

THE CATASTROPHE IN DARFUR SIX MONTHS AFTER IT SHOULD HAVE ENDED

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The conflict and its context

More than 1.5 million people have been displaced by conflict in Darfur, the westernmost province of Sudan, bordering Chad and Libya. Children in these displaced populations are dying at very high rates; perhaps about 70 children are dying every day who would otherwise not be dying. Of course, death is always present in Darfur, one of the poorest regions of the world. But now it is stalking children with great ferocity.

Adults are at risk too. Four armed groups are active in Darfur. On one side are rebel groups, the Sudan Liberation Army (SLA) led by Abdel Wahid Mohamed Nour and the Justice and Equality Movement (JEM) led by Khalil Ibrahim. The SLA is thought to be fairly close to the Sudan People's Liberation Army (SPLA), led by John Garang. The SPLA has been the main fighting force in southern Sudan since 1983, battling especially the military regime led by Omar Hassan al-Bashir who took power in Khartoum in 1989. The JEM is thought to be aligned with Hassan al-Turabi, an ideologue and former government minister who took power with the military in 1989, but who fell out of favor in 1999. Al-Turabi has been kept under arrest for much of the last five years. The SLA and JEM have been presenting a joint negotiating position at the intermittent peace talks for Darfur held in Abuja, the Nigerian capital.

On the other side are the Sudanese Armed Forces of the military regime in Khartoum, who suffered a humiliating blow in April 2003 when SLA rebels took over the airport of the regional capital of El Fasher, capturing munitions, an air force general, and destroying military aircraft. Aligned with the armed forces is the unofficial militia known as the *janjawid*, consisting of fighters from various ethnic or tribal groups in Darfur, with a variety of leaders, one of whom, Musa Hilal, has received much attention. This *janjawid*, according to reliable accounts, was organized by the Khartoum regime in early 2003, and soon launched a campaign to raze villages and terrorize civilians. The goal, presumably, was to deny the rebel groups any support in the countryside. The Khartoum regime had used similar groups in fighting the war in southern Sudan. The ferocity of that war- with massacres, summary executions, rape, enslavement of women and children- was certainly familiar to all sides of the present conflict Darfur. The many civilizing rules of war have been ignored.

One other key person to note is the Vice President of Sudan, Ali Osman Taha, who may be regarded as the Machiavellian Dick Cheney of Sudan. Ali Taha is the chief negotiator with the SPLA, and he and John Garang hammered out a peace agreement that would divide the country in two. The coming six years would see separate administrations in north and south. Oil revenues would be shared. The oil flows from the south through a pipeline to the north, and yields between \$500 million to \$1 billion per year in revenues to the regime in Khartoum. There would be special administration of three key north-south border areas (Abyei, Blue Nile, Nuba Mountains) that have seen much fighting during the war and whose populations identify with neither north nor south. At the end of the six-year interim period, the southern population would vote whether to continue in the relation of autonomy with the north or to become an independent country.

The negotiators of the military regime and SPLA peace agreement, and the countries facilitating the negotiations (Kenya, Britain, Norway, the United States) took the deliberate decision to exclude representatives from the Darfur rebel movement, or from Darfur civil society, in the peace talks which have been conducted in Naivasha, Kenya. This exclusion proved to be a costly mistake. Large-scale conflict and mass displacement of civilians escalated in 2003 and especially in the spring of 2004, just as peace negotiators were finalizing the agreement in Naivasha. Many critics of the peace negotiations had observed that the military regime would be strengthened by the agreement, and so peace in the south would mean more repression for democratic forces in the north. Alas, hundreds of thousands of persons will have perished for that mistake.

Understanding the conflict

The magnitude of the conflict and displacement in Darfur did not surprise most observers of Sudan. Large-scale killing and displacement have been constant features of the latest phase of the almost 50-year-old civil war. Nevertheless, there has been much confusion over how to frame the conflict in Darfur. Some experienced observers, searching for a new angle to the story, stress relatively unimportant aspects of the conflict. Journalists unfamiliar with the long civil war magnify these minor aspects of the conflict and attribute far more causation than is warranted.

Two such framing stories are common, and need to be relegated to their proper place, as footnotes to the correct thesis of an illegitimate military regime using every means at its disposal to sustain its power. The first of these framing stories is that the conflict and displacement arise out of deeply felt racial or ethnic animus. The key issue is not whether ethnic identities are present in Darfur. They are, and contrary to some accounts the identity-label of being an 'Arab' is indeed prevalent. I lived in a small village in Kordofan, neighboring to Darfur, for 14 months in the 1989-92 period. The village was divided- Hausa, Burgo (from Chad), and Arab. The village was an Arab village; the dominant villagers called themselves Arab and were called by others Arab. A wise Hausa tanner told me, "When with dwarves, it's best to stay on your knees." It was not a compliment to his Arab co-villagers. Of course, everyone understood that calling someone Arab did not mean they were white- patently obvious to anyone. Untenable is the position that some take: "Since the people are obviously black, they cannot possibly be Arab, and anyone who says they are Arab in that society must really mean he or she is someone Arabized, because otherwise it would be confusing, since we would not know

who a real Arab is.” That is not the way identity works, in Darfur or anywhere else. If people call themselves Arabs, and everyone else in their social milieu calls them Arabs, and Americans don’t understand that the same label can be used by many groups in Africa and the Middle East, that doesn’t deArabize the Sudanese who call themselves Arabs. Our wishing them not to call themselves Arabs, and not be called by their neighbors as Arabs, will not make the identity label go away. What needs to be underscored is that to be an ‘Arab’ in Darfur is different from what it means to be an ‘Arab’ in Afghanistan. If American audiences confuse the two, that is a serious problem that cannot be resolved by declaring that no one in Darfur is an ‘Arab’. ‘Black African’, incidentally, is not an identity-label that has ever been recorded with frequency in Darfur.

The key identity issue then is whether the ‘Arab’ identity ascribed to the leaders and troops of the *janjawid* motivated them before and impels them now in their fighting. There is little evidence, in my estimation, to suggest that the conflict and displacement is largely motivated by that kind of ethnic chauvinism. Abetted, perhaps, but not motivated. The *janjawid* are not the Ku Klux Klan.

A second framing story is that environment and geography are the real culprits. This story locates Darfur in the Oklahoma familiar to lovers of American musicals—the farmers and the herders cannot be friends. Declining rainfall and a creeping Sahara desert are pushing herders onto the fields of the farmer neighbors. Formerly cordial relations of mutual benefit (grazing on stubble, manuring, marketing milk, marketing straw) have given way to acrimony (fines for eating crops, closing off of traditional pathways). A thousand daily insults escalate over the years, and explode into violence once a tipping point is reached. The surest argument against this view is that the ecology and economy of Darfur is not special, but rather forms a continuum extending from Eritrea to Mauritania. Nowhere else has the conflict taken on the form it has in Darfur. Even Chad, for years subject to internecine conflict, seems now an oasis of tranquility compared with Darfur. The environment is not to blame for this tragedy.

The conflict is a struggle for power

The conflict and displacement in Darfur is the result of a struggle over political power. The catastrophe will either have a military or political solution. The conflict will not go away if the rains come back in abundance. The conflict will not be managed by multicultural training. Both of those might help, in the longer run, but they will not resolve the conflict right now.

As a political conflict, it is a naked struggle, but also a complicated struggle. One of the rebel movements, the JEM, is linked to Hassan al-Turabi, the former ally of Omar al-Bashir. The other group, the SLA, is linked to the SPLA, which is signing a peace agreement with the military regime. One leader of the *janjawid*, Musa Hilal, was imprisoned by the regime he is now fighting to defend.

Horrible things can happen in such struggles, and the lessons from Rwanda should be evident. The genocide in Rwanda was also an outcome of a raw struggle for power. Few commentators on Sudan seem to recall how the genocide in Rwanda ended. It did not end from a threat of sanctions. It did not end when the French military cordoned off a ‘zone of tranquility’ in southeastern Rwanda. It ended when the Rwanda Patriotic Front (RPF) destroyed the last vestiges of the old regime.

Intervention

Intervention, by force and with creativity, is needed. Unfortunately, the governments of the world typically substitute diplomacy for creativity, and so one cannot be optimistic that small, weak actors can be brought into line by their powerful peers. This is especially true of the United States, the most powerful actor in the Darfur crisis. What greater example of the stultification of diplomacy than to have the Secretary of State, the incumbent President, and his opponent for the Presidency, all declare that Darfur is a genocide, and are silent after that in word and in deed. The willful ignorance of the administration to fundamental questions of peace and justice cannot be excused. Just as President Clinton will have to go to his maker with unredeemable shame for his ineptitude on Rwanda, so too President Bush will have to live in a shadow of historical condemnation.

A horrible thing is happening, and why are the good states of the world not stopping it? Two considerations are relevant. Sovereignty and impunity are at the heart of understanding intervention in this and other catastrophes. On the first, the world order is based, in rhetoric at least, on the sovereignty of nation-states. Other countries are not supposed to intervene in the affairs of another sovereign. The world order continues to struggle with this fundamental question of the rights of states to intervene in the internal conflicts of other sovereign states, even when these are leading to dreadful outcomes. The concern is a serious one. Intervention can lead to war. Wars among nations may be something to be avoided at all costs, even if it means that internal conflicts spiral out of control and hundreds of thousands die. That is a legitimate position to take, but one that has to be subject to critical inquiry and site-specific contextualization.

With regard to the second, impunity, the place to start is with a definition of this term that is unfamiliar to many. Impunity means the arrogation to oneself or assumption for oneself of unaccountability. To act with impunity means to act as if one were not accountable to an institution or even a standard by which actions could be judged. The problem of interventions carried out with impunity has been reinvigorated by the largely unjustifiable United States invasion of Iraq. Many intellectuals think that the U.S. invasion of Iraq has now degraded the ability of others to intervene. The intervener is charged with acting with impunity, rather than with humanitarian concern. Acts of impunity build up, and create international norms of impunity. It is a charge to be taking seriously. A healthy resistance to impunity is a proper counterweight against the humanitarian impulse.

Weighing options is the essence of ethical judgment. Some people, especially on the American Left, take the position that intervention is impunity, or feeds a global culture of impunity, unless there is a global, level playing field for intervention. This position is that no U.S. intervention should happen unless interventions happen everywhere they are supposed to, because otherwise the world descends to even lower depths of impunity. The position is logically coherent, but is it pragmatic?

Would we not want instead to trust our judgment about whether some acts raise or lower the bar for impunity? Some interventions promote a global culture of unaccountability; others reinforce a global culture of law. To say, as some do, that the United States stands for impunity is a bit of a tautology. Every state that is understood by its citizens as a sovereign stands for substantial impunity. Talk of the international order as one where sovereigns agree not to interfere in the internal affairs of other states is

belied by 50 years of post World War II history. As an important founder and player in the United Nations, perhaps the United States stands for no more or no less impunity than any other state of our present world system. The capacity of the United States to commit acts of impunity is different from the capacity of other states. Certainly one can count any number of acts of impunity committed by the United States, and the current administration has rashly declared more total impunity than was accepted before. What criterion, though, is available to determine whether the United States carries out, on a proportionate basis (as a percent of all its acts), more acts of impunity than Russia, China, France, Argentina, Swaziland or Burkina Faso? If those states commit more proportionate acts of impunity, should we say that they stand for impunity more than the United States? If the African Union, as an entity different from a state but which is at core an amalgam of states that are pretty impunitous (to coin an adjective), stands for more impunity than the United States, why privilege it over the other? So if the United States actually stands for less impunity than most of the other states of the world, an intervention on the contrary raises the global standard of disapproving of impunity.

On balance, I am not convinced that the United States stands for more impunity than other states, and so interventions by the United States need not undermine our evolving world culture of promoting accountability. If this seems to parrot a neo-conservative squawk, the reader should be assured that it is a squawk of convenience. Decisions to intervene can and should be compartmentalized, given how little is known about measuring the global culture of impunity and how it changes. More pragmatic considerations should come to the fore. Is the impunity a serious undermining of the international order or a precedent for future interventions? Does it pass the global test or reasonableness? Is the intervention likely to relieve considerably more suffering than it might unintentionally cause? Not all interventions will meet these criteria.

What should be done?

Arguments about the arrogance of intervention in Darfur are mooted, in any case, since the clear direction of intervention is with a force sponsored by the African Union. This force currently is small, undersupplied, and only has a mandate to observe and investigate ceasefire violations. Its mandate is akin to that of the Civilian Protection Monitoring Team in southern Sudan, which has in two years conducted more than fifty investigations. These investigations have exposed the military regime in Khartoum to serious charges of acts violating the laws of war. The situation in Darfur is more violent at present, and has much more potential for violence, than the war in southern Sudan. More aggressive terms of engagement are needed to ensure that peace becomes a reality and refugees and displaced persons are able to move back to their villages in the next few months. So a substantial peacekeeping and human rights monitoring force should begin deployment by mid-November, with or without United Nations authorization, and with or without acceptance by the regime in Khartoum, preferably led by the African Union, but if Mexico, Tunisia, and Australia want to form a coalition, then more power to them.

Another \$500 million dollars is probably needed to ensure the livelihoods of the estimated 2 million displaced persons through the coming year 2005. Current humanitarian commitments seem to be on the order of \$300 million, and this will probably not be enough.

The United Nations should authorize the establishment of an International Criminal Tribunal for Darfur. There are already a number of lists circulating naming key individuals responsible for the many heinous acts committed over the past two years. There is no need to delay the establishment of such a tribunal. The recent Security Council resolution notes that the military regime in Khartoum had yet to take any actions at all regarding the *janjawid*. Abjuring justice at home requires abatement of injustice from abroad. In this regard, the establishment by the Security Council of an international commission on inquiry, far from a first step towards international abatement, is less generously interpreted as a delaying tactic by sovereigns with no real taste for intervention.

Six months ago the SLA, JEM and military regime in Khartoum signed a cease-fire agreement that should have been the first step in an immediate reversal of the human catastrophe that Darfur had become. That was not to be the case. Fighting continues, and refugees and displaced persons continue to come to camps, their children continue to die in great numbers. They will continue to die, perhaps not in as large numbers, unless the political conflict is resolved through forceful intervention from abroad.