# Darfur and the Genocide Debate

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## WHAT'S IN A NAME?

In Sudan's western Darfur region, a massive campaign of ethnic violence has claimed the lives of more than 70,000 civilians and uprooted an estimated 1.8 million more since February 2003. The roots of the violence are complex and parts of the picture remain unclear. But several key facts are now well known. The primary perpetrators of the killings and expulsions are government-backed "Arab" militias. The main civilian victims are black "Africans" from three tribes. And the crisis is currently the worst humanitarian disaster on the planet.

The bloodshed in Darfur has by now received a great deal of attention. Much of the public debate in the United States and elsewhere, however, has focused not on how to stop the crisis, but on whether or not it should be called a "genocide" under the terms of the Genocide Convention. Such a designation, it was long thought, would inevitably trigger an international response.

In July 2004, the U.S. Congress passed a resolution labeling Darfur a genocide. Then, in early September, after reviewing the results of an innovative government-sponsored investigation, Secretary of State Colin Powell also used the term and President George W. Bush followed suit in a speech to the United Nations several weeks later—the first times such senior U.S. government officials had ever conclusively applied the term to a current crisis and invoked the convention. Darfur, therefore, provides a good test of whether the 56-year-old

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Genocide Convention, created in the aftermath of the Holocaust, can make good on its promise to "never again" allow the targeted destruction of a particular ethnic, racial, or religious group.

So far, the convention has proven weak. Having been invoked, it did not—contrary to expectations—electrify international efforts to intervene in Sudan. Instead, the UN Security Council commissioned further studies and vaguely threatened economic sanctions against Sudan's growing oil industry if Khartoum did not stop the violence; one council deadline has already passed without incident. Although some 670 African Union troops have been dispatched to the region with U.S. logistical assistance to monitor a nonexistent ceasefire, and humanitarian aid is pouring in, the death toll continues to rise. The lessons from Darfur, thus, are bleak. Despite a decade of handwringing over the failure to intervene in Rwanda in 1994 and despite Washington's decision to break its own taboo against the use of the word "genocide," the international community has once more proved slow and ineffective in responding to large-scale, state-supported killing. Darfur has shown that the energy spent fighting over whether to call the events there "genocide" was misplaced, overshadowing difficult but more important questions about how to craft an effective response to mass violence against civilians in Sudan. The task ahead is to do precisely that: to find a way to stop the killing, lest tens of thousands more die.

## DEATH IN DARFUR

To UNDERSTAND the Darfur story it helps to know something about the conflict itself. The crisis in western Sudan has grown out of several separate but intersecting conflicts. The first is a civil war between the Islamist, Khartoum-based national government and two rebel groups based in Darfur: the Sudan Liberation Army and the Justice and Equality Movement. The rebels, angered by Darfur's political and economic marginalization by Khartoum, first appeared in February 2003. The government, however, did not launch a major counteroffensive until April 2003, after the rebels pulled off a spectacular attack on a military airfield, destroying several aircraft and kidnapping an air force general in the process. Khartoum responded

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*The scourge of Darfur:* Janjaweed *from the Umjalool tribe, West Darfur, Sudan, October 17, 2004*

by arming irregular militia forces and directing them to eradicate the rebellion. The militias set out to do just that, but mass violence against civilians is what followed.

The Darfur crisis is also related to a second conflict. In southern Sudan, civil war has raged for decades between the northern, Arab-dominated government and Christian and animist black southerners; fighting, in one form or another, has afflicted Sudan for all but 11 years since the country's independence from the United Kingdom in 1956 and has cost an estimated two million lives since 1983 alone. In recent years, the government and the main southern rebel movement have entered into comprehensive peace negotiations named after the Intergovernmental Authority on Development (IGAD), which mediated the process. After numerous rounds of talks, the two sides appeared close to finalizing an agreement in June 2004, and many international observers hoped that Sudan's long-running war would finally end.

Darfur, however, was never represented in the IGAD discussions, and the Darfur rebels decided to strike partly to avoid being left out of any new political settlement. Many fear that the fighting may now unravel the IGAD agreements: the southern rebels are wary of signing

any deal with a government that is massacring their fellow citizens, and hard-liners in Khartoum have seized on the violence to undermine the IGAD talks, which they see as too favorable toward the south.

The Darfur crisis also has a third, local lineage. Roughly the size of Texas, Darfur is home to some six million people and several dozen tribes. But the region is split between two main groups: those who claim black "African" descent and primarily practice sedentary agriculture, and those who claim "Arab" descent and are mostly semi-nomadic livestock herders. As in many ethnic conflicts, the divisions between these two groups are not always neat; many farmers also raise animals, and the African-Arab divide is far from clear. All Sudanese are technically African, Darfurians are uniformly Muslim, and years of intermarriage have narrowed obvious physical differences between "Arabs" and black "Africans."

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Nonetheless, the cleavage is real, and recent conflicts over resources have only exacerbated it. In dry seasons, land disputes in Darfur between farmers and herders have historically been resolved peacefully. But an extended drought and the encroachment of the desert in the last two decades have made water and arable land much more scarce. Beginning in the mid-1980s, successive governments in Khartoum inflamed matters by supporting and arming the Arab tribes, in part to prevent the southern rebels from gaining a foothold in the region. The result was a series of deadly clashes in the late 1980s and 1990s. Arabs formed militias, burned African villages, and killed thousands. Africans in turn formed self-defense groups, members of which eventually became the first Darfur insurgents to appear in 2003.

The mass violence against civilians began in the middle of that year. Khartoum responded to the rebellion in Darfur the same way it had to the conflict in the south: by arming and equipping Arab militias. Thus the *janjaweed* were born. Their name, which translates roughly as "evil men on horseback," was chosen to inspire fear, and the *janjaweed,* who include convicted felons, quickly succeeded. Khartoum instructed the militias to "eliminate the rebellion," as Sudan's President Omar

al-Bashir acknowledged in a December 2003 speech. What followed, however, was a campaign of violence that primarily targeted black African civilians, in particular those who came from the same tribes as the core rebel recruits.

Human rights groups, humanitarian agencies, and the U.S. State Department have all reached strikingly similar conclusions about the nature of the violence. Army forces and the militia often attack together, as *janjaweed* leaders readily admit. In some cases, government aircraft bomb areas before the militia attack, razing settlements and destroying villages; such tactics have become central to this war. In late September, a U.S. official reported that 574 villages had been destroyed and another 157 damaged since mid-2003. Satellite images show many areas in Darfur burned out or abandoned. The majority of the attacks have occurred in villages where the rebels did not have an armed presence; Khartoum's strategy seems to be to punish the rebels' presumed base of support—civilians—so as to prevent future rebel recruitment.

Testimony recorded at different times and locations consistently shows that the attackers single out men to kill. Women, children, and the elderly are not spared, however. Eyewitnesses report that the attackers sometimes murder children. For women, the primary threat is rape; sexual violence has been widespread in this conflict. Looting and the destruction of property have also been common after the *janjaweed* and their army allies swoop down on civilian settlements.

This violence has produced what one team of medical researchers has termed a "demographic catastrophe" in Darfur. By mid-October 2004, an estimated 1.8 million people—or about a third of Darfur's population—had been uprooted, with an estimated 1.6 million Darfurians having fled to other parts of Sudan and another 200,000 having crossed the border to Chad. Exactly how many have died is difficult to determine; most press reports cite about 50,000, but the total number is probably much higher. In October 2004, a World Health Organization official estimated that 70,000 displaced persons had died in the previous six months from malnutrition and disease directly related to their displacement—a figure that did not include violent deaths. By now, the number has probably grown much larger. Despite a huge influx of humanitarian aid since mid-2004, the International Committee of the Red Cross warned in October of an "unprecedented" food crisis;

several months earlier, a senior official with the U.S. Agency for International Development told journalists that the death toll could reach 350,000 by the end of the year.

## WORD PLAY

MOST OF THESE FACTS are undisputed; the reports from Darfur by aid workers and reporters have been remarkably consistent (although too little attention has been paid to rebel atrocities). Khartoum has, predictably, denied direct involvement in the attacks against civilians, and both the Arab League and the African Union have downplayed the gross violations of human rights (focusing on the civil war instead). Still, not much controversy exists over what is actually happening in Darfur. Yet public debate in the United States and Europe has focused less on the violence itself than on what to call it—in particular, whether the term "genocide" applies.

The genocide debate took off in March 2004, after *New York Times* columnist Nicholas Kristof published a number of articles making the charge. His graphic depictions of events there soon stimulated similar calls for action from an unlikely combination of players—Jewish-American, African-American, liberal, and religious-conservative constituencies. In July 2004, the Holocaust Museum in Washington, D.C., issued its first-ever "genocide emergency." MoveOn.org called on Powell to use the "genocide" label for Darfur, as did the Congressional Black Caucus, African-American civil rights groups, and some international human rights organizations (but not Amnesty International or Human Rights Watch). Editorialists from a number of major newspapers, including *The Philadelphia Inquirer* and *The Boston Globe,* made similar appeals. Long concerned with the persecution of black Christian populations in southern Sudan, American evangelicals also called for a formal recognition of genocide and for U.S. action—even though the victims in Darfur were Muslim.

Proponents of applying the "genocide" label emphasized two points. First, they argued that the events in Sudan met a general standard for genocide: the violence targeted an ethnic group for destruction, was systematic and intentional, and was state supported. Second, they claimed that under the Genocide Convention, using the term would

trigger international intervention to halt the violence. Salih Booker and Ann-Louise Colgan from the advocacy group Africa Action wrote in *The Nation,* "We should have learned from Rwanda that to stop genocide, Washington must first say the word."

Colgan and Booker made a fair point. During the Rwandan genocide—exactly a decade before Darfur erupted—State Department spokespersons in Washington were instructed not to utter the "g-word," since, as one internal government memorandum put it, publicly acknowledging "genocide" might commit the U.S. government to do something at a time (a year after the Somalia debacle) when President Bill Clinton's White House was entirely unwilling. As a result, the United States and the rest of the world sat on the sidelines as an extermination campaign claimed at least half a million civilian lives in three months. In the aftermath, many pundits agreed that a critical first step toward a better response the next time would be to openly call a genocide "genocide."

The idea that states are obligated to do something in the face of genocide comes from two provisions in the Genocide Convention. First, the treaty holds that contracting parties are required to "undertake to prevent and to punish" genocide. Second, Article VIII of the convention stipulates that signatories may call on the UN to "take such action ... for the prevention and suppression" of genocide. Prior to the Darfur crisis, and in light of the way the genocide debate unfolded in Rwanda, the conventional wisdom was that signatories to the convention (including the United States, which finally ratified it in 1988) were obligated to act to prevent genocide if they recognized one to be occurring. The convention had never been tested, however, and the law is in fact ambiguous on what "undertaking to prevent" and "suppressing" genocide actually mean and who is to carry out such measures.

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In July, the U.S. House of Representatives entered the rhetorical fray by unanimously passing a resolution labeling the violence in Sudan "genocide." The resolution called on the Bush administration to do the same and, citing the convention, to "seriously consider

multilateral or even unilateral intervention to prevent genocide" if the UN Security Council failed to act. The Bush administration, however, interpreted its international obligations differently. Facing mounting appeals to call Darfur "genocide," Powell insisted that such a determination, even if it came, would not change U.S. policy toward Sudan. Powell argued that Washington was already pressuring Khartoum to stem abuses and was providing humanitarian relief; applying the "genocide" label would not require anything more from the United States. He did, however, commission an in-depth study of whether events in Darfur merited the "genocide" label.

Meanwhile, other world leaders and opinion makers continued to show reticence about calling Darfur "genocide." EU, Canadian, and British officials all avoided the term, as did UN Secretary-General Kofi Annan, who was pilloried in the media for limiting his description of Darfur to "massive violations of human rights." Human Rights Watch and the Pulitzer Prize–winning author Samantha Power favored the slightly less charged term "ethnic cleansing," arguing that Darfur involved the forced removal of an ethnic group, not its deliberate extermination, and that genocide is hard to prove in the midst of a crisis.

The debate took a surprising turn in early September when, testifying before the Senate Foreign Relations Committee, Powell acknowledged that "genocide" was in fact taking place in Sudan. Powell based his determination on the U.S. government-funded study, which had surveyed 1,136 Darfurian refugees in Chad. Their testimony demonstrated that violence against civilians was widespread, ethnically oriented, and strongly indicated government involvement in the attacks. Two weeks after Powell's speech, Bush repeated the genocide charge during an address to the UN General Assembly.

## ONCE MORE, NEVER AGAIN

TAKEN TOGETHER, the congressional resolution and the two speeches were momentous: never before had Congress or such senior U.S. officials publicly and conclusively labeled an ongoing crisis "genocide," invoking the convention. Nor, for that matter, had a contracting party to the Genocide Convention ever called on the Security Council to take action under Article VIII (as the United States has done). But

the critical question remained: Would the Genocide Convention really be any help in triggering international intervention to stem the violence?

So far, the answer seems to be no. In late July, before Bush or Powell ever spoke the word "genocide," the UN Security Council had passed a resolution condemning Sudan and giving the government a month to rein in the militias. That deadline passed without incident, however. After Powell spoke out in September, the council passed a second, tepid resolution, which merely called on Kofi Annan to set up a five-member commission to investigate the charge (which he did). The resolution also vaguely threatened economic sanctions against Sudan's oil industry (although it gave no concrete deadline for when sanctions would be imposed) and welcomed an African Union plan to send a token force to the region to monitor a cease-fire (to which neither side has since adhered). Despite its weak wording, the resolution almost failed to pass. China, which has commercial and oil interests in Sudan, nearly vetoed the measure, only agreeing to abstain—along with Algeria, Pakistan, and Russia—after Annan strongly endorsed the resolution.

In mid-November, the Security Council held an extraordinary meeting in Nairobi, Kenya, to discuss Sudan. The session won a pledge from Khartoum and the southern rebels to finalize a peace agreement by the end of the year. On Darfur, however, the Security Council managed only to pass another limp resolution voicing "serious concern." Conceivably, Annan's commission could still determine that genocide has occurred in Darfur—giving the Security Council yet another chance to take concrete action. Given recent history, however, such action is unlikely. So far, the immediate consequences of the U.S. genocide determination have been minimal, and despite the historic declarations by Bush, Powell, and the U.S. Congress, the international community has barely budged. Nor has the United States itself done much to stop the violence.

The genocide debate and the Darfur crisis are thus instructive for several reasons. First, they have made it clear that "genocide" is not a magic word that triggers intervention. The term grabs attention, and in this case allowed pundits and advocates to move Sudan to the center of the public and international agendas. The lack of any subsequent action, however, showed that the Genocide Convention does not

provide nearly the impetus that many thought it would. The convention was intended to institutionalize the promise of "never again." In the past, governments avoided involvement in a crisis by scrupulously eschewing the word "genocide." Sudan—at least so far—shows that the definitional dance may not have mattered.

Second, the Darfur crisis points to other limitations of using a genocide framework to galvanize international intervention. Genocide is a contested concept: there is much disagreement about what qualifies for the term. The convention itself defines genocide as the "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." The document also lists several activities that constitute genocide, ranging from obvious acts such as killing to less obvious ones such as causing "mental harm." One often-cited problem with the convention's definition is how to determine a perpetrator's intent in the midst of a crisis. And how much "partial" group destruction does it take to reach the genocide threshold? In April 2004, an appeals chamber of the International Criminal Tribunal for the Former Yugoslavia addressed the definitional question, upholding a genocide conviction of the Bosnian Serb commander Radislav Krstic for his role in the 1995 massacre at Srebrenica. In that case, the tribunal concluded that "genocide" meant the destruction of a "substantial part" of a group, which the court defined as 7,000–8,000 Bosnian Muslim men from Srebrenica.

By this standard, the violence in Darfur does appear to be genocide: a substantial number of men from a particular ethnic group in a limited area have been killed. For many observers, however, genocide means something else: a campaign designed to physically eliminate a group under a government's control, as in Rwanda or Nazi Germany. The definitional debate is hard to resolve; both positions are defensible. And the indeterminacy makes genocide a difficult term around which to mobilize an international coalition for intervention.

Assuming that humanitarian intervention remains a common goal in the future, one way forward would be to revisit and strengthen the ambiguous provisions in the convention. The confusion associated with the word "genocide" is not likely to disappear, however, and the term, at least as currently defined, excludes economic, political, and other social groups from protection. A better strategy might therefore

be to develop a specific humanitarian threshold for intervention—including, but not limited to, genocide—and to establish institutional mechanisms to move from recognition of a grave humanitarian crisis to international action.

Darfur also shows that a genocide debate can divert attention from the most difficult questions surrounding humanitarian intervention. Any potential international action faces serious logistical and political obstacles. Darfur is vast and would require a substantial deployment of troops to safeguard civilians. The area has poor roads, and although it is open to surveillance from the air, ground transportation of troops would be difficult. International action also would need to address the complicated but enduring problems that have given rise to the violence in the first place. Such a strategy would require pressure on both the Darfur rebels and Khartoum to make peace.

Already heavily committed in Iraq and having lost considerable international credibility over the last two years, the Bush administration is not well positioned to lead such an effort. The hardest question about humanitarian intervention thus remains, Who will initiate and lead it? The problem is not just theoretical: the killing continues in Darfur and is unlikely to end soon. Until a powerful international actor or coalition of actors emerges, many more thousands of civilians are likely to die in western Sudan. If the international community fails to act decisively, the brave language of the Genocide Convention and the UN Charter—not to mention the avowed principles of the U.S. government and other states—will once more ring false.