

THE CRIMINOLOGY OF GENOCIDE: THE DEATH AND RAPE OF DARFUR

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KEYWORDS: genocide, conflict theory, Darfur, refugee, rape

Nearly 400,000 Africans may have been killed in racially motivated, lethally destructive, state supported, and militarily unjustified attacks on the farms and villages of the Darfur region of Sudan. Using victimization survey data collected from Darfuri survivors living in refugee camps in Chad, and drawing on conflict theory, we present evidence that the Sudanese government has directly supported violent killings and rapes in a lethally destructive exercise of power and control. In the language of the Geneva Genocide Convention, these attacks have inflicted on African tribal groups "conditions of life calculated to bring about their physical destruction in whole or in part." The data include explicit evidence of the central mediating role played by racism in the attacks. There is little or no evidence from the surveys to support the claim of the Sudanese government that the attacks have been aimed at rebel groups as a counter-insurgency strategy. The Sudanese government claims are by this analysis not credible as self-defense arguments, but rather of the exercise of power and control through denial. Further forms of such denial are considered, including the slowness of modern American criminology to advance the study of genocide.

As the Sudanese soldiers and Janjaweed attacked our village they said, "we will kill all men and rape the women. We want to change the color."

— 31 year-old Eranga woman, Chad refugee camp, August 2004

UNANSWERED QUESTIONS

Does racially motivated, lethally destructive, state supported, and militarily unjustified violence constitute genocide? The legal and social scientific answers to this question may sometimes differ, but in the case of this research on the Darfur region of Sudan, we argue the answers should coincide. The history of American criminology, and the wider world of events beyond its disciplinary borders, has often impeded the pursuit of answers to questions about genocide, crimes against humanity and war crimes more generally. Confronting such questions and the absence of answers to them is important in defining the boundaries of modern criminology.

Sheldon Glueck (see, 1943, 1944, 1945, 1946) spent part of his career in the middle of the last century writing books and articles trying to convince Americans—with the Holocaust and World War II as his backdrop—that the world needed an international criminal court to prosecute and punish crimes of war and against humanity (Hagan and Greer, 2002). Beginning at about the same time as Glueck, Ralph Lemkin (for example, 1946) spent most of his life coining and then promoting the core concept of the 1948 Convention on the Prevention and Punishment of Genocide that was not ratified by the United States until 1988 (Power, 2002). Yet few criminologists today celebrate Glueck or Lemkin for these efforts. Glueck and his wife Eleanor are better known for their contributions to developmental criminology (for example, Glueck and Glueck, 1950), and Lemkin is barely known to criminologists.

Laub and Sampson (1991: 1408 and fn. 10) speculate that Sheldon and Eleanor Glueck may have suffered from institutionalized anti-Semitism and sexism in American academia, and it may be that the former is a part of prior neglect of genocidal crime. Robert Jackson, the U.S. Supreme Court justice who led the prosecution at the Nuremberg Trial, noted that most Americans simply didn't comprehend the enormity or significance of the Holocaust in the immediate post-World War II period, observing that "the interest was greatest among people who had relations in Europe who had been persecuted, and the refugees. But the crimes of the Hitler regime were all a little remote to this country" (1995: 1,282). Americans were busy discovering other things about themselves, some of which had great significance for the future of criminology.

This was the period when Edwin Sutherland promoted his concept of white-collar crime (1949). Although this concept is now the most widely

known criminological contribution to public discourse, Sutherland had his own share of difficulty convincing scholars and citizens that white-collar crime was crime (1940, 1945). As in this paper, Sutherland's thesis was *more social scientific and statistical than legal, but law was central to his argument and in practice threatened to silence his work*. The original manuscript for Sutherland's book identified corporations in its copious citations and he was advised by his publisher's lawyers that they and he might be sued for calling the behavior of specific corporations "criminal" (see 1949: vii). The original volume was published with corporate identities deleted, and we therefore missed the opportunity of seeing Sutherland's conceptual arguments legally tested in court.

Sutherland's classic book contains an important chapter on war crimes, but despite—or perhaps because of—the period of its publication, this chapter restricts its attention to illegal war profiteering by corporations. The Holocaust and Nuremberg are never mentioned. Still, by talking about the differential social organization that makes white-collar crime possible if not probable, Sutherland took critical steps in opening American criminology and the public's eyes to the existence of crimes ignored and unnamed by law. Sutherland built a new conceptual window through which to view white collar criminality, providing an eventual opening that could later be further widened to include genocide and other crimes against humanity.

In the same years, and likely the same neighborhood adjoining Indiana University in the town of Bloomington, when citizens and scholars were discovering white-collar crime, they were also closely following Alfred Kinsey's documentation of human sexuality (Kinsey, Pomeroy and Martin, 1948). Kinsey not only joined Sutherland in proving that small town mid-westerners possessed inquiring minds in a time and place better known for other directed conformity (Riesman, 1950), he also introduced Americans *and criminologists to the value of survey research. Even if Americans would spend much of the remainder of the century ignoring the existence of genocide, they were now learning from this method and their answers to anonymous questionnaires about undisclosed and misunderstood variation in human sexual behavior.*

Within a decade of Kinsey's probing survey interventions into America's bedrooms, criminologists were adapting these same self-report survey techniques to the study of the commission of delinquent and criminal behavior (Nye and Short, 1957), and not long after to the study of criminal victimization (Biderman, Johnson, McIntyre and Weir, 1967). Although it is unlikely that Kinsey foresaw the possibility, his use of social survey methodology popularized a methodological approach that could later be adapted through household surveys of mortality and in refugee camps to expose the extensiveness of war crimes, including the use of

sexual assault, enslavement and rape as instruments of genocide and crimes against humanity (see Reed and Keely, 2001). By the middle of the last century, theoretical and methodological tools were available to develop a criminology of genocide, war crimes and crimes against humanity. Yet this possibility remained largely nascent.

THE SOCIAL AND LEGAL TERMINOLOGY OF GENOCIDE

The United States, the United Nations, the African Union, Amnesty International and Human Rights Watch differ on whether and why the atrocities occurring in Darfur are best defined as a genocide, a crime against humanity, or ethnic cleaning. Each term implies different legal and symbolic consequences and can influence the international community's response to the events involved. For example, if the events in Darfur are designated as a crime against humanity rather than as genocide, the evidence likely needed for conviction is reduced, and this naming of the events will lack the symbolic force and probably mean less in the collective memory than would a legal determination of genocide. In fact, all genocides by definition are crimes against humanity, but not all crimes of humanity are elevated to the symbolic significance of genocide. Similarly, the term ethnic cleansing may rightfully describe the intentions of the Sudanese government, yet this does not carry the same legal meaning and recourse as a determination of genocide. In this paper, we argue that the violence in Darfur is a genocide.

According to Article II of the Genocide Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- killing members of the group.
- causing serious bodily or mental harm to members of the group,
- deliberately inflicting on the groups conditions of life calculated to bring about its physical destruction in whole or in part,
- imposing measures intended to prevent births within the group.
- forcibly transferring children of the group to another group.

Although we report evidence below of most if not all of the required elements of the legal definition (even though any one may constitute genocide), and although we advocate calling the conflict a genocide, we recognize that the history of this legal category is contentious. It is beyond the scope of this paper to extensively engage in all these arguments. However, we briefly want to note that scholars have usefully extended the meaning of genocide beyond the legal definition and some have even preferred terms such as ethnocide and politicide (see, for example, Chalk and Jonassohn, 1990; Harff and Gurr, 1988; Greenawalt, 1999; Fein, 1984.

1987; Kuper, 1981, 1985; Legters, 1984; Smith, 1987) to more fully embrace atrocities left outside the meaning of genocide. A concern in this critical literature is that the traditional legal meaning of genocide is limited and ambiguous—indeed, the term genocide itself may contain elements of denial and misrecognition that should be a focus of theory and research. This may be an important reason why so few convictions have resulted from the legal drafting and ratification of genocide law (Greenawalt, 1999).

THE POWER AND CONTROL OF DENIAL

The answers we find depend on the questions we ask, and in turn the questions we ask are socially and politically selected. For example, Savelsberg, Cleveland and King show how powerful government funding priorities channel the kinds of questions we ask about crime (2004), whereas Cohen demonstrates how reluctant we are as citizens and criminologists to entertain questions, much less answers, about some of the most momentous criminal atrocities committed against humanity (2001; see also Horowitz, 2002). Many if not most crimes involve forces of power and control (Hagan, 1989), and most if not all crimes against humanity reflect these same forces, although they have seldom been studied by criminologists in this way.

Indigenous groups in weak states may be especially vulnerable to the use of power and control, particularly through the silencing of questions about the fate of these subordinate groups during periods of their criminal displacement and destruction. Thus Schepers-Hughes and Bourgois emphasize that “collective denial” and “misrecognition” are prerequisites for mass violence and genocide (2004: 21). Misrecognition is the Bourdieuan term meant to emphasize that collective forms of denial often are so deeply embedded in our socially induced unconsciousness that they become a matter of habit, or *habitus*—to use another Bourdieuan term (see Bourdieu, 1977; also Bourdieu and Wacquant, 1992). This paper illustrates these points by critically assessing accounts of institutionally embedded and thus culturally powerful voices that have denied the Darfurian genocide, using what Sykes and Matza (1957) would have called techniques of neutralization. Our critique of these denials is based on survey data gathered during the period of the displacement and destruction of African tribal groups in the Sudanese region of Darfur.

The power politics of Darfur are of a deeper detail and duration than this account can sufficiently provide, but several aspects of this story are essential to understanding how political and military power has been used to control the African tribal groups of Darfur. By nearly any measure, Sudan is a weak state, or in United Nations’ parlance, a Least Developed Country (LDV), ranking 139 on its Human Development Index (2005).

The African population of the Darfur region—the Zaghawa (their Arab given name, but among themselves called the Beri or Bari), Massaleit, Fur, Eranga and other groups—are tribal in history and patriarchal in family structure, with lives organized principally around subsistence farming. Meanwhile, the government of Sudan is dominated by Arab military figures and politicians who receive support from neighboring Arab states (see Lesch, 1998; Fage and Tordoff, 2002).

Although for much of its history African Darfurians shared their lands with nomadic Arab cattle herders, often intermarrying and resolving disputes in traditional legal forums, more recently circumstances have changed. A Darfuran refugee in the survey analyzed below recalled that “I don’t know [why they attacked]. We are just poor people staying at one place planting. Suddenly, they come and attack us. Before that we had no problem with them.” As Scheper-Hughes and Bourgois observe in their Bourdieuan influenced analysis of the material and symbolic origins of genocidal violence, “conflict between competing groups over material resources—land, and water—can sometimes also escalate into mass slaughters when combined with social sentiments that question or denigrate the basic humanity of the opposing group” (2004:14). Pressed in recent years by the climatic circumstances of desertification, the Arab nomadic herders have encroached on the shrinking arable lands of the African farmers for water and grazing of their herds. It is important to emphasize that it is this access to the land and its resources as well as race rather than religion that separates these groups. The Arab cattle herders and their African counterparts are both Islamic Muslims, with the latter retaining traces of their tribal religion (Tully, 1988).

The Sudanese government has increasingly imposed its political power through local authorities, bringing land holdings under its control, and most notably, beginning in February of 2003, by supporting and joining Sudanese government troops with largely Arab Janjaweed militias—a term translated to mean men with guns on horses or camels and colloquially used by Africans to mean devil on horseback—for purposes of attacking African farmers and villagers. A common sequence described in interviews for the survey analyzed below involves Russian-built Sudanese planes and helicopter gunships bombing and strafing villages, with Sudanese troops in vehicles and Janjaweed militia on horses and camels following in land attacks, resulting in men being killed, and women being raped and killed, their villages being destroyed and their property being taken. More than two million Africans have been displaced from their farms and villages inside Darfur, and another 200,000 have taken refuge in camps in neighboring Chad.

We present survey evidence below that these deaths and displacements are the result of the genocidal “conflict moves” (Turk, 1969, 1982) of the

Arab-dominated Sudanese government that has used systematic killing and rape as instruments for the imposition of power and control over the tribal African men and women of Darfur. These conflict moves have involved using Sudanese military forces to empower local Janjaweed militias in racially motivated and targeted killing and rape. The goal, using language adapted from the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide, is to inflict on these non-Arab/African tribal groups "conditions of life calculated to bring about their physical destruction in whole or in part" (OHCHR, 1948). The results of these efforts are to disproportionately kill men and women, and rape and remove women and men from their homes and lands, relocating them in internal (that is, Darfurian) displacement camps and refugee camps in neighboring Chad, where the survey analyzed in this paper was conducted.

In terms of the conflict perspective we are advancing, the genocidal violence is driven by the competition between patriarchal and hierarchically organized racial and ethnic groups to impose their power and control in propertied terms. The Arab-dominated Sudanese government seeks to use its military power to preserve and extend its control over the land and inhabitants of Darfur by empowering local Arab Janjaweed militias to destroy and drive the non-Arab African tribal groups from their farms and villages. One Zaghawa survivor reported in the survey analyzed below, "the soldiers said, 'kill the men, kill the baby boys, rape the beautiful girls.'" The gendered form of these attacks that combines rape with killing is important. As Scheper-Hughes and Bourgois note, "rape is an act of violence against the female or the feminized male body and against the male owners and supposed protectors of those same bodies" (2004: 22; see also Scheper-Hughes and Lock, 1987). The mechanism that animates this imposition of power and control through rape as well as killing in Darfur involves an explicit expression of racism in violent, sustained attacks, as evidenced by the survey data analyzed below. The use of rape is important not only materially as an instrument of terror, but also symbolically in making a point about racial displacement and replacement in propertied sexual and racial terms.

The explicit mediating role of racism is important to this analysis of genocidal power and control not only in legal terms that are spelled out below, but also in terms of our social scientific understanding of how and when genocide occurs. We already have noted the sociopolitical background of ethnic cooperation and conflict between Arab and African groups in relation to the increasingly scarce land and water resources of Darfur. The African groups are indigenous to Darfur, The Arab groups migrated there from the north. As Hinton notes in the context of the Cambodian genocide, sociopolitical changes can create the environment in

which genocide can occur (1998). Yet, "for genocide to take place... these changes must be accompanied by a violent ideology that adapts traditional cultural knowledge to its lethal purposes" (117). Branigan and Hartwick similarly note that "what are required are techniques of provocation and incitement" (2003: 122). In the case of Darfur, we will see that traditional cultural knowledge is provoked and incited through the poisonous transformation of prior race relations, as explicitly verbalized in the form of racial epithets that are part of the dialogue and choreography of the violent attacks. Nonetheless, the Sudanese government insists that its military activities are counterinsurgency efforts aimed at rebel groups in Darfur that have attacked government installations and stolen weapons for their own use. Our survey evidence speaks further to the activities of rebel groups. Known as the Sudan Liberation Movement or Army (SLM/A) and the Justice and Equality Movement (JEM), they claim the Arab-dominated government has neglected the interests of Africans. This conflict in Darfur is indirectly related to a longer-term insurgency in the south of Sudan, where discoveries of oil and its projected exploitation have fueled a 30-year armed insurrection recently addressed if not settled in negotiations led by the United States.

The power politics of Darfur are further complicated by large-scale investments of China in the Sudanese oil industry, by the sale of Russian military hardware to the Sudanese government, and by the often opposing efforts of American evangelical Christians to support and protect Africans with whom they are doing missionary work in southern Sudan. The JEM movement in particular has argued its case in terms of the economic and political disparities of privilege and power protected by the Arab-dominated government of Sudan and its military mobilization of the Janjaweed forces in Darfur. In the power politics of the United Nations, the oil interests of China and the arms industry interests of Russia constrain and control use of international criminal law as a response to Darfurian death and destruction. As well, the United States has been reluctant to jeopardize the progress made in negotiations with the Sudanese government in settling the conflict in the south of Sudan by challenging the same government about the west of the country.

The confluence of power and privilege we have described and the hesitance of the United States and the United Nations have nurtured a tendency long observed in human history to deny acknowledgment and protection to weak and subordinate groups from their victimization in crimes against humanity and genocide (Cohen, 2001). This assertion does not discount that the U.S. Congress and its state department and secretary of state have all called the events in Darfur genocide. Yet before and after these designations of genocide, powerful voices have dissented, and the U.S. government has been slow to act on the genocide treaty obligations

this designation should invoke. The dissenting voices are highly respected and therefore powerful forces to overcome for purposes of mobilizing the force of international criminal law (Hagan and Levi, in press).

THE CRIME OF CRIMES?

The two dissenting voices we briefly consider next might be thought to come from unlikely sources: the *New York Times Magazine* and the United Nations Commission of Inquiry on Darfur. Together, these authoritative and therefore powerful voices have argued that the death and destruction in Darfur is the product of inept and incompetent self-defense, or in Turk's adapted language of conflict moves, clumsy counterinsurgency. The effect is to say that it is more random and accidental than systematic and intended. Because the crime of genocide is defined as the "intent to destroy in whole or in part a national, ethnical, racial or religious group," evidence of systematic intention is essential, and denials based on arguments of randomness, accident and self-defense must be taken seriously.

Scott Anderson is the author of the *New York Times Magazine* article, "How Did Darfur Happen?" (2004). His claim is that "there are enough grains of truth to almost all the government's defenses to muddy the charges against it" (62). The heart of this defense is accident and ineptitude. Anderson bases his denial of the genocide claim on interviews in Sudan with government and rebel leaders. He concludes from this investigation that:

If this is a genocide, it doesn't look very much like those we've known before. No public proclamations about "the enemy within," no extermination lists, not even Interhamwe mobs butchering Tutsis in the streets of Rwanda. Instead, it is shadowy, informal; the killing takes place offstage. It is the destruction of a people in a place where it is virtually impossible to distinguish incompetence from conspiracy. Is that by design, the sheer evil genius of it all, or just more evidence of a government's utter haplessness? A genocide may, it seems, occur almost inadvertently (63).

Anderson's thesis is basically that the government of Sudan was so preoccupied with its problems of insurrection in the southern and prospectively oil-rich part of the country that it allowed and ignored events getting out of control in Darfur. Of course, ignorance and neglect are even weaker defense claims for governments and leaders than for mere citizens, but Anderson's arguments may nonetheless speak to the issue of intent that the definition of genocide makes so emphatic, and to the issue of control that a power-oriented conflict theory makes explicit. Counter evidence of coordination and planning is needed to refute this

denial and to support the charge of intent involved in genocide, as well as the claim of control involved in a power-control conflict theory of genocide.

Meanwhile, less than a month before Anderson's *New York Times* article appeared, the United Nations appointed an International Commission of Inquiry on Darfur (2005) to report to its secretary-general "whether or not acts of genocide have occurred." The commission was chaired by an Italian jurist and past president of the International Criminal Tribunal for the former Yugoslavia, Antonio Cassese, and concluded that evidence existed of serious crimes against humanity and other war crimes. However, on the explicit question of whether acts of genocide occurred: "The Commission concluded that the Government of the Sudan has not pursued a policy of genocide" (4).

Although the commission had access to the survey analyzed below, it chose instead to proceed in a more anecdotal manner that appeared to substitute legal reasoning for scientific data. Its central argument addresses the issue of genocidal intent. In response to indications of racial motivation in the attacks targeted solely against African tribes, the commission chose to argue that there were other "more indicative elements" that showed lack of genocidal intent.

It thus maintained that in a number of villages attacked and burned by both militias and government forces, the attackers refrained from exterminating the whole population that had not fled, and instead selectively killed groups of young men. This was taken as an important indication of lack of genocidal intent.

A telling example is the attack of January 22, 2004 on Wadi Saleh, a group of twenty-five villages inhabited by about 11,000 Fur. According to credible accounts of eye witnesses the commission had questioned, after occupying the villages the government commissioner and the leader of the Arab militias that had participated in the attack and burning, gathered all those who had survived or had not managed to escape into a large area. Using a microphone they selected fifteen persons (whose name they read from a written list), as well as seven omdas, and executed them on the spot. They then sent all elderly men, all boys, many men and all women to a nearby village, where they held them for some time. The 205 young villagers they executed, they asserted, were rebels (Torabora). According to male witnesses interviewed, who were among the survivors, about 800 persons were not killed (most young men of those spared by the attackers were detained for some time in Mukjar prison) (2005: 130-131).

The commission follows the presentation of this example with the following conclusion, numbered 514 in its report:

This case clearly shows that the intent of the attackers was not to destroy an ethnic group as such, or part of the group. Instead, the intention was to murder all those men they considered as rebels, as well as forcibly expel the whole population so as to vacate the villages and prevent rebels from hiding among, or getting support from, the local population (131).

This kind of anecdotal evidence leads the commission to conclude that "those who planned and organized attacks on villages pursued the intent to drive the victims from their homes, primarily for purposes of counter-insurgency warfare" (132).

Although the commission had access to the survey we analyze—with which it could have better assessed the extensiveness of the killing, its links to rebel activity, and competing claims of genocide and counter-insurgency as self-defense—this evidence was neither considered nor addressed. The commission instead further used its authoritative power and control to deny the meaning of the genocidal charge.

It thus undermined the genocide claim by diminishing its significance. Despite the efforts of Lemkin to find a word that would capture the enormity of events like those involved in the Holocaust and in Rwanda and Srebrenica (Power, 2002), as well as the accomplishments of international criminal law activists to subsequently pass and have ratified a Genocide Convention, the Commission chose to argue that "*such international offences as crimes against humanity or large scale war crimes may be no less serious and heinous than genocide*" (132, emphasis in original). The commission did so by citing a Rwandan Appeals Chamber decision in Kayishema and Ruyindana that the frequent description in law of genocide as "the crime of crimes" is misleading, if it is taken to imply that this crime should necessarily lead to a more severe sentence than other crimes against humanity. Yet a commission footnote to this same decision reveals that the chamber further found that in this case the "description of genocide as the 'crime of crimes' was at a level of general appreciation, and did not impact on the sentence it imposed" (cited at 129). This reference by the chamber to "general appreciation" evokes a sense of publicly shared sentiment and a standard of social scientific probability and legal preponderance of evidence that we will argue is more appropriate for the purposes of both the commission and especially criminology.

ATROCITIES DOCUMENTATION TEAM SURVEY

In the summer of 2004, then U.S. Secretary of State Colin Powell found his department in an unexpected position. Both houses of Congress had unanimously passed resolutions concluding and condemning the

occurrence of a genocide in Darfur. Yet Congress had essentially done so without evidence. The State Department and Powell urgently needed legal—and ideally scientific—evidence to set a foundation for advocating new policy moves.

Powell was persuaded to commission interview based research in the refugee camps of Chad, where more than 200,000 displaced Darfurians were receiving UN protection and assistance. The Atrocity Documentation Team led by Stephanie Frease of the Coalition of International Justice [CIJ] was authorized by the State Department, with funding from the U.S. Agency for International Development and support from the Central European and Eurasian Law Initiative of the American Bar Association, to conduct interviews in the Chad camps from July through August of 2004. Frease had earlier led investigation work in the first Srebrenica genocide case tried at the ICTY (see Hagan, 2003). She used her experience at the ICTY to develop a semi-structured protocol for the interviews that mixed the narrative structure of legal witness statements with the closed-ended format of health and mortality surveys. In essence, the format was an elaborated crime victimization survey.

Although early plans had called for 50 to 250 field interviews, the argument was convincingly made that a survey of about 1200 would yield more powerful generalizations based on more certain probability estimates and confidence intervals. State Department employees returned from the field with 240 interviews in late June 2004 (U.S. Department of State, 2004). These interviews formed the background for Secretary Powell's support for UN Security Council Resolution #1564, which established the commission inquiry described above. By the end of August 2004, the team had completed interviews with 1,136 randomly sampled respondents, which formed the background for Powell's testimony before the Congressional International Relations Committee on September 9, 2004.

Several other features of the survey bear note. Two groups of fifteen interviewers each were brought to Darfur for two-week intervals and worked with interpreters in ten camps and nine settlements in eastern Chad. Interviewers randomly selected a starting point in each camp or settlement and then from within this designated sector selected every tenth dwelling unit for interview. All the adults living in the unit were listed on the survey instrument and one adult from the household was chosen at random for a private interview, resulting in the final 1,136 randomly sampled households (U.S. Department of State, 2004).

A background report for Powell's Congressional testimony included a table of univariate statistics from the survey and maps showing the dispersion of attacks and refugee settlements (U.S. State Department, 2004). No further analysis is provided in the State Department report, nor

are any estimates made of the number of African Darfurians who died in the attacks on their villages. This has led to uncertainty and confusion in the press about the extensiveness of the killings and connected deaths (see Reeve, 2005).

There are several interconnected reasons the government report contained no mortality estimates. First, the survey was conducted exclusively within Chad, and the estimates desired were for Darfur. This requires indirect estimation of violent deaths that occurred in Darfur and attributable to health vulnerabilities resulting from the attacks in Darfur (Keely, Reed and Waldman, 2001; Robinson, Lee, Hill and Burnham, 1999). Second, many of the deaths we have subsequently enumerated (more than 12,000) were of extended family members (2,703) and villagers (about 9,300). The deaths and disappearances of nuclear family members (360) had to be culled from the others through a case by case search of identifiers—husbands, wives, sons and daughters—so that the known average family household size of five could be used with the overall UN estimate of the camp population in Darfur and Chad (1.5 million) to make an indirect population estimate. Third, although the survey considered all deaths and disappearances since the beginning of the attacks in February of 2003, as well as deaths and disappearances during the journey to the camps in Chad, the survey did not consider deaths in the camps (those, for example, from diarrhea, cholera, malnutrition) that resulted from the circumstances of the displacements. Fortunately, a World Health Organization survey (2004) done at approximately the same time as the State Department survey is available to create combined estimates.

One of the many challenges in developing estimates of the deaths in a genocide involves accurately measuring the variable degree and duration of the events involved, recognizing that the level of violence in a genocide can fluctuate over time. The Darfur genocide has continued for more than 2 years. Although the State Department Survey covers 17 months of this period, the World Health Organization survey covers only 2 months. Crude mortality rates obviously take into account the time considered, but estimating the full number of deaths in the Darfur Genocide requires extrapolating beyond the actual period of measurement. This extrapolation is in large part unavoidable because of the inhospitable conditions for research and the constraints the government of Sudan has imposed on the collection of survey data on violence during this period.

We have joined calculations of crude mortality rates (CMRs, or deaths per 10,000 population per day) from the two surveys in Table 1 to provide—in the final row and column entry—an estimate that 396,563 Africans may have died and disappeared in the two year conflict in Darfur. The surveys further reveal that as measured in the late summer of 2004, the combined Crude Mortality Rate for Darfur (over 3) is six times

Table 1. Estimates from Retrospective Mortality Surveys in Darfur & Chad Displacement Camps, circa February 2003–April 2005

Data Source	Cause of Death	Location of Camps	Survey Period	Dead & Missing	Sample Size	Deaths 10,000/Day (CMR)	Camp Size	Per Year	Deaths 18 mos. of Conflict	Deaths 24 mos. after Attacks Began
UN/WHO (2004)	Camps, Health Causes ^a	N & W Darfur ^c	Jun. 15 - Aug. 15 2004	224 (82 + 142 dead)	16,891 (9,064 + 7,827)	2.138 ^c	780,370 ^b million ^b	1.5	117,055 ^c 175,590 ^c	234,120 ^b 253,619 ^b
Coalition for Justice/ U.S. State Department (2004)	Violent Attacks on Villages	Chad	Feb. 2003 - Jul. 2004	360 ^b (213 killed 119 missing 28 in flight ^d)	5,860 ^a	1,205 ^c	439,825 ^b million	1.5	65,974 ^d 98,961 ^c	131,948 ^b 142,944 ^b
Combined WHO & CIJ Surveys	Attacks, Missing, Flight, Camps	N & W Darfur & Chad	na	na	na	3.343	1,220,195 million	1.5	183,029 274,551	366,068 396,563

* The deaths and sample sizes reported in this row are taken from Tables 3 and 7 of the World Health Organization's (2004) *Retrospective Mortality Survey Among the Internally Displaced Population, Greater Darfur, Sudan*. An October 15, 2004 update of this report, titled *Mortality Projections for Darfur*, indicates that "These projections have not sought to detail deaths due to violent incidents within Darfur communities – particularly the incidents that prompted people to flee their villages. ... We have not been able to estimate violence-related deaths."

^a Count by authors of husbands, wives, sons and daughters from Coalition for International Justice/US State Department (2004) interviews.

^b Of the twenty-eight who died in flight, 82.1 percent (n=23) died on the journey to the camps and the remaining 17.9 percent (n=5) died close to or in the camps.

^c 1136 surveyed respondents representing (x5) 5680 household members, plus 180 (.5 X 360) dead and missing= 5860.

^d [(224/16891) X 10,000]/62 days = 2,138

^e [(360/5860) X 10,000]/510 days = 1,205

^f 2.138 X 365 = 780,370

^g 1,205 X 365 = 439,825

^h 150 X 780,370 = 117,055

ⁱ 150 X 439,825 = 65,974

^j 117,055/12 = 9755 X 18 = 175,590

^k 65,974/12 = 5,497.813 X 18 = 98,961

^l 9755 X 24 = 234,120

^m 5,497.813 X 24 = 131,948

ⁿ 9755 X 26 = 253,619

^o 5497.813 X 26 = 142,944

^p midpoint 1.2 & 1.8 million

^q N and W signify North and West Darfur

^r The following entries in parentheses decompose the total estimate at the top of the respective columns into persons who were reported killed or missing or who died in flight.

the African average (.5; see World Health Organization, 2004: IV) and three times the level (1.0) indicating "elevated mortality" (see Reed and Keely, 2001: 7). The above noted surveys indicate that as of mid-2004 the attacks and health problems in Darfur were generating approximately 15,000 deaths per month, or about 500 per day. Although we acknowledge that our mortality estimate could exceed the actual number of deaths that occurred, we believe there are at least three reasons that we may also err in a conservative direction: first, families in which all members died are not present in our sample, including villages in which all family members were killed; second, families who lived far from the Chad border are likely underrepresented in State Department survey; and, third, we have restricted our estimation to only include deaths of persons explicitly identified as nuclear family members.

About the time of the arrival of the second group of interviewers, the leadership of the survey realized that the issue of rebel activity in or near the villages the respondents had left was central to the government self-defense claim of counter-insurgency. This realization resulted in the following new questions being added to the survey: "Was the village defended from attack?" and "Was there rebel activity in or near the village?" Because this information is so salient, we restrict our analysis below to the final 501 cases in which these questions were asked. The only bias we know this to have introduced into the sample is that interviews were not conducted in the southern area of Darfur where rains make travel nearly impossible during the month of August.

METHODS

We use a mixture of methods to analyze the survey, with an emphasis throughout on transparency, because our point is to encourage a theoretical and empirical criminology of genocide with significance for public policy formation. We begin with the presentation below of simple descriptive statistics for the variables we will use in our analysis, divided and recombined by gender of the respondents. We then present percentaged cross-tabulations of key variables. These tables have the advantages of being readily understood by readers, with widely know chi-square tests of significance for relationships between variables. These tables further allow the identification of disproportionate combinations of case characteristics in specific cells that establish essential elements of the genocide claim.

For example, in the first cross-tabulation presented in Table 3 we show that respondents most disproportionately heard racial epithets when attacked by Janjaweed who were joined with Sudanese forces. To make this kind of point we present in the cross-classification tables below

"adjusted standardized residuals" for the cells formed by the cross-classification of variables. These bracketed [cell entries] are the basis for log-linear tests of independence for the cross-classified variables (Haberman, 1978). We calculate expected numbers of persons for each cell on the basis of the assumption that the variables (hearing racial epithets and perpetrator forces) are unassociated. We then calculate differences between expected and observed frequencies as residuals. These are standardized through their division by the square roots of the expected frequencies of the cells, and then adjusted to take into account the uneven variances in cell size within the tables (Runyon and Haber, 2000: 466-467). The adjusted standardized residuals [ASR] form the basis of comparisons across the cells of the tables and allow tests of statistical significance (Garcia-Perez and Nunez-Anton, 2003).

A positive standardized residual indicates more cases in the cell than would be expected if the variables were independent of one another, and a negative entry indicates fewer people than would be expected under conditions of independence. Under the assumptions of log-linear models, standardized adjusted residuals greater than or equal to 1.96 are significant at the .05 level. The term disproportionate as used in the analyses refers to a statistically significant departure from the independence that is assumed in tests of log-linear models.

A final part of the analysis presents logistic binary regression models to assess the genocide claim in multivariate terms that extend the range of variables simultaneously considered.

DESCRIBING THE VIOLENCE

The descriptive statistics for male and female refugees are presented in Table 2 and are in themselves revealing. The sample is more female (53 percent) than male (47 percent), and the men (40.1 years) are on average older than the women (31.2), which reflects that young males were more often killed than females. The patriarchal and polygamous practices of these African tribes is reflected in the larger average family size reported by males (7.1, compared to females, 6.2), who may have more than one wife; by the greater likelihood of females having no schooling (77.1 percent versus 42 percent); and by the greater employment of males outside the home (12.3 percent compared to 3 percent).

The two tribal groups most highly represented in the sample are the Zaghawa (36.9 percent) and Massaleit (46.5 percent). Male refugees are more likely to be Massaleit (53 percent compared to 40.8 percent among females), which may reflect the greater involvement of the Zaghawa in rebel activity (see also Human Rights Watch, 2004: 32), and the tendency of Zaghawa men to stay behind in Darfur to fight. However, it is also

important to emphasize how uncommon reports are in this survey of rebel activity and village defense.

Table 2. Descriptive Statistics, Darfuriian Refugees in Chad

	Males (n=236)		Females (n=266)		Total (502)	
	Mean	(SD)	Mean	(SD)	Mean	(SD)
Age	40.0	(15.9)	31.2	(11.2)	35.3	(14.3)
Family Size (number)	7.1	(3.8)	6.2	(3.1)	6.6	(3.5)
<i>Schooling</i>						
None (reference category)	42.0	(49.5)	77.1	(42.1)	60.6	(.49)
1-3 Years	9.3	(29.1)	9.8	(30.0)	9.6	(29.4)
4+ years	48.7	(50.1)	13.2	(33.9)	29.9	(45.8)
Employment outside home	12.3	(32.9)	3.0	(17.1)	7.4	(26.1)
<i>Ethnicity</i>						
Zaghawa	30.1	(50.0)	43.0	(49.6)	36.9	(48.3)
Massaleit	53.0	(50.0)	40.8	(49.2)	46.5	(49.9)
Other (reference category)	16.9	(37.6)	16.5	(37.2)	16.7	(37.4)
Village defended	8.1	(27.3)	7.5	(26.4)	7.8	(26.7)
Rebel activity in village	10.6	(30.8)	9.4	(29.2)	10.0	(30.0)
<i>Perpetrator Forces</i>						
Sudanese (reference category)	12.3	(32.9)	21.1	(40.8)	16.9	(37.5)
Janjaweed	13.6	(34.3)	13.9	(34.7)	13.8	(34.5)
Combined	72.9	(44.6)	60.9	(48.9)	66.5	(47.2)
<i>Racial Epithets</i>						
Arab villages spared	11.9	(32.4)	7.9	(27.0)	9.8	(29.7)
Male family members killed, %	53.8	(50.0)	66.5	(47.3)	60.6	(48.9)
Female family member killed, %	12.7	(33.4)	18.1	(38.5)	15.5	(36.3)
Family member raped, %	2.1	(14.4)	12.4	(33.0)	7.6	(26.5)
Family member killed or raped, %	58.1	(49.5)	72.9	(44.5)	65.9	(47.4)
Family member killed and raped, %	1.3	(11.2)	9.8	(29.8)	5.8	(23.4)

The descriptive statistics further indicate the imbalance of power in that very few of the refugees report that their villages were defended in any way (7.8 percent). Defending the village most often meant that the men used sticks and sometimes spears against attackers using airplanes, tanks, guns and machetes. Thus a female survivor reported that "our men gathered outside our village with sticks to try to defend our village, but they were all killed." This woman's village was attacked by Sudanese

soldiers, who killed members of her extended family and raped her repeatedly. When another woman responded to the question about defense, she answered with a cogent assessment of the village's weak position in the conflict, saying "my village was not defended and how could we defend? There was no equality in power. There were no rebels nearby" (CIJ refugee interview, July/August 2004).

A pattern of villagers being attacked regardless of rebel activity in the village or surrounding areas is apparent. The descriptive statistics indicate that very few refugees report that there was any rebel activity either in the village or in the surrounding area (10 percent). Most reporting activity described it as being in the surrounding area rather than in the village. Because both the defense and rebel activity in this patriarchal context would have been nearly exclusively male, if this activity was targeted in attacks, it should have been (but is not) reflected by more reports of this activity from surviving women and fewer from surviving men (because most would have been killed). Meanwhile, the great majority of refugees report that their villages were attacked by combined Sudanese and Janjaweed forces (66 percent), with far fewer reporting being attacked by Sudanese forces acting alone (16.9 percent), and the smallest number reporting being attacked by the Janjaweed acting alone (13.8 percent).

Describing an attack by joint forces, a Massaleit man observed, "the government wants to wipe us out and settle the area. My ancestors have been on this land for thousands of years. Now the government gives the Arabs (the Janjaweed) weapons to kill us and take our land" (CIJ refugee interview, July/August 2004). Women may have been more likely to identify Sudanese forces because there was some evidence that these forces engaged in a practice of abducting African women as "soldiers' wives" and holding them for periods in their military camps. Low proportions of attacks are reported by either African women or men as involving Janjaweed forces acting alone, which underlines the overwhelming nature of government participation and state support of the attacks.

The racial targeting of the attacks is indicated by the finding that more than a third (37 percent) of the refugees reported hearing the incoming forces using racial epithets, such as "this is the last day for blacks," "we will destroy the black skinned people," "kill the slaves," "kill all the blacks," and references to "nuba, nuba" (in this context a derogatory term used for black Africans). The actual use of racial epithets was likely significantly higher than reported because refugees indicated difficulty in both hearing the attackers over the noise of the airplanes and understanding the attackers' (Arab) language. Almost half the men heard these epithets, but less than a third of the women (45.8 percent compared to 29 percent for women), reflecting the greater likelihood of the men knowing and understanding Arabic (Tobert, 1988).

Meanwhile, about one in ten (9.8 percent) of the refugees reported that neighboring Arab villagers were spared from any violence when the attacks occurred. It is important to emphasize that this low reported level of Arab villages being spared does not mean that Arab villages were frequently attacked. This is clear from the fact that almost all the displaced persons in the camps are African and that there are no substantiated reports of systemic attacks on Arab villages. Further to this point, the Arab and African villages were usually not geographically close enough to each other that the displaced Africans would have known that the Arab villagers were being spared. In addition, some of the refugees reported that Arab villagers were forewarned of pending attacks, and left, so that though they were not reported in the survey as being spared, they nonetheless were protected from attacks. One Massaleit male, for example, reported that "there had been Arab settlements before the attacks, but months earlier the Arabs were warned and they left the area. They came either to Chad or to the large towns to stay. They are now going back to Darfur. They are dividing the land among the Arab leaders." As such, our measure of spared Arab villages is probably conservative. In another example illustrating selective racial targeting, a 45-year-old Massaleit female survivor was asked if particular groups of people were targeted in the attack on her village, she responded, "yes, blacks. Only part of Habila [her village] was attacked." Two of this woman's children were killed in the attack and ten of her extended family died on the journey from their village to the refugee camp in Chad (CIJ refugee interview, July/August 2004).

Finally, the descriptive statistics reveal the extensiveness of the killing and rape. Consistent with the expectation that the killing would be stratified in patriarchal terms that reflect racialized and gendered hierarchies of power and control, these statistics indicate that men (so that they cannot take up arms and rebel in defense) are killed more than women, and that women are both raped and killed (so that they cannot bear their own children and will be sufficiently terrorized to leave). Rapes were also further used as a means of altering the race of children in this patrilineal culture where decent is understood as being transmitted along male lines. The shame associated with rape in this culture ensures that this form of victimization is underreported in the survey: the interviewers frequently noted their suspicions of this. Refugees also reported instances in which men suffered extreme sexual torture, with one female member of the sample indicating that, "an attacker cut off the penis of a young boy and put it in his father's mouth, and then cut him to pieces. The attackers sliced open the stomachs of pregnant women and ripped out their stomachs. If it was a boy, they destroyed the fetus" (CIJ refugee interview, July/August 2004).

The greater loss of men's lives is reflected in that two-thirds of surviving women report the death of a male family member (66.5 percent), while just over half of the men (53.8 percent) do so. Nonetheless, 18.1 percent of the women report a woman family member killed, as do 12.7 percent of the men, and 12.4 percent of the women report a family member being raped, as do 2.1 percent of the men. As noted, the patriarchal culture assures that rape is markedly underreported. Still, nearly a fourth of the sample (23.1 percent) report a female family member killed or raped, and 60.6 percent report a male family member killed. Overall, nearly two-thirds of the sample report a family member killed or raped (65.9 percent), and 5.8 percent indicate that one or more family members were both killed and raped. We do not analyze the data on rape separately because their reported numbers are small in proportion to the killing. Removing the rapes from the analysis does not alter the substantive results. We combine the rapes with the killing in this analysis to stress their importance as a highly destructive form of violence that must be represented in an account of this kind.

ANALYZING THE VIOLENCE

Table 3 presents a cross-tabulation that documents the structural and motivational mechanisms through which the Sudanese government has advanced its intentions in Darfur. This table documents first that more than two-thirds of the refugee households (38.1 percent+30.3 percent=68.4 percent) reported that the attack on their home or village involved combined Sudanese and Janjaweed forces. (This was inferred from descriptions in the interviews of government planes and vehicles and uniformed men on horses and camels.) The table further reveals that there is a step-like progression from refugees reporting that they heard racial epithets in 16.5 percent of the cases involving Sudanese forces acting alone, in 31.9 percent of those involving Janjaweed forces acting alone, and in 44.3 percent of those involving combined forces. Many of the Sudanese forces acting alone were in airplane and helicopter attacks, which meant less likelihood of racial epithets being uttered or heard. However, more interesting is the effect that the joining of Sudanese with Janjaweed forces had in increasing racial epithets. The adjusted standardized residual (ASR= 4.4, $p < .04$) in the bottom right cell of Table 3 confirms the statistical significance of the disproportionality in hearing racial epithets in the attacks of these combined troops. Our power and control conflict theory interprets this relationship as reflecting the Arab Sudanese government's motivational empowerment of local Arab Janjaweed militia by intensifying their racialized expression of hostility against African tribal groups.

Table 3. Cross Tabulation, Racial Epithets Heard by Perpetrator Forces

	Not Heard	Heard	X ²	DF	P
Sudanese	83.5% ^a	16.5%			
	14.5% ^b	2.9%			
	[4.4] ^c	[-4.4]			
Janjaweed	(71) ^d	(14)			
	68.1%	31.9%			
	9.6%	4.5%			
Combined	[1.1]	[1.1]			
	(47)	(22)			
	55.7	44.3%			
	38.1%	30.3%			
	[-4.4]	[4.4]	25.50	2	.001
	(186)	(148)			

^a Percent within row^b Percent within table^c Adjusted standardized residual^d Cell countLikelihood Ratio Chi-Square [X²]=25.56 Degrees of Freedom (DF)= 2 p<.001

Table 4 extends the analysis by linking the perpetrator forces and racial epithet relationship to killing and raping of family members in the attacks. Note again that the largest and statistically significant disproportionate (ASR=2.4, p<.05) concentration of cases (21.5 percent) is in the bottom right cell of this three-way table. In this third panel of Table 4, which considers cases where combined forces attacked, the X² (6.04, df=1, p<.01) indicates that there is a statistically significant relationship between hearing racial epithets and having a family member killed or raped. When these epithets are heard, nearly three-quarters of respondents (73 percent) report a family member was killed, compared to less than two-thirds (60.2 percent) when these epithets are not heard. Interestingly, in nearly all the cases where Sudanese forces were involved and racial epithets were heard, a family member was killed or raped. However, this combination was relatively rare, involving only 2.6 percent of the sample. The predominance of killing and raping, involving the 108 cases shown in the bottom right cell of the table, reflects the combined Sudanese and Janjaweed forces attacking with the explicit motivation and intent expressed in their use of racial epithets.

Table 4. Cross Tabulation, Epithets and Harm by Perpetrator Forces

Perpetrator Forces	Racial Epithets	Family Member Killed or Raped		X ²	DF	P
		No	Yes			
Sudanese	Not Heard	31.0%	69.0%	4.15	1	.04
		4.4%	9.8%			
		[1.8]	[-1.8]			
	Heard	(22)	(49)			
		7.1%	92.9%			
		0.2%	2.6%			
	[-1.8]	[1.18]				
	(1)	(13)				
	[-1.8]	[1.8]				
Janjaweed	Not Heard	42.6%	57.4%	.24	1	.62
		3.9%	5.4%			
		(20)	(27)			
	Heard	36.4%	63.6%			
		1.6%	2.8%			
		[-.5]	[-.5]			
	(8)	(14)				
Combined	Not Heard	39.8%	60.2%	6.04	1	.01
		14.7%	22.3%			
		[2.4]	[-2.4]			
	Heard	(7.4)	(.12)			
		27.0%	73.0%			
		8.0%	21.5%			
	[-2.4]	[2.4]				
	(40)	(108)				

The Sudanese government counterargument is that the attacks against the African farmers and villagers were counterinsurgent self-defense. To assess this claim, we divided the sample into reported rebel activity in the village and reported rebel activity in the surrounding area, and then looked at the relationship between hearing rebel epithets and having a family member killed or raped. The implication of the self-defense claim is that this relationship would appear only in settings that were attacked on the basis of rebel activity. Even here it would not have been lawful to have the attacks (or to allow the attacks to be) concentrated on civilians, but Anderson's *New York Times Magazine* claim is that this was the product of ineptitude. Yet the X² values (5.08 and 5.38) indicate the relationships between epithets and killings are significant ($p < .02$) regardless of whether there was rebel activity or not: in either instance, the attacks were concentrated in the lower right cells of the panels of Table 5 (ASR=2.2, $p < .05$)—where epithets were reportedly heard.

Table 5. Cross-Tabulation, Epithets and Harm by Rebel Activity
Family Member Killed
or Raped

	Racial Epithets	No	Yes	X ²	DF	P
<i>No Activity</i>	Not Heard	37.9%	62.1%	5.08	1	.024
		21.3%	34.9%			
		[2.2]	[-2.2]			
		(107)	(175)			
Heard	27.6%	72.4%				
	9.4%	24.5%				
	[-2.2]	[2.2]				
	(47)	(123)				
<i>Activity</i>	Not Heard	44.1%	55.9%			
		3.0%	3.8%			
		[2.2]	[-2.2]			
		(15)	(19)			
	Heard	12.5%	87.5%			
		0.4%	2.8%			
	[-2.2]	[2.2]				
	(2)	(14)				
			5.385	1	.020	

There is the further question of where rebel activity was occurring. Table 6 cross-tabulates the respondents reports of rebel activity with their tribal affiliations. As noted, the Zaghawa (36.9 percent) and the Massaleit (46.5 percent) were the two largest groups in this sample, and the Massaleit was attacked more frequently. Yet only 1.7 percent of the Massaleit reported rebel activity in their areas, versus 21.1 percent of the Zaghawa. The adjusted standardized residuals for the table further confirm that rebel activity is disproportionately concentrated among the Zaghawa (6.4, $p < .001$) and disproportionately absent among the Massaleit (-5.7, $p < .001$). Again, we looked to see if the relationship between hearing racial epithets and family killings and rapes would therefore be concentrated among the Zaghawa and absent or at least less frequent among the Massaleit. The results presented in Table 7 reveal the opposite: the overall X² relationship between epithets and attacks is not statistically significant among the Zaghawa (.24, $p > .05$) and is so among the Massaleit (5.52, $p < .02$) and others (3.78, $p < .05$). Similarly, the adjusted standardized residuals indicate the concentration of racial epithets and attacks against the Massaleit (ASR=2.3, $p < .01$).

There are areas of Darfur where Arabs live alongside or near African tribal groups. As mentioned, in 9.8 percent of the cases the respondents reported that Arabs were spared in the attacks. Our thesis is that the Arab-dominated government advanced its interest in its power and control of Sudan by empowering local Arabs and destroying and dislocating local African groups, using racist ideology as a divisive and

Table 6. Cross-Tabulation, Rebel Activity in Village by Ethnicity

	<i>None</i>	<i>Activity</i>	χ^2	<i>DF</i>	<i>P</i>
Zaghawa	78.9%	21.1%			
	29.1%	7.8%			
	[-6.4] (146)	[6.4] (39)			
Massaleit	98.3%	1.7%			
	45.6%	.8%			
	[5.7] (229)	[-5.7] (4)			
Other	91.7%	8.3%			
	15.3%	1.4%			
	[-5] (77)	[-.5] (7)	12.985	1	.001

Table 7. Cross-Tabulation, Epithets and Harm by Ethnicity

	Racial Epithets	<i>Family Member Killed or Raped</i>		χ^2	<i>DF</i>	<i>P</i>
		No	Yes			
Zaghawa	Not Heard	33.1%	66.9%			
		8.2%	16.5%			
		[-.5] (41)	[-.5] (83)			
	Heard	29.5%	70.5%			
		3.6%	8.6%			
		[-.5] (18)	[.5] (43)	.24	1	.62
Massaleit	Not Heard	38.9%	61.1%			
		10.2%	15.9%			
		[2.3] (57)	[-2.3] (80)			
	Heard	24.5%	75.5%			
		5.0%	15.3%			
		[-2.3] (25)	[2.3] (77)	5.52	1	.02
Other	Not Heard	49.2%	50.8%			
		6.0%	6.2%			
		[1.9] (30)	[-1.9] (31)			
	Heard	26.1%	73.9%			
		1.2%	3.4%			
		[-1.9] (6)	[1.9] (17)	3.78	1	.05

destructive motivating means to accomplish this goal. Support for this thesis is found in Table 8 that cross-tabulates hearing racial epithets and sparing of Arabs. The overall X^2 for this table is highly significant (13.06, $p < .001$) and the adjusted standardized residual (3.7, $p < .001$) indicates the disproportionate presence of cases in which respondents reported both hearing racist epithets and Arabs being spared in the attacks. This finding provides a specific indication of the racial polarization involved in the Darfur conflict.

Table 8. Cross-Tabulation, Villagers Spared by Epithets Heard

	<i>Arab Villages</i>		X^2	DF	P
	Not Spared/Unknown	Spared			
Not Heard	94.0%	6.0%			
	59.2%	3.8%			
	[3.7] (297)	[-3.7] (19)			
Heard	83.9%	16.1%			
	31.3%	6.0%			
	[-3.7] (156)	[3.7] (30)	13.06	1	.001

Table 9 presents the results of estimating four binary logistic regression equations that summarize, with more extensive multivariate controls, the central arguments made here about power and control in the violence that may or may not constitute genocide in Darfur. The first columns regress the reporting of rebel activity by the refugees on predictor variables. The numbers indicate, first, that Zaghawa refugees (3.487, $p < .01$) who had four or more years of education (2.195, $p < .05$) and were employed outside their homes (3.226, $p < .05$) were more than two and three times more likely than others to report rebel activity, and, second, that the Massaleit (-1.816, $p < .01$) were more than 80 percent less likely. These findings indicate that the rebel activities that the government used as justification for their attacks were not random or unsystematic, and that the government could have systematically targeted their origins, though this was not the case.

The second set of columns in Table 9 reveals that the combined Janjaweed (.769, $p < .05$) and Sudanese government (1.314, $p < .001$) forces signaled the targets of their attacks with the use of racial epithets that form the predicted outcome of this equation. The fact that the combined forces exponentiated coefficient is about 75 percent larger than the Janjaweed coefficient suggests that the effect of joining forces was to intensify the racism expressed in the combined attacks. More specifically, the statistical significance of the Massaleit coefficient (1.878, $p < .05$) and the non-significance of the Zaghawa coefficient further indicates that the attacks were more systematically focused on the Massaleit rather than on

Table 9. Binary Logit Regressions

Predictor Variables	Rebel Activity		Racial Epithets Heard		Arab Villagers Spared		Family Member Killed or Raped					
	Logit	SE	Logit	SE	Logit	SE	Logit	SE				
Female	-.182	.379	-.495*	.230	.609	.327	.376	.721	.699**	.232	2.012	
Age	-.012	.013	.988	.004	.008	.996	-.014	.014	.986	-.005	.007	.995
Family Size	.028	.051	1.029	.055+	.029	1.057	.047	.043	1.048	.012	.029	1.012
1-3 yrs school	.709	.530	2.033	.933*	.405	.394	-1.551	1.046	.212	.247	.352	1.280
4+ yrs school	.786*	.381	2.195	.384	.238	1.468	-.210	.382	.810	-.372	.242	.690
Employment	1.171*	.530	3.226	-.460	.396	.631	.529	.519	1.696	.142	.388	1.153
Zaghawa	1.249**	.449	3.487	.474	.323	1.607	-.773	.572	.462	.374	.298	1.454
Massaleit	-1.816**	.654	.163	.630*	.296	1.878	-.504	.452	1.655	.386	.280	1.471
Village Defense				-.454	.404	.635	-.318	.778	.727	.276	.383	1.318
Rebel Activity				-.013	.367	.987	.425	.632	1.530	-.030	.351	.970
Janjaweed				.769*	.399	2.158	-.110	.556	.896	-.451	.367	.637
Comb. Forces				1.314***	.308	3.720	-.444	.436	.642	-.300	.273	.741
Racial Epithets							.974**	.337	2.650	.731***	.227	2.077
Arab Villages Spared										1.668***	.497	5.304
Constant												.049
-2 Log Likelihood												593.497
												288.237

* $p < .05$, ** $p < .01$, *** $p < .001$, + $p < .10$

the Zaghawa. The combined forces were linked in a joint effort that offers greater evidence of intention and planning than randomness or incompetence. Also, this planning was not directed in the counterinsurgent direction of the Zaghawa, who were more closely tied (albeit in small numbers) to the rebel activity.

Meanwhile, the racial empowerment and disempowerment involved in the attacks is not only reflected by their focus on the African refugees, but also by the selective sparing of Arabs, whose protection is reflected in the equation estimated in the third set of columns in Table 9. These numbers reveal that Arab villagers were more than two and a half times (2.65, $p < .01$) more likely to be spared when racial epithets were heard during the attacks. These epithets reflect the racial motivation that was used to animate the redistribution of power and control from Africans to Arabs in Darfur.

The final set of columns in Table 9 summarize the results of regressing accounts of family member murders and rapes on reports of racial epithets and Arab villages being spared as well as other variables. These attacks are about twice as likely to leave women as men among the refugees (2.012, $p < .01$), but it is critical to recall that women are raped as well as killed in these attacks. It is commonly noted in the human rights field that the selective rape of women is a major means of sufficiently terrorizing populations that they will leave their homes and villages. These killings and rapes were also approximately twice as likely (2.077, $p < .001$) when racial epithets were heard and about five times more likely (5.304, $p < .001$) when Arab villages were spared. The implication is that gender and race are both parts of the patriarchal practice of genocidal violence.

CONFRONTING "THE CRIME OF CRIMES"

The evidence presented above from victim survey reports demonstrates that the attacks beginning in February 2003 on Africans who lived in the farms and villages of the Darfur region of Sudan have been racially motivated, lethally destructive, state supported and militarily unjustified. Reports from the same victim surveys are a foundation for estimates in the first table of this paper that nearly 400,000 deaths may be attributable to these attacks. The majority of households surveyed were victims of family deaths, and many more were victims of rape. Both killing and rape are instruments of terror, and more than 2 million Africans from Darfur have been displaced from their homes and today are living and dying in refugee camps in Sudan and Chad. The dislocation of this population has made it impossible for African Darfurians to engage in the subsistence farming and related activities that are essential to the reproduction of their traditional way of life.

The evidence presented above is therefore persuasive that the state supported attacks are, in the language of criminological conflict theory, the lethally destructive exercise of power and control, so that, in the language of the Geneva Genocide Convention, the effect is to inflict on these non-Arab African tribal groups "conditions of life calculated to bring about their physical destruction in whole or in part" (OHCHR, 1948). The great majority of attacks involve government forces and local militias acting together. In contrast, there is little or no evidence from the victim surveys to support the claim of the government of Sudan that the attacks are aimed at rebel groups, which threaten this government. Rather, the evidence of state support for the attacks undermines the claim that they are accidental or without intent to destroy African Darfurians and their farm and village way of life "in whole or in part." The Sudanese government claims are by this analysis not the basis for a credible self-defense-counterinsurgency claim, but rather of the exercise of power and control through denial.

The victim surveys are furthermore unique in providing evidence that this exercise of power and control is aimed and animated with explicit racial animus by the Arab-dominated government of Sudan against African Darfurians. This evidence takes three forms: in the exclusively African identities of its victims, in the sparing of neighboring Arab villagers, and in the use of racial epithets during the fatal attacks. Furthermore, the latter racial epithets are most often heard when government troops and local militias act together, and in the context of spared Arab villagers. This is further evidence of the use of the authority and resources of the Sudanese state to empower local Arab forces in the lethal subordination of African Darfurians.

The presence in this analysis of evidence of racial motivation and intent is unique and of special relevance to the refusal of the UN Commission of Inquiry on Darfur to declare that violence against the African population of this region is genocide. It is of particular note that the commission did not just declare that the case for genocide is unproven or inconclusive. The commission explicitly concluded that genocide did not occur, and that war crimes and crimes against humanity did, in the course of the government's efforts at counterinsurgency. The commission allowed that courts might later convict individuals of genocide, but it found no responsibility on the part of the Sudanese government for the intent to commit genocide. This may seem a distinction without great difference until the significance of this determination is considered in light of the further commission recommendation for "the establishment of a Compensation Commission designed to grant reparation to the victims of the crimes, whether or not the perpetrators of such crimes have been identified" (2005: 6).

It is difficult to believe that the commission's refusal to declare the violence in Darfur as genocide—which international criminal law recognizes as the "crime of crimes" out of humanitarian appreciation for its unique seriousness—will not diminish the likelihood and extent of this compensation. Because compensation is more likely to come out of a civil than a criminal law process, this aspect of the genocide determination deserves further consideration, both for the purposes of compensation claims and for its social scientific and criminological implications.

Civil court claims shift the evidentiary standard from determinations beyond the shadow of reasonable doubt to findings of the preponderance of evidence. The preponderance standard is more similar to probability assessments of social science. Many of the white-collar crimes that Sutherland studied, such as antitrust law violations, are handled procedurally in civil courts. As Sutherland noted, "the decisions of a civil court or a court of equity as to these violations are as good evidence of criminal behavior as is the decision of a criminal court" (1949: 34). The difference in procedures is not relevant to the treatment of these acts as crimes, but the procedures do point to other useful possibilities. For example, the concept of *prima facie* evidence applies to both criminal and civil law. We argue, however, that applying it in some areas of civil law, such as discrimination law, is particularly relevant here. The commission would have done better had it did not wished to finally resolve the criminality of the violence in Darfur as genocide, and instead concluded that *prima facie* evidence of genocide exists.

Prima facie evidence is deemed sufficient to raise a legal presumption of fact or to establish the fact in question unless rebutted. This means, procedurally, that the burden of proof shifts after establishing a *prima facie* case to the defendant's rebuttal of the evidence. Statistical probability tests and regression analyses have been used as *prima facie* evidence in discrimination cases for more than three decades, for example, with regard to the race of jurors [*Castaneda v. Partida*, 430 U.S. 482 (1977)] and the race of newly hired teachers [*Hazelwood School District v. U.S.*, 33 U.S. (1977)]. The statistical evidence presented in this paper could have been used by the UN Commission of Inquiry on Darfur to assert a *prima facie* case of genocide for victims to pursue reparations, as recommended by the commission. The burden of proof would then have fallen on the government of Sudan to defend itself against such claims.

Interestingly, a common reason why *prima facie* statistical evidence of discrimination does not survive rebuttal in employment litigation is that it establishes the racial or sexual intent of job loss by pointing to the residual unexplained variance associated with race or sex in a regression analysis of hiring or firing of employees by an employer. In rebuttal, the defense often successfully argues that there is no directly measured

evidence of racial intent in the attitudes of the employer. However, this is not the case in Darfur, where we have presented explicit evidence of intent in the form of the reports of racial epithets heard during the attacks associated with the killings and rapes, net of other explanatory variables, and most frequently in the presence of government forces. The prima facie argument is thus particularly persuasive for the purposes of this analysis.

A second likely reason why prima facie statistical evidence of discrimination might also be thought unlikely to survive rebuttal in such cases involves false assumptions that may be common with regard to the numbers of deaths required to substantiate genocide. We have estimated the current death toll in Darfur may be nearly 400,000. The international criminal tribunals for Rwanda and the former Yugoslavia have ruled that the intent to destroy a group "in part" requires the intention to destroy "a considerable number of individuals" [*Kayishema and Ruzindana*, at 27, ICTR, Trial Chamber, 21 May (1999)] or "a substantial part" [*Jeliscic*, at 82, ICTY, Trial Chamber, 14 December (1999)], but not necessarily a "very important part" [*Jeliscic*, at 81-2] of the group. Furthermore, there is now persuasive mortality survey evidence from the Congo (see International Rescue Committee, 2004) that ensuing deaths from health causes in displacement camps—such as those where 2 million Darfurians live today—can multiply by many times the initial deaths in violent attacks. In the first table of this paper we see a near 2:1 ratio of health linked to violence based immediate causes of death. The latest estimates in the Congo range to nearly 4 million dead, with initial violent deaths accounting for less than several percent of the total.

Sutherland classically drew the distinction between defining behavior as criminal for the purposes of administration and science. He famously argued, "the definition of crime, from the point of the present analysis, is important only as a means of determining whether the behavior should be included within the scope of a theory of criminal behavior" (1949: 30). He went on to assert that:

The essential characteristic of crime is that it is behavior which is prohibited by the State as an injury to the State and against which the State may react, at least as a last resort, by punishment. The two abstract criteria generally regarded by legal scholars as necessary elements in a definition of crime are legal description of an act as socially harmful and legal provision of a penalty for the act (31).

This argument can now be taken to the supranational level of international jurisdiction, but Sutherland's lesson is that we need not await the determinations of international commissions, tribunals and courts to initiate the study of genocide and of other war crimes and crimes against humanity.

Modern criminology possesses the theory and methods to document, describe, analyze and explain "the crime of crimes" and other important violations of international criminal law. The denial and neglect of these crimes in modern criminology itself needs explanation.

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