cleansing is an appalling act of organised violence stemming from a desire by perpetrators to 'get rid' of a group of people.

Unlike genocide and crimes against humanity, enshrined in conventions and statutes, ethnic cleansing is not really defined as a single crime. With reference to the Former Yugoslavia, a UN Commission of Experts stated that:

Based on the many reports describing the policy and practices conducted in the former Yugoslavia, 'ethnic cleansing' has been carried out by means of murder, torture, arbitrary arrest and detention, extra-judicial executions, rape and sexual assaults, confinement of civilian population in ghetto areas, forcible removal, displacement and deportation of civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, and wanton destruction of property. Those practices constitute crimes against humanity and can be assimilated to specific war crimes. Furthermore, such acts could also fall within the meaning of the Genocide Convention.⁵

⁴ See Appendix C of the full report for the Stockholm Declaration, January 2004.

⁵ UN Commission of Experts (1994). *Final Report of the Commission of Experts*.

Ethnic cleansing, then, is more than moving one population from one place to another. It fits very closely with the UN Genocide Convention definition of genocide. In fact, the 1992 UN General Assembly resolution 47/121 declared that 'the abhorrent policy of ethnic cleansing' is 'a form of genocide'.⁶

Far from diminishing the crisis, the term 'ethnic cleansing' should be a loud alarm bell calling the world to take urgent action under the UN Genocide Convention.

1.4 Dodging the 'g' word

One reason that there is an avoidance of using the word genocide is that there was a belief that once a situation was acknowledged as genocide, there was a legal obligation to prevent. This legal obligation is not as strong as the moral and political obligation that the Convention confers. States know that they can be as tardy as they like in responding to the threat of genocide, as long as they can speak strong words and demonstrate that they are doing 'something' politically.

Another reason frequently used for not being hasty to use the word 'genocide' is that people do not want to devalue its meaning. Some feel that unless a catastrophe is reaching the vastness of the Holocaust in Europe in the 1940s, then it is wrong to use the term genocide. But the Holocaust became vast because it was not recognised for what it was and was not stopped.

It is argued that *intent* must be demonstrated according to law before defining a situation as genocide. Intent, though, can be deduced from sufficient evidence. In the view of the Aegis Trust, the evidence that has been documented in Darfur and described in Section 3 shows the atrocities could not have happened by accident. Someone must have intended it.

1.5 'Genocidal Crisis': a useful management term

Whichever of the above three labels the UN International Commission of Inquiry places on this crisis, it should not affect the management. Recognising and responding to the threat is more important.

If we are comfortable using the phrase 'ethnic cleansing' then we can call it 'genocidal', because this denotes recognition that someone is getting rid of a group of human beings who need protection regardless of whether it is finally agreed to be genocide.

⁶ General Assembly Resolution 47/121 (1992). Preamble, Paragraph 6.

1.6 Management implications once the term 'genocidal' is applied

It is possible that conflict may exacerbate, obscure or be an excuse for genocide. But, if a risk assessment demonstrates that an exclusionary ideology exists and that systematic organised violence against the target group has occurred, then this is a genocidal situation.

When the term 'genocidal' is applied (e.g. in a situation currently accepted as ethnic cleansing), our response should be to act as if genocide is happening; because in all likelihood it is. More attention should be given to the security of the vulnerable target group than would otherwise be given in a two-sided 'conflict' situation.

There are three strands to the management of the crisis:

- Security
- Humanitarian aid
- Political settlement

All three must be a priority in a genocidal situation. Of the three strands of action, security has been insufficiently prioritised by the international community in Darfur. This remained the case as of November 2004.

1.7 Hiding behind the humanitarian crisis

During the spring and summer of 2004, the Darfur crisis was largely portrayed as a humanitarian disaster.

Under pressure from other member states at the UN Security Council, it was convenient for the Foreign & Commonwealth Office (FCO) not to address the political issues and questions about security, no-fly zones and ending impunity. Instead they hid behind the UK's generous aid effort.

Had the crisis been recognised as 'genocidal,' the efforts to protect may have been as robust as the efforts to feed refugees and to achieve a political settlement.

1.8 Isn't genocide just extreme conflict?

Exclusionary ideas – racist ideas in the case of Darfur – are what differentiate genocide from 'conventional' two-sided conflict. Genocide is more akin to extreme racism than extreme conflict – it is organised, one-sided violence on a massive scale, and civilians are the prime target.

1.9 But isn't there a civil war?

Against a backdrop of generations of tribal conflict, there is a civil war happening in Darfur also – since February

2003. However, there is sufficient evidence of a genocidal threat prior to February 2003 to show that the rebels are reacting to protect themselves from extermination (See 3.2).

One significant difference between the two sides is that the Janjaweed and Arab Gathering are driven by an objective of achieving exclusion of Africans. Meanwhile both rebel groups, the Justice and Equality Movement (JEM) and the Sudan Liberation Army (SLA), want to see an inclusive Sudan in the form of a federal state. This does not make the rebels angels. But they are unlikely to organise genocide. It is not part of their ideology to do so. In the absence of improved security, however, it is likely that the rebels will expand their operations rather than agree to a settlement (See 4.1.4).

SECTION 2

Darfur and the Ideology of Sudan

Context is critical in understanding a crisis. Genocide does not happen spontaneously. It needs certain circumstances and is driven by ideology.

Many Sudanese argue that most 'Arab' Sudanese are African in origin anyway. For centuries a dynamic has played out in which many African tribes adopted not only Islam, but Arabic culture and language. African identity was regarded as being synonymous with that of a slave. Assimilating into an Arab identity offered protection against slavery – or worse. Africans are still given the derogatory name '*Abid*' meaning 'slave' which has become a more common term in Sudan since jihad was declared in the South in 1992. Today having an Arab identity disassociates a family from the stigma of being descended from slaves.

This legacy from a culture of slavery combined with land pressure from desertification, power struggles, ethnic tension and Islamization have resulted in decades of strife, conflict and genocide.

2.1 The Significance of Exclusionary Ideology

Ideologues do not necessarily set out to destroy a group of people. Rather they set out to achieve a utopian

mission.⁷ If a group is in the way of such a mission, ways may be found to marginalise, exclude and dehumanise it. The National Islamic Front sought to create an Islamic state – its Civilisation Programme has sought to return to 7th century Islam and create an Islamic paradise.

An exclusionary ideology is a belief system that identifies some overriding purpose or principle that justifies efforts to restrict, persecute, or eliminate certain categories of people.⁸ In extreme situations, an exclusionary ideology sets the scene for future genocide.

Such ideas can justify, in the mind of a dominant group, extreme measures that can be taken against the perceived inferior group.

The presence of an exclusionary ideology in a time of crisis can help to differentiate the threat of genocide from other forms of conflict. It is an important factor in a genocidal risk assessment.

2.2 Arabization and Islamization

The Middle East and Africa converge in Sudan. Since independence, the Sudanese government has been dominated by three 'Arab' tribes, who are predominantly Islamists. Successive governments have sought to form a national identity around the Arabic language, Arabic culture and Islam.⁹ The implementation of the current Government's brand of Arabization and Islamization has been by far the most aggressive and sustained.

Arabization and Islamisation formed the two strands of the ideology of the Government of Sudan which it has applied through its 'Civilization Programme'. Yet a combined policy of Arabization and Islamization is ultimately contradictory. Whilst most Arabs are Muslim, all Muslims are by no means Arab. In Sudan, Arabs have seen themselves as true Muslims and non-Arab Muslims as both inferior Muslims and inferior beings.

The outcome of this contradiction can be seen in Darfur, where Islamization has given way to Arabisation and would-be supporters of the Islamization project have been excluded because of the additional ethnic dimension in Khartoum's policy.

⁷ Bauer, Y (2001) Professor Yehuda Bauer's presentation to the Amsterdam Conference on Remembrance, May 2001, Holocaust Teacher Resource Centre, http://www.holocaust-trc.org/bauer_kynote.htm [Accessed 30 november 2004]

⁸ Harff, B. (2003). "No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder Since 1955", *American Political Science Review*, Vol 97, No. 1, pp. 57-73.

⁹ Johnson, D. (2003). *The Root Causes of Sudan's Civil Wars*, International African Institute, London, p. 6.

2.3 Precedents of Genocidal Acts in Sudan

Under three Islamist regimes since 1983, there have been various instances of genocide against African groups, most notably the Dinka and Nuba tribes. The Government used its vague definition of apostasy in Article 126 of the Penal Code that it introduced in 1991 to legalise the annihilation of populations they regarded as obstructing their radical Islamization agenda. This reflected the absolutist Wahabi ideas which informed the Islamist ideology by which indigeneous forms of Islam were rejected and those adhering to these forms of Islam were labelled apostates by the government.

Helen Fein defines the actions to which the Dinka were subjected as 'genocide by attrition'.¹⁰ Between May 1983 and May 1993, the Dinka were subjected to a policy of forced starvation. Both Sadiq Al Mahdi's government, from 1986, and the NIF (National Islamic Front) Government, armed the Baggara tribe – historical enemies of the Dinka – who systematically looted the land and cattle on which they relied for survival. Humanitarian aid was denied. Government reactions to outbreaks of disease were to herd the displaced Dinka closer together, and medical attention was denied. Children were kidnapped and herded into camps where they were forcibly Islamised. This a clear example of the forcible transfer of children from one group to another – an action prohibited in Article 2e of the Genocide Convention.¹¹

Jihad was declared specifically against the Nuba in Kordofan; central Sudan; in 1992, three months after the jihad on the South. Approximately 50% of Nuba were Muslim; a large proportion of the population relative to other populations in the south. The jihad was aimed as much against the Muslim population as it was against the Christian and animist Nuba. Nuba villages were terrorised and destroyed by the Popular Defence Force (PDF) and Arab militias leading to resettlement of 170,000 and the deaths of an estimated 100,000.¹² Like the Dinka, the Nuba were rounded up into 'Peace Camps' where they were confined for Islamization. The 'Peace Camps' were located in hostile environments where the means for

survival were minimal. The land from which the Nuba were removed was sold to supporters of the regime.¹³

2.4 A Comment on Ethnicity: Arabs and Africans?

Some scholars object to simple descriptions of ethnic relationships in Western Sudan being portrayed as Arabs against African Sudanese or non-Arabs. Their objection is understandable. In times of peace, in particular, there is fluidity of ethnic identity including intermarriage between groups and tribes.

Yet when a group is threatened, how they perceive their identity, or indeed how sociologists or anthropologists view it, becomes immaterial. What matters is how a dominant or threatening group perceives them.

To the perpetrators of genocide, identity is very important. They simplify it, augment it and create an 'enemy'. The Nazis definition of 'Jews' determined who would live and who would die. Hutu radicals did the same to the concept of 'Tutsi' making it a negative and fearful word.

Now 'Arab' supremacists, out of a different historical context again, are defining the Sudanese Africans, increasingly using the term '*Zurga*' ('nigger') and '*Abid*' ('slave'). The discrimination and stereotyping has been around for centuries, but is now used to identify, exclude and destroy an 'enemy'.

While we must guard against generalisation or promoting stereotypes ourselves, if people are being killed, or driven out of their lands into a wilderness, we need to understand something of the mentality of the perpetrator and how they define the victim. In Darfur we have to use their definition of Africans to identify who is under threat.

The Aegis Trust was told over and over again by refugees in Chad that they were victims because the Janjaweed said they were slaves. The conflict is driven by racism at both regional and central Government level. Attempts to shroud that will undermine the resolution of the crisis.

2.5 Exclusionary Ideology in Darfur

2.5.1 'Arab Gathering' Background: Whilst the notion of African inferiority has been a feature in Sudanese society for centuries, the emergence of an Arab supremacist ideology in Darfur coincided with the efforts of Libya's Colonel Gaddafi in the 1980s to create an Arab belt

¹⁰ 'Genocide by Attrition, 1933-1993: the Warsaw Ghetto, Cambodia and Sudan', *Health and Human Rights*, 1997.

¹¹ Fein, H (2002). *Genocide by Attrition in Sudan*, Crimes of War Project, <http://www.crimesofwar.org/sudan-mag/sudan-fein.html>, [Accessed 12 November 2004].

¹² Collins, R.(2004) *The Sudan* http://www.gale.com/enewsletters/history/2004_08/sudan.htm [Accessed 12 November 2004].

¹³ Johnson, D. (2003). *The Root Causes of Sudan's Civil Wars*, International African Institute, London, p. 133.

across Africa. This Arab supremacist ideology emerged in Darfur through an organisation called the 'Arab Gathering'.

Evidence suggests that the Arab Gathering was covertly active as early as 1980/1. Cassette recordings calling the Arabs in Darfur to prepare themselves to take over the then Regional Government were widely distributed. Having classified the citizens of Darfur as either Arabs or 'Zurga', the speakers told listeners that the *Zurga* had had enough time ruling Darfur and that it was time for the Arabs to take power in the region. They also demanded that the name of the region should be changed from Darfur meaning land of the Fur to something more suitable. Soon after the distribution of these tapes in 1982, the first massacre of Fur took place in Awal village in Darfur.¹⁴ In 1980, the Nimairi government broke with tradition in Darfur by appointing a governor to Darfur who was not native to the region; an Arab from Kordofan. There was considerable public protest, which forced the government to replace the governor with someone native.

2.5.2 Arab Gathering Letter to the Prime Minister 1987: The proponents of this Arab supremacist ideology openly emerged in October 1987 in a letter sent to the Sudanese Prime Minister, Sadiq al-Mahdi. Its tone was supremacist and drew upon the stereotype popular among Arabs of Africans as being of low cultural status.

It asserted that the Arabs of Darfur represented a well defined ethnic group and attributed to the '*Arab race*' the '*creation of civilisation in this region ... in the areas of governance, religion and language*'.¹⁵ It complained of under-representation in local and regional government in Darfur and demanded a 50% share for Arabs at all three levels in recognition of:

- their demographic weight
- contribution to the generation of wealth
- knowledge of the region and historic role as civilisation bearers

The letter bore 23 signatures. It was signed by leaders of some of the region's Arab tribes and was distributed widely in Darfur and Khartoum.

2.5.3 Arab Gathering Documents: In November 2003 a group called the Political Committee visited a number of councils in South Darfur. The Political Committee was apparently under the authority of the Coordination Council

¹⁴ Ferseldin, A. (2004). "Devils in Disguise" (unpublished essay).

¹⁵ Refer to Appendix D of the full report for full text of the letter [Source Darfur Centre for Human Rights and Development, a_ismel@yahoo.co.uk].

of the Arab Gathering. The members of this Committee were well known in Darfur. Some of them held important positions in the Government and National Congress.¹⁶

These recommendations give further evidence of an exclusionary ideology. They exclusively refer to the unity of Arabs rather than that of the Sudanese and like the 1987 letter, call for the re-naming of Darfur.

Recommendation 19 of the Arab Gathering Political Committee meetings concerns organizing the Janjaweed. This indicates a direct link between the Janjaweed and the Arab Gathering. Point 20b, in which the Secretary of the National Congress was ordered to collect signatures, demonstrates a working relationship between the National Congress and the Arab Gathering.

SECTION 3

Systematic actions amounting to genocide

There have been disputes in Darfur for generations, but the escalation of organised violence occurred after 1982, with the emergence of the Arab Congress.

3.1 Ideas influence action

3.1.1 Land possession and conflict: Following Darfur's annexation by the British in 1916, the British introduced *Dars* (tribal homelands) but did not allocate *Dars* to most nomadic groups. Many nomadic groups have moved into Darfur since then. It is members of these nomadic groups who make up many of today's Janjaweed.

Following the British introduction of *Dars*, agriculturalists willingly accommodated northern herders on their land as they sought better grazing during the dry season.

But environmental degradation brought agriculturalists and pastoralists increasingly into conflict in from the 1960s onwards. However, despite competition for land and resources between predominantly Arab nomadic herding groups and African farmers, values of ethnic co-existence were prevalent in Darfur. Ethnicity only became a mobilising factor in the late 1980s, with the emergence of the Arab Gathering.

¹⁶ Refer to Appendix O of the full report for the text of this document.

3.1.2 Chronology of increased attacks: Since the emergence of the Arab Congress in 1982, violence against Africans in Darfur has become increasingly commonplace and it has been evident that violence has been organised.

1982: A market in Kabkabiya district was attacked. All those identified as Arabs were allowed to go free.¹⁷

1987-89 Fur-Arab conflict: In what began as a conflict over water and grazing rights, approximately 5,000 Fur were killed and 40,000 of their homes destroyed, whilst 400 Arabs were killed and 700 of their tents burned.¹⁸ The evidence from this conflict indicated intent by the Arabs to destroy the social and economic base of the Fur.

1996-99 Conflict between Massaleit and Arab Rizaiqat: A change of administrative structure in favour of Arabs led to tension between the two communities. Against a background of state repression, Arab militias began attacking Massaleit villages. Attacks were timed to coincide with the harvest. The Government claimed that this was a tribal conflict but there were reports of the involvement of uniformed men.¹⁹

Since 2000: Between 15 July 2000 and 28 April 2002 there were 156 attacks recorded by Fur members of Parliament (National Assembly). They handed the list that they compiled to Al Bashir. Before he died in 2003, the son of the last Fur Sultan documented all the African villages that had been destroyed from 2000. The list exceeds 200 villages.²⁰

3.2 Genocidal Acts in the Current Crisis

3.2.1 Killing; targeting civilians: To date the accurate figure for deaths in the crisis is unknown, but informed estimates have stated that 200,000 to 300,000 have died since the start of the Darfur conflict.²¹

Research by many organisations, including Aegis, has found that over half of the refugees in the camps in Chad have witnessed family members being killed.

¹⁷ Ferseldin, A. (2004). "Devils in Disguise" (Unpublished essay).

¹⁸ Johnson, D. (2003). *The Root Causes of Sudan's Civil Wars*, International African Institute, London, p. 140.

¹⁹ Johnson, D. (2003). *The Root Causes of Sudan's Civil Wars*, International African Institute, London, p. 141.

²⁰ Refer to Appendix E of the full report for the full list.

²¹ Eric Reeves, "Darfur Mortality Update", 8 October 2004

<http://www.sepnet.org/index.php?op=ViewArticle&articleId=334&blogId=1> [Accessed 16 November 2004].

Save the Children spokesman Paul Hetherington, quoted by Gethin Chamberlain in *The Scotsman*, 18 November 2004.

In attacks on villages there has often been an emphasis on the killing of the male population. Instances have been reported of males being rounded up and taken away from villages to be shot.²²

Some reporters and relief agency staff expressed surprise at the small number of wounded refugees entering the camps. In fact, wounded were entering the camp. Aegis found many cases in camps where refugees bore 3 to 6-month-old wounds consistent with gunshot injuries. They had taken so long to reach refuge that the wounds had healed.

3.2.2 Use of racist language by the perpetrators: The use of racist language during attacks is consistently reported by refugees. This provides evidence that attacks are driven by a racist ideology, and are not just attacks against the support base of the two rebel groups.

Aegis was told over and over again by refugees coming over the border to Eastern Chad from Darfur:

The Janjaweed want to steal from us, kill us and destroy us, because we are black.

Amnesty International documented numerous references to racist language in interviews with refugees. The following is just one example of many:

You blacks, you have spoilt the country! We are here to burn you.

Reference to Africans as 'Abid' [slave] is a racial slur that Northern Sudanese Arabs have used since the 19th century, and has been frequently used by the Janjaweed.

3.2.3 Rape and Violence Against Women: Systematic rape is characteristically used as a tool of genocide - most notably in the past decade during the Bosnian crisis in the early 1990s and during the genocide in Rwanda in 1994. The International Criminal Tribunal for Rwanda recognised rape as a crime of genocide for the first time in 1998.

An overwhelming number of women who have fled Darfur tell of having been raped. Women and girls have been publicly raped in front of their families and communities. This points to attempts both to subjugate the women and humiliate the whole community. Racist language has often accompanied sexual violence.

²² Adam Jones (2004). *A compendium of media coverage and human-rights reportage about gender-selective killings of men and boys in Darfur, Sudan*, <http://gendercide.org/darfur01.htm>. [Accessed 11 October 2004].

3.2.4 Systematic Destruction: Targeting African

Villages: It is evident that attacks have been planned in advance, happening on market days, or during or after prayers at the mosque, while people are gathered.²³

Ethnic targeting is obvious. Arab villages stand unharmed within sight of destroyed African villages.²⁴

The thoroughness of the looting and destruction makes future habitation of the villages all but impossible.

Some attacks have been supported by aerial bombardment by the Sudanese Air Force. Clearly, this requires planning and co-ordination between forces on the ground and the Air Force.

Refugees in Chad consistently testified to Aegis that after the Janjaweed raided on horses or camels, the Sudanese army regularly entered the villages in motor vehicles, shooting and burning to ensure no-one remained. They did not differentiate between the Government and Janjaweed and testified, *'There is no difference; they are the same.'*

USAID satellite imagery showed that villages were still being destroyed in large numbers during August despite the stated threat of possible economic sanctions in UN Resolution 1556.

3.2.5 'Resettlement': There have been reports from journalists of resettlement of destroyed villages by Arabs. This coincides with the discovery by Human Rights Watch of a Government memo proposing the resettlement of Arabs in the deserted villages of Darfur and ordering the rehabilitation of wells to facilitate this. The memo also proposed to resettle the million or so displaced in 18 new locations.²⁵ This may have been in line with the plan agreed between the Government of Sudan and the UN following Resolution 1556 in which safe areas were to be created. However, this is reminiscent of the 'Peace Villages' into which the Nuba were resettled. They were located in hostile terrain with wholly inadequate living conditions.²⁶ There are fears that these proposed eighteen camps may be more of such settlements making displacement permanent.²⁷

²³ Ibid p. 9.

²⁴ UN Inter-Agency Fact Finding and Rapid Assessment Mission (2004) *Kailek Town; South Darfur*.

²⁵ Minkey Worden, (2004) *Khartoum's Directives of Death*, New York, Human Rights Watch.

²⁶ See section 2.2.

²⁷ Human Rights Watch (2004) *UN Safe Areas Provide no Real Security*, New York, Human Rights Watch <http://hrw.org/english/docs/2004/09/01/darfur9286.htm>, [Accessed 25 October 2004].

3.2.6 Detention: Villagers are usually forcibly displaced from their villages and forced to move to larger villages or towns which become IDP camps, guarded by Sudanese police and armed forces, together with the Janjaweed. The IDPs are virtually prisoners within these camps, unable to leave them even to carry out vital life-support activities for fear of attacks by Janjaweed. By keeping their victims inside Darfur, the Government of Sudan is concealing the scale of their crimes. Even inside the camps, women remain vulnerable to rape and humanitarian conditions are appalling.

3.2.7 Denial of Humanitarian Access and Starvation:

Conditions of life have been imposed on the African population of Darfur by which they may not survive without humanitarian assistance. This is described as genocide in Article II (c) of the UN Genocide Convention.

In April the UN Inter-Agency Fact Finding and Rapid Assessment Mission reported a strategy of systematic and deliberate starvation being enforced by the Government of Sudan and its security forces.

Meanwhile the Government of Sudan severely obstructed humanitarian access by bureaucratic means, withholding vital documents such as visas and travel permits.

3.2.8 Destruction of Cultural Symbols: There has been widespread destruction of mosques and desecration of Muslim religious symbols, despite the Islamic Government of Sudan being Islamic itself.

SECTION 4

Security

4.1 Securing Populations at Risk as a Priority

4.1.1 Humanitarian aid and political settlement are necessary, but not sufficient in a genocidal situation:

The label of 'genocidal conflict' or 'threat of genocide' is an important one: it infers great threat to civilians. In the management of such a situation, security must be as much a priority as providing humanitarian aid and achieving political settlement. This is the key difference to the management of conflict where the risk of genocide is minimal. In a genocidal situation, compromising security in favour of peace-talks may cost lives.

4.1.2 Responsibility to Protect: In 2001 the International Commission for Intervention and State Sovereignty reached its conclusions about the world's responsibility to protect. When sovereign states are unwilling or unable to protect their own citizens, the responsibility must be borne by the broader community of states.²⁸

Yet during the crisis in Darfur there has been a distinct lack of attention to security for those at risk. Either the Government of Sudan has actively supported the Janjaweed or it has lost control of them. Whichever scenario is true, externally implemented security measures are needed.

It would be unfair to suggest that security has not been considered at all. It is astounding, however, that so much confidence was placed in the Government of Sudan to provide protection for the vulnerable, for two reasons:

First, there is vast evidence that the Government is complicit in the organisation and funding of the killing. Had the exclusionary ideology driving the crisis been recognised and its implications understood, capitulation to Sudan's wishes – that it be allowed to address the security issue internally – could not have been justified. Asking them to 'rein in the Janjaweed' was a lame excuse for the rest of the world not to do anything substantial.

Second, the 'Peace Villages' run by the Government in Kordofan during the so-called forced resettlement in 1992 were brought into total disrepute – they were more akin to concentration camps or ghettos.²⁹ So when, in August, Jan Pronk agreed a plan with the Government of Sudan to provide 18 safe areas for internally displaced refugees, it was more than surprising. While it would have been hoped that AU (African Union) observers would at least have access to them, they were to be guarded by Sudanese police. However, even prior to this in late June, journalists were reporting how Janjaweed militiamen became policemen, guarding the people they had ravaged and displaced from their homes.

4.1.3 Who is in Control? Some argue that the Government of Sudan is not fully in control of policy in Darfur. In a failing state this would be understandable. A clique in the security establishment is thought to be

dominating the agenda in Darfur.³⁰ Ali Osman Mohamed Taha, the Vice President, is the leading figure so the 'clique' is in position of strength within the government. It still does not make sense, though, to ask the Government of Sudan to 'rein in the Janjaweed', as the so-called clique in all likelihood also control the security anyway.

While we continue to hope that Khartoum can resolve the crisis, we should not be surprised that the situation is growing worse. When Bosnian Muslims were being killed by Bosnian Serbs, the Foreign and Commonwealth Office wanted the Serb Government in Belgrade to bring the rogue Bosnian Serb leader, Radovan Karadzic, under control. They believed that a strong Milosevic was the answer to Bosnia's problems – they did not want to undermine his Government for fear of creating anarchy. But Yugoslavia was already a failing state, descending into bloodshed and fiasco, as Karadzic organised mass murder.

Milosevic did not rein in Karadzic. Khartoum will not rein in the Janjaweed.

4.1.4 'Civil war' and rebels: MPs within Darfur were calling for foreign intervention in December 2003; rebels requested higher numbers of monitors from the outset of the Ceasefire Commission and in July rebels called for foreign military intervention. It has been slow in coming and is still insufficient. Consequently, during October and early November, peace-talks were deadlocked over the security issue. Although the SLA and JEM signed Humanitarian and Security Protocols with the Government of Sudan on 9 November following talks in Abuja, this provides minimal cause for optimism; Sudanese security forces displayed contempt for the agreement by conducting a raid on IDPs at the El-Geer camp the following day.

If there are no plans to protect the vulnerable, it is not sensible to stop the victim group from defending itself in a genocidal situation. If security is not provided, ceasefires may decrease, not increase their security; a key difference from a conflict where genocide is a low risk.

In Rwanda in 1994, it was the then rebel group, the Rwandan Patriotic Front, that stopped the genocide. Not the UN peacekeepers, not the Arusha peace deal. That lesson should also have been learned from Bosnia. Under Resolution 819 (1993), which created the 'safe area' of Srebrenica, UNPROFOR (United Nations

²⁸ International Commission on Intervention and State Sovereignty (2001). *The Responsibility to Protect; Report of the International Commission on Intervention and State Sovereignty*, <http://www.dfaif-maeci.gc.ca/iciss-ciise/pdf/Commission-Report.pdf> [Accessed 1 November 2004].

²⁹ See section 2.2.

³⁰ Justice Africa (2004). "Prospects for Peace in Sudan, Briefing" *June - July 2004*, http://www.justiceafrica.org/June_July04.htm [Accessed 23 October 2004].

Protection Force) troops disarmed all Muslims within the safe area, leaving them vulnerable to the subsequent occurrence of genocide in July 1995.

We should not repeat these mistakes in Darfur.

4.2 International Response to Security:

The need for security to be a top priority was made clear in a report by the UN Inter-Agency Rapid Assessment Fact Finding Mission in April 2004. It reported instances where starving IDPs were asking not to be given humanitarian assistance, fearing it would make them targets of the Janjaweed in and around the IDP camps.

The joint FCO-DfID Sudan Unit knew that security was needed in Darfur, as well as food, but they equally understood that leading the rest of the reluctant Security Council members to such a position was a steep uphill task, especially as the Iraq problems diminished any moral high ground held by the UK and US. Political nervousness about where an intervention may lead, and strong opposition from Arab states and China, contributed to the issue of security being avoided as much as possible. As a result, viable alternatives to providing protection were not considered carefully or early enough.

Instead, the UN and member states hid behind the humanitarian aid effort, neglecting security.

Western troops, however, need not be the first consideration. Sending Western troops to Sudan would have been inappropriate under the best of circumstances. After the invasion of Iraq, however, it became politically inconceivable for Western nations to consider entering the sovereign territory of another Muslim state. Ironically, while the recent war in Iraq remains difficult to shoe-horn into legality, there is little question that international law would allow member states to intervene to protect human life under threat of genocide in Western Sudan.

4.2.1 The AU force: A tiny external military presence was finally established in Western Sudan, after months of killing, rape and devastation.

The need to protect citizens was understood more in the AU than it was among the wealthy UN member states. Reflecting on the experience in his own country, President Kagame of Rwanda said that whatever mandate is given, his soldiers will not stand and watch civilians being killed. On 27th July the AU Peace and Security Council passed a resolution which called for a proposal for transforming the observer protection force into a fully fledged peacekeeping mission with the requisite mandate and size to ensure the

effective implementation of the Ceasefire Agreement, with particular emphasis on the disarmament and neutralization of the Janjaweed militia.³¹

Although a number of states gave financial or logistical support to the AU mission, still it languished in an under-resourced state. Communications were dire: as of late August, three helicopters, thirty-five vehicles and a handful of mobile phones were being used to cover an area the size of France.

The necessity for a larger, more effective force was self-evident before the AU mission arrived. Western policy makers regarded the observer missions in the North-South conflict to have been a success and were convinced that this conservative approach was the most prudent. This was also a convenient argument, as anything other than a few external observers in Darfur was vigorously opposed by the Government of Sudan and its allies.

The AU was willing to send more troops in June 2004: thousands of peacekeepers instead of hundreds of observers. The Government of Sudan rejected this offer and the member states of the Security Council capitulated. Finally, UN Resolution 1564, adopted on 18 September 2004, called for an expanded AU force with a broader mandate.

When, on 20 October, the AU observer mission was eventually expanded, it still had no peace-keeping mandate, although its remit was extended to include the protection of 'civilians whom it encounters under imminent threat and in the immediate vicinity, within resources and capability'.³² The primary purpose of the armed AU troops, however, was to protect 450 observers. At this time, Darfurians were perishing at a rate of 10-30,000 per month.³³ While AMIS 2 (African Union Mission in Sudan 2) was welcome, it was still a sub-optimal arrangement to avert the threat of 'genocide by attrition'.

Lt. Gen. Roméo Dallaire, who commanded the UN force in Rwanda during the 1994 genocide, said in October 2004

³¹ Communique of the 13th meeting of the Peace and Security Council, 27 July 2004.

³² Communique of the 17th meeting of the Peace and Security Council, 20 October 2004.

³³ Source for 10,000 per month: BBC News, (2004) '70,000 Darfur Dead' Since March, <http://news.bbc.co.uk/1/hi/world/africa/3747380.stm> [Accessed 20 October 2004]. Source for 30,000 per month: Reeves, E. (2004) "The Meaning of AU Forces Deployment to Darfur", *Sudan Tribune*, http://www.sudantribune.com/article_impr.php3?id_article=6168 [Accessed 1 November 2004].

that Darfur needed 44,000 AU peacekeepers, extensively supported by major powers providing training and equipment, physical logistics, and command and control support, including advanced communications equipment and satellite-based 'eyes in the sky.'³⁴

To date, the UN has not even imposed a 'no-fly' zone, despite tens of thousands being killed in attacks involving aerial bombardment. This contrasts with the French response in early November 2004 after nine French peacekeepers were killed in a bombing raid by the Ivory Coast Air Force. The French destroyed the entire Ivorian Air Force the same day. Nine days after the attack on the French, as a direct response, an arms embargo was imposed on the Ivory Coast in UN Resolution 1572. The Resolution also threatened to impose travel and financial sanctions against leaders if they failed to implement peace agreements by 15 December. It was passed unanimously.

This demonstrates just how fast and effectively western nations and the UN can move when there is political will.

4.3 British Policy

- Believes it can achieve most by applying quiet behind-the-scenes pressure.
- Assumes the good faith of Khartoum, despite its past record.
- Looks to Khartoum to be the peacemaker.
- Has tended to capitulate to Khartoum's protests.
- Fails to recognise the racial element in the crisis in Darfur.
- Takes a much stronger line with the rebels relative to their wrongdoings.
- Careful to avoid placing blame for atrocities on Khartoum.

4.4 Political Settlement and Security

Political settlement will always be harder to achieve if security for those under threat is not provided concurrently. The two rebel groups may not be angels, but they had a reasonable argument. Despite their repeated calls for no-fly zones and international intervention, they saw no significant security effort from the international community. We cannot blame them if they take the matters into their own hands. The camps of Darfuri refugees that we feed today will become rebel

³⁴ Roméo Dallaire, Omer Ismail, John Prendergast, Samantha Power, Michael Ignatieff: Notes and video of the Forum discussion at Harvard October 18, 2004

http://platform.blogs.com/passionofthepresent/2004/10/romeo_dallaire_1.html [Accessed 16 November].

recruiting grounds. We should not ask ourselves why. Our tardiness throughout 2004 has given a message to Darfur refugees that if they are concerned about their security, then they can only trust in themselves.

4.5 Long Term

It is argued by the British Government and many commentators that we must tread softly around the Government of Sudan over Darfur in order to protect the North-South peace deal. While this is understandable given the investment to make it work, in the long-term, failing to robustly address the problems in Western Sudan will also cause the North-South axis to unravel.

In six years a referendum will take place to determine whether the South will become autonomous. Such an outcome will be unacceptable to Khartoum. It will be characteristic for them to promote division in the SPLA and create havoc and violence in the South using proxy militia, especially as there will now be less recruits for the Sudanese army from the West.

Currently the consensus in Darfur is that it should remain part of Sudan. If there is not significant development, benefitting all groups and if there is no political empowerment in Darfur, this consensus may change over the next few years. Calls for self determination in Darfur near the time of referendum in the South will cause the fragmentation of Sudan. A proposal for a federal Sudan may therefore stabilise the West and protect the North-South relationship.

SECTION 5

Ending Impunity³⁵

Justice is often perceived as a post-conflict issue. Impunity, though, in a genocidal situation is a brother to insecurity; both tell the perpetrator that there is insufficient resolve or political will to stop genocide.

Indeed, Darfur is just one more instance in Sudan's circle of violence and impunity. Perpetrators of previous atrocities in the Nuba mountains in 1992 and in the Western Upper Nile oil fields in the late 1990s have not been brought to justice. Some of the leading figures who directed these events are now directing policy on Darfur.

³⁵ This section is an adaptation of an article published in the *Aegis Review on Genocide* (Summer/Autumn 2004).

5.1 Whoever is in Control?

Both the FCO and the UN Security Council have been careful to place blame for the atrocities on the Janjaweed militia, not the Government of Sudan.

Some, arguing in favour of Khartoum, conclude that the events in Darfur are out of the control of the Government of Sudan – even though the crimes are so highly organized and systematic. In a failed state, it is possible that order is lost at a very high level – at such a high level that individuals have enough power to control certain events or territories. However, this is not a reason to allow impunity. On the contrary, control is lost, in part, because people do not fear accountability. In such a case, impunity contributes to the anarchy of a failed state, which allows crimes against humanity and genocidal acts to occur.

However, in most countries, the use of the air force to support crimes against humanity would indicate Government culpability. The intervention of the Vice President, Ali Osman Taha, in the release of Musa Hilal from jail to lead the Janjaweed points to Government culpability at the highest level.³⁶

So, whether it is genocide organized by central Government or powerful individuals within the governing structure in Khartoum, a referral to the ICC (International Criminal Court) would help to bring future stability. The prosecutor's office of the ICC would not be interested in accusing or indicting the Government of Sudan. It is interested in the individuals responsible for these crimes – whether they represent the Government or not.

5.2 Countering the Genocidal Threat with Judicial Process

Foreign Secretary Jack Straw said on 7 September, "We want an end to that climate of impunity and we therefore support proper international investigation of all the evidence about what international crimes have been committed...and by whom."³⁷

Documentation is the first step in bringing about accountability. But many, especially in the Arab world, still do not accept that Khartoum is responsible for these crimes. The International Commission of Inquiry, proposed in the 18 September UN Resolution, will help to establish more universal acceptance of responsibility.

But a library of reports will not end impunity if there is no resolve for it to lead somewhere. In the past, international inquiries have led to the formation of ad hoc tribunals and as John Prendergast pointed out, 'that won't be lost on the Khartoum Government.'³⁸ The US refusal to support the ICC is not helpful in ending impunity. Upholding international law at an early stage in this genocidal process by referring the situation in Darfur to the ICC would have been a strong signal to future perpetrators that they would be swiftly brought to account, not merely provided a hope that they may be punished years later.

Because Sudan has not signed the Rome Statute of the ICC, the situation in Darfur can only be referred to the ICC by the Security Council. But three of the five permanent members of the Security Council have not signed the Rome Statute either: China, Russia and the US. Britain and France have signed the Statute but are unlikely to push the issue if it will be vetoed.

So it seems that the world went to great expense³⁹ and effort to establish the ICC, precisely to deter crimes such as those being committed in Sudan, yet the nations that sit on the Security Council emasculate the concept of the court. That has not been lost on Khartoum either.

Another strong argument in favour of bringing those responsible to account is that in the future we can be less concerned about who is in power in Sudan. All leaders will understand that if they commit crimes against humanity, they will be brought to account. The Sudanese people can determine their own future, knowing that their leaders will be less inclined to support racist and genocidal ideas than they have been in the past. Justice contributes to future stability and helps to avoid scary discussions about regime change and power vacuums.

During his visit to Sudan in August, Jack Straw encouraged the Government of Sudan to bring Arab militias to justice. UN Security Council Resolution 1556 called for the Government of Sudan to 'bring to justice Janjaweed leaders and their associates'. Indeed it is preferable that prosecution happens within the country where the crimes were committed. However, it is naïve to expect a government driven by a genocidal ideology to deliver justice for its victims. Asking the Government of Sudan to 'rein in' those responsible must have given the Janjaweed perpetrators great comfort; those who armed them, trained them and gave them aerial support could

³⁶ Wax, E. (2004). "Janjaweed Leaders Describe Campaign against Africans as Self-Defence", *Washington Post*, 18 July 2004

³⁷ Hansard 7 September 2004, Column 619.

³⁸ Speaking at International Crisis Group meeting, London, October 2004.

³⁹ Britain contributes 11% of the running cost of the ICC.

hardly be expected to get tough with them now. Little surprise that Jan Pronk's September report concluded that there was 'no progress in ending impunity'.

If there is broad consensus that the Government of Sudan bears responsibility for mass murder, why is there not an unequivocal message that they will be brought to account?

Chris Mullin, British Foreign Office Minister for Africa, explained on 14 September 2004: "I agree with the need to end impunity, but we also have to keep at least a minimal cooperation of the Government of Sudan."⁴⁰ In other words, the Government of Sudan has the UN over a barrel. Because the world does not have the moral strength to end impunity or protect the vulnerable, we have to rely on probable sponsors of genocide to provide security and end impunity.

The UK Government should make clear what it wants to do with perpetrators following the International Commission for Inquiry. This should have been stated from the outset. The people responsible should be named – the likes of Colonel Ahmed M. Haroon. He was responsible for many massacres in the Nuba mountains during the 1990s. He was not brought to justice and today conducts atrocities again – this time in Darfur.

The Nation State makes up the world order we have, but despite progress in recent years and the desire to take prevention seriously, the Darfur crisis shows what an imperfect system it is. Lack of resolve to live up to moral and political obligations, or to uphold international law, means that in Leo Kuper's words, states still have the "sovereign right to commit genocide".⁴¹

CONCLUSION

Insecurity for those under threat of genocide and impunity for international crimes is a combination that allows governments to get away with murder. The existence of an exclusionary ideology indicates a genocidal threat. When such a threat is recognised, addressing this duo must become more central to the management of the crisis. Both have been insufficiently prioritised in managing the crisis in Darfur; this has impeded efforts to prevent genocide.

⁴⁰Letter to Dr James Smith, Chief Executive of Aegis Trust, 14 September 2004.

⁴¹ Kuper, L(1980) *Genocide*, New Haven: Yale University Press, p. 119.

RECOMMENDATIONS

1. When an exclusionary ideology exists and civilians are being systematically targeted during a conflict, the situation should be described as *genocidal* regardless of whether a consensus is reached about whether it is genocide or not.

2. Exclusionary ideology must be taken into account in the risk assessment of a crisis, as described by Barbara Harff. It is an important distinction between the objectives of the Janjaweed / Government of Sudan and the SLA / JEM.

3. The systematic targeting of civilians demonstrates the genocidal characteristics of this crisis. This should alter the management of the crisis in relation to security and ending impunity.

4. A no-fly zone should have been imposed at the beginning of 2004. This should be enforced now, even though it is very late.

5. The UK should request a referral of the situation in Darfur by the UN Security Council to the Prosecutor's Office of the International Criminal Court. It is understood that this will be difficult, given the opposition of the US and other states.

If the situation in Darfur cannot be referred, the question should be asked why we went to the trouble and cost of helping to set up the International Criminal Court in the first place.

If a referral to the International Criminal Court will not work, measures to end impunity should be explained. It is understood that large tribunals far from the country where the crimes were committed may not be the most effective method. If it is a matter of waiting until the Sudan regime improves enough to build justice within Sudan, we could be waiting a long time, thus propagating impunity further.

6. Long term, a comprehensive plan should be agreed to reverse the underlying causes of the crisis, namely the marginalisation within Darfur. A significant development package is required that benefits all groups equally.

7. Political empowerment through a federal system in Sudan may prevent a movement towards autonomy in the West. Such a movement would lead to greater conflict and fragmentation of Sudan in the future.



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