

# POLICY RESEARCH MEMO

## The term genocide in the context of Darfur

STAND Canada

### 1. Introduction

Is Darfur a genocide? To begin with, is this the relevant question? For the last several years, we have argued that this is not, in fact, the relevant question about Darfur.

That horrific and intolerable acts of cruelty have been systematically perpetrated on a mass scale in Darfur is not in question. Therefore, for us, the most urgent question has been the practical problem of how the violence can most effectively be ended.

This stance finds support in the Responsibility to Protect framework drafted under Canadian auspices in 2001. According to this doctrine, the international community has a responsibility to protect civilians who are subject to mass human right abuses whether or not those abuses precisely fit the definition of genocide in international law or not.<sup>1</sup> This stance is thus designed to cut through the debates about terminology that can waste precious time and energy and instead focus on practical action.

However, for better or for worse the question of how to label the tragedy in Darfur has been a topic of enduring popular and media interest. In response to questions about this issue, we conducted a review of the current debate and produced this policy position paper.

### 2. A genocide by any other name: The terminology debate

The most widely accepted definition of genocide is contained in the 1948 UN Genocide Convention, and we find that the atrocities in Darfur clearly fit this definition. The Convention defines genocide as:

...any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.<sup>2</sup>

We find that there is compelling evidence that the Sudanese government's counter-insurgency strategy in Darfur has been designed to destroy, at the very least "in part," several African-identified

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1 International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, Ottawa: International Development Research Centre, 2001.

2 UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, Resolution 260 A (III), January 12, 1951.

tribes in Darfur, using methods (a), (b), and (c). In the summer of 2004, the US Department of State conducted an investigation into the conflict, leading to the publication of a report affirming this view.<sup>3</sup>

In contrast, the position taken by the UN that there has been no genocide in Darfur rests on a particular interpretation of the meaning of the word "intent" in the Convention. In essence, the UN report on the question argues that although some evidence suggested that acts (a), (b), and (c) may have occurred in Darfur, the intent of those acts was the suppression of the insurgency, rather than the destruction of targeted groups for its own sake. Therefore, the report argued that the intent requirement for genocide was not met, and that the atrocities in Darfur were war crimes, not genocide. It should be noted that the report held nonetheless that these crimes may be no less serious than genocide.<sup>4</sup>

In response to these points, we argue that evidence clearly demonstrates that government policy called for the destruction of targeted groups and that the question of whether genocide was the means or the end of the Sudanese government is irrelevant. We find the intent requirement of the Convention to be satisfied even if genocidal destruction is undertaken in service of other sociopolitical goals. Indeed, if the term "genocide" is construed in such a manner that targeting groups for destruction falls outside the definition so long as broader goals are professed, a serious loophole in the law emerges by which genocidal regimes can escape full accountability for their actions.

The point has also been raised that, unlike in Rwanda or in the Nazi Holocaust, the government of Sudan has not in every instance sought to exterminate every member of the targeted tribes. Survivors have been left behind in targeted villages after attacks, at times raped rather than killed. Darfuris from targeted tribes that live in other parts of Sudan have not been systematically hunted down and killed. This point can be answered with reference to the text of the Convention: the attempt to destroy targeted groups "in part" is an integral component of the definition of genocide. This is a critical point, as it precludes a government from escaping culpability for genocidal policies by pointing to surviving members of a targeted group that it declined to slaughter.

### 3. Conclusion

One lesson of Darfur, as Alex de Waal has argued, is the need to move beyond the traditional definition of genocide which takes the Holocaust as its prototype and engage with genocide in all its forms.<sup>5</sup> De Waal suggests a new conceptual sub-category he terms "counter-insurgency genocide," which reflects the specific variant of genocide manifested in Darfur.<sup>6</sup>

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3 Colin L. Powell, "The Crisis in Darfur," Testimony before the Senate Foreign Relations Committee, September 9, 2004.

4 International Commission of Inquiry on Darfur, *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General*, January 25, 2005.

5 Alex de Waal, "Reflections on the Difficulties of Defining Darfur's Crisis as a Genocide," *Harvard Human Rights Journal*, Vol. 20, Spring 2007.

6 Alex de Waal, "Reflections on the Difficulties of Defining Darfur's Crisis as a Genocide," *Harvard Human Rights Journal*, Vol. 20, Spring 2007.

In conclusion, we find that the atrocities in Darfur can be convincingly demonstrated to meet all requirements for genocide in international law. Nonetheless, we find that the most urgent task for our advocacy is to focus on deeds, not words. Terminological disputes aside, we must work to build a broad-based movement in support of international efforts to help achieve peace in Darfur.