

Darfur 160504

1. More and more evidence continues to emerge of massacres, of rape, of the deliberate starvation of civilians. Despite the ceasefire agreed in early April, there is little evidence that such violations are decreasing in scope or intensity.
2. While the human rights dimensions of the crisis have rightly garnered most attention, it is also an actual and potential humanitarian crisis. At the best of times, most of the population of Darfur lives in poverty, constantly vulnerable to food insecurity. If the large population of refugees and IDPs is unable to return home and farm in the coming weeks, they will be dependant on external assistance for a further 12-18 months. In addition, because the rural population depends heavily on trade, exchange and seasonal labour, even those communities that are still in place, will likely suffer hunger and impoverishment over the coming year.
3. There are many reports of the destruction of orchards and irrigation ditches. Traditional land tenure systems in Darfur provide for usufruct rights only, but while physical evidence of the investment of labour by a farmer—such as fruit trees, terraces or irrigation works—remains, then that usufruct right continues to hold. These actions are clear evidence for a land grab by the Janjawid. There are also numerous accounts of the destruction and desecration of mosques, which is also a blow at the moral heart of the attacked communities.
4. The militia and even regular troops have crossed into Chad on more than one occasion, attacking refugees there. This has caused tension between Chad and Sudan and has the potential for destabilising the delicate power balance in Ndjamena.

### **The Arab Point of View**

5. The Arabs of Darfur have their defenders. Members of these communities make a number of claims. First, they have argued that they too have been the victims of human rights violations, including massacres, at the hands of the SLA and JEM. Certainly there are credible allegations of such abuses, that warrant investigation. Second, they claim that the war was started by the military insurrection of the rebels. This is not in dispute. Furthermore, they argue that minorities in Darfur have suffered at the hands of the SLA and JEM, which are dominated by the Fur, Masalit and Zaghawa. This claim also warrants investigation. There are more than forty ethnic groups in Darfur. There has been very little attention to the plight of those that are neither members of the Arab confederacy nor the big three of Fur, Masalit and Zaghawa. These groups include the Berti of eastern Darfur (who have a tradition of political quiescence), the Meidob of north-east Darfur (camel herders with livelihoods similar to the Zaghawa), numerous farming groups scattered through the central belt including Daju, Gimir, and Fellata communities of West African origin, and smaller groups in the south historically associated with the Fertit of western Bahr el Ghazal.
6. Lastly, spokesmen for the Arabs claim that the current conflict is a continuation of a history of dispute over territory between farmers and herders, in which farmers have usually got the upper hand. There is an element of truth to this. Since the mid-1980s there have indeed been numerous clashes and although in direct military

confrontations, the herders may get the better of the farmers, in the long run sedentary farming communities have the upper hand in terms of expropriating pasture land and blocking transhumance routes. But it is important to note that before the 1980s, the most common clashes were between pastoralist groups themselves, and large scale fighting between herders and farmers began only in that decade. This irruption of conflict had clear political dimensions, beginning with struggles to control the regional government of Darfur (established in 1980), and intensifying with meddling by the Sadiq el Mahdi government after 1986 and the return to Darfur of former Ansar fighters who had been in exile in Libya, where many of them had been members of Ghaddafi's Islamic Brigade, and where they had absorbed an Arab supremacist ideology.

7. Amid the deepening political, ethnic and ideological divisions in Darfur, one reassuring fact remains. Neither party has denied the right of the other to exist in Darfur.

### **Repercussions in Khartoum**

8. The Darfur conflict signals the end of Sudan's Islamist project. The National Islamic Front was always a coalition between Arab nationalists and Islamists, a coalition signified by Turabi's Popular Arab and Islamic Conference, established in 1991 to bring together radical Islamists and Arab nationalists (the secularist Palestinian George Habbash was among the non-Islamists who attended the first conference.) Within Sudan, the Arab tendency was primarily represented by the elites of the northern region who have traditionally dominated the Sudanese state. The Islamist tendency reached out to non-Arab groups that had been marginalized in the Sudanese state, notably including the Fellata, Zaghawa and Fur. (The Fellata, descendants of west African immigrants from the pre-colonial and colonial periods, first received Sudanese citizenship under the NIF).

9. Hassan al Turabi's sympathy for the JEM rebels is therefore more than simple opportunism. It indicates his appreciation that the GoS has abandoned its last Islamist credentials, and is simply interested in power. The Darfur conflict has sundered Sudan's Islamist coalition right down its most sensitive fault line: race. The GoS looks more and more like an ethnic and political minority that has control over state power and wants to keep that power at any cost, knowing full well that any liberalisation will spell its political demise.

10. By the same token, the war in Darfur could easily prefigure a conflict that could tear apart the fabric of the Sudanese state itself. The GoS is doing its utmost to black out any news from Darfur and keep the citizens of Khartoum in the dark. This is for the real fear that determined opposition could spread to the capital. The arrest of army officers including air force commanders alleged to have been planning a coup reflects this fear. However hard it tries, the GoS will be unable to prevent news of the Darfur atrocities reaching Khartoum, and fuelling opposition.

### **Is it Genocide?**

11. Is it genocide? If we strictly apply the provisions of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, there is no doubt that the

answer is yes. The definition of 'genocide' in Article II of the Convention is 'acts committed with the intent to destroy, in whole or 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.' The numbers of killings may not yet come close to those perpetrated in Rwanda or Nazi Germany, and the entire destruction of the targeted ethnic groups does not seem in prospect, but these extreme manifestations are not legally necessary for a crime to count as genocide.

12. Is this a crime planned at the highest level of the Sudanese state and executed according to a carefully designed central plan? Or is it a counterinsurgency that has got out of control, running wild beyond the designs of its sponsors? It would seem to be a bit of both. During the last twenty years, the characteristic mode of action employed by successive governments in Khartoum, when they want to fight a cheap and effective counterinsurgency, has been to employ militias and to give great discretion to commanders on the ground. Thus the militia massacres in Bahr el Ghazal and the killings and forced relocations of the Nuba were carried out, in a way that the government could pretend was not at its direct behest. On every occasion, however, it subsequently became clear that military officers were involved in supplying militias and directing their activities. The involvement of the air force, whose raids must be directly authorised by the chief of staff's office in Khartoum, is evidence for high level involvement.

13. The culprits for this strategy are the individuals who have run the Sudanese security apparatus since 1989. Each time there has been a major massacre—Juba in 1992, Nuba Mountains that same year, repeatedly in Bahr el Ghazal and Upper Nile—the trail of evidence leads to the same people. Are President Bashir and Vice President Ali Osman among them? Most likely, the two most senior figures in government instructed their immediate subordinates to do whatever was necessary and not report back. An unspoken signal would have been sent that Darfur was a free-fire zone, and ethics-free zone in which anything could be done without consequence. With a history of gross violation with total impunity following on from such signals, there would have been no need for any more detailed instructions.

14. The implication of determining that genocide is being committed is that no effort should be spared to stop it, and to punish those responsible. It does not, however, mean that peace negotiations should be abandoned in favour of an international policy of regime change. The Darfur genocide is not a single, centrally planned exercise (as was the Rwanda genocide for example). There is a serious danger that the fabric of the state itself will disintegrate under the current stresses, unleashing communal violence on genocidal scale across different parts of Sudan. Although the leadership in Khartoum has blood on its hands, there is currently no alternative but to pursue the existing strategy of negotiating with it for an end to the conflict.

### **Where Next?**

15. The mediation structure that is emerging resembles the IGAD process in important respects. An African regional organisation is in the lead role (in this case

the African Union), supported by a regional government (Chad) and key international players (the U.S. and European Union). Achieving a consensus among the international players is a crucial step in ensuring that there is a credible peace process, to avoid forum shopping by the parties (especially the government).

16. Where the Darfur mediation differs markedly from the post-2001 IGAD process is that there is no pre-existing literature of accord. The GoS-SPLA negotiations benefited from a decade of rounds of talks which may not have reached a final agreement, but had nonetheless clarified consensual positions on key theoretical issues such as self-determination. No such literature of accord exists for Darfur. The SLA and JEM have yet to agree on a set of common negotiating positions, while the GoS is divided on whether it can negotiate on political issues at all, and if so what its position should be.

17. Absent progress, or the immediate prospect of progress, on political issues, the parties have agreed on a humanitarian ceasefire. (Strictly speaking, it is either a ceasefire or not a ceasefire: the word 'humanitarian' adds nothing.) This freeze on hostilities needs several additional elements if it is to be meaningful. First, it needs to be monitored, with effective mechanisms for complaint and recourse if it is violated. The AU is preparing to deploy ceasefire monitors in late May. This effort needs to be supported, both logistically and politically. Second, the ceasefire needs to be an opportunity for the accompanied return of refugees and IDPs to their homes. This will be a means for minimising humanitarian crisis, restoring livelihoods and preserving land rights. If the conflict is frozen with up to a million Darfurians displaced and indefinite recipients of international aid in their places of displacement, then the international community may find itself merely financing a process of ethnic cleansing.

18. The involvement of Sudan's northern neighbours in helping resolve the Darfur conflict is conspicuous by its absence. Neither Egypt nor Libya, nor the Arab League nor Organisation of the Islamic Conference, has played any role whatsoever. Colonel Ghadaffi has described the war and massacres as 'only' a 'tribal conflict' and condemned non-African 'interference'. The lack of condemnation by these governments and regional organisations has been deafening, a point that will not be lost on Sudanese citizens.

19. Does the African Union have the capacity to play a leading role in resolving the Darfur conflict? The Chairperson of the AU, President Alpha Oumer Konare, has made Darfur one of his highest priorities. It is the first major challenge to the recently established AU Peace and Security Council. The Sudan Government welcomed the AU offer of mediation, in part because they anticipated it would be a softer touch than the U.S. or Europeans. They may have underestimated the determination of the AU leadership to prove itself.

20. A durable end to the conflict will require more than a political solution at the leadership level. It will also require a comprehensive settlement of land and residence rights in Darfur. Fortunately, the region was well mapped in the 1980s by Britain's then Overseas Development Administration, and the location of every village and its identity should not be difficult to ascertain. Such a settlement will need to include

special attention to the historic rights of herders to pasture, water and migration routes.

21. The problem of the proliferation of light weapons in western Sudan will need to be addressed. Part of the reason for the escalation of the conflict was that there was no effective police force in the region, so that different communities resorted to arming themselves for self-defence and as protection against endemic banditry. Darfur will need a new, well-equipped and well-trained police force, probably with international technical and logistical assistance, and a graduated programme of mutual disarmament among communities.