

HPG Briefing Note

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Humanitarian issues in Darfur, Sudan

Introduction

Darfur has been described as the worst humanitarian crisis in the world today, with an estimated one million people displaced since fighting intensified early in 2003. The UN's emergency relief coordinator, Jan Egeland, recently characterised the situation as 'ethnic cleansing'. With the hungry season approaching, violence continuing despite a recent ceasefire agreed at peace talks in Chad, and humanitarian agencies unable to access the majority of the at-risk population, there is a clear risk of large-scale famine mortality.

This Briefing Note draws on a variety of sources and on thematic research previously conducted by the Humanitarian Policy Group to highlight some of the key humanitarian issues in the context of Darfur. The Briefing highlights the following issues:

- Civilians in Darfur are being subjected to indiscriminate violence and forced displacement on a massive scale. The central and critical humanitarian issue is therefore one of protection. One element of this is a growing concern that people are being deprived (sometimes deliberately) of food, water and access to relief assistance. What meaningful actions can be taken to increase levels of protection for the civilian population, and allow access to relief assistance?
- Effective political action to address the roots of the crisis is vital, and a negotiated ceasefire may be the first step. This has a bearing on the humanitarian priority: the immediate protection and assistance of civilians. But humanitarian priorities are in danger of being subordinated to other political goals, including the current Intergovernmental Authority on Development (IGAD) peace process between the government and the Sudan People's Liberation Movement/Army (SPLA) in the south, and broader foreign policy and security objectives. How can these agendas be reconciled?
- International engagement with the crisis has been slow and ineffective. Primary responsibility for the welfare of its citizens lies with the Sudanese government, yet the evidence suggests that the government is itself in large part responsible for the threats currently faced by civilians. Despite mounting pressure from international agencies, Western governments have appeared reluctant to press the Sudanese government to fulfil its obligations. How should international political and aid assets be used to protect civilians at risk in Darfur? What combination of observer presence and political pressure is called for?
- In the absence of political action to provide greater protection for civilians, how effectively can aid agencies meet humanitarian needs, given the currently restricted levels of access?

The current situation

The background to the current crisis, causes of the fighting and current situation are both extremely complex and highly

The extent of the crisis

Reliable figures on the extent of the crisis are both disputed and difficult to come by given the extremely constrained access. It is estimated that:

- Over 700,000 people have fled to urban centres in Darfur, and there has been further displacement to other parts of Sudan, including Khartoum.
- A further 135,000 refugees are in Chad.
- Thousands have died as a direct consequence of violence, and many more as a result of conflict-related disease.

disputed, and what follows is only a brief summary. Key references for further reading are provided at the end of this Briefing.

Open warfare erupted in Darfur in early 2003, when the Sudan Liberation Movement/Army (SLA) attacked government troops. These rebels were soon joined by another armed political group, the Justice and Equality Movement (JEM). Both have broadly similar demands: an end to the region's chronic economic and political marginalisation; and protection for their communities against attacks by armed nomadic groups. As the fighting has intensified over the past year, the main perpetrators of violence against civilians appear to be a militia aligned with, and supported by, the Sudanese government army, known as 'Arab militia' or the Janjaweed. The government has bombed towns and villages suspected of harbouring or sympathising with members of the armed opposition. These militia attacks and the government offensive have led to massive displacement, indiscriminate killings, looting and mass rape. Peace talks between the two rebel groups in Darfur and the government of Sudan began in Chad in early April, but violence appears to be continuing.

Humanitarian response and access

Humanitarian access to Darfur is extremely limited primarily because of insecurity and government restrictions on travel. The government has restricted relief activities to urban centres and IDP camps in areas under its control. There have been numerous accounts of relief supplies being looted after distributions in IDP camps and conflict-affected areas. Some vulnerable populations have asked not to be given assistance because it may attract violence.

Humanitarian access to the refugee population in Chad has also been difficult, in part due to the remoteness of the border area and in part due to insecurity. UNHCR is attempting to establish refugee camps away from the border in order to provide greater protection.

The humanitarian situation may get worse during the traditional 'hunger gap' that affects the population in Darfur from April. The start of the rainy season in May will also increase the logistical difficulties of reaching vulnerable populations in remote areas of Darfur and Chad. The crisis is taking place in

HUMANITARIAN POLICY GROUP

The Humanitarian Policy Group at the Overseas Development Institute is Europe's leading team of independent policy researchers dedicated to improving humanitarian policy and practice in response to conflict, instability and disasters.



the context of chronic under-development and vulnerability, leaving people less able to cope with the consequences of violence and displacement. Given this underlying vulnerability, the inability of many people to plant crops due to violence and the fact that up to a third of those displaced are staying with host families, whose resources are increasingly stretched, the situation is on the brink of an even greater crisis, with a clear threat of famine.

Without sustained access to the civilian population, the ability of humanitarian agencies to respond has been limited. Some agencies were already present in Darfur, and others have managed to establish programmes, but these have been largely restricted to responding to the needs of IDPs in urban centres. The capacity of the humanitarian system has been expanding, with new agencies gaining access, but the overall capacity remains extremely constrained. In part, this is due to the reluctance of the government of Sudan to allow new international agencies to register in Khartoum, and to allow agencies already registered to work in Darfur. In part, however, it seems to represent more fundamental capacity constraints within the humanitarian system, and a failure to recognise the scale of the crisis and the need for additional efforts to gain access and provide assistance.

The position of the Sudanese government

The government of Sudan strongly contests the picture of the situation described in reports by the United Nations, human rights groups and the International Crisis Group (ICG). A December 2003 statement by the Ministry of Foreign Affairs noted that international and national agencies were providing the 'necessary assistance to the needy population' and stated that 'The government is also firm on fully shouldering its responsibilities of protecting the lives and property of civilians, and relief workers in Darfur'. In February 2004, President Omar El Bashir declared the war at an end and stated that the armed forces had restored law and order. In March, the Sudanese government strongly protested against the UN humanitarian coordinator's description of Darfur as 'the world's greatest humanitarian catastrophe'.

Issues of law and principle

The conflict in Darfur can be described as an internal armed conflict. Parties to internal armed conflict are obliged to respect Common Article 3 of the 1949 Geneva Conventions, which prohibits attacks on civilians. The government of Sudan is responsible for prosecuting under national law any party to the conflict guilty of committing abuses. The government is also responsible for any proxy forces under its control; recent reports by Amnesty, ICG and Human Rights Watch all argue that there is clear evidence of cooperation between the Janjaweed and government forces.

The situation in Darfur has been variously described as ethnic cleansing, a crime against humanity and a genocide, and comparisons with Rwanda in 1994 have been made. Human Rights Watch has concluded that 'militias backed by the government of Sudan are committing crimes against humanity in Darfur'.

Humanitarian issues

Protection and humanitarian advocacy

Above all, the civilian population in Darfur needs safety and security in the face of widespread violence and human rights abuse. The key over-arching issue is therefore protecting civilians from violence, displacement and deprivation of the means of subsistence, including access to relief.

International law

The basic principles of international humanitarian law are applicable to all situations of armed conflict. These include:

- Distinction: the duty to distinguish between military and civilian targets
- Precaution: the duty to minimise incidental injury to civilians and damage to civilian property
- Proportionality: any such injury or damage must be proportionate to the concrete and direct military advantage anticipated.

The terms of Common Article 3 of the 1949 Geneva Conventions apply in this context. These provide basic safeguards for civilians in civil conflicts, including prohibiting violence to life and person and outrages upon personal dignity. In addition, the non-derogable provisions of the International Covenant on Civil and Political Rights (1966) apply, including the right to life.

If the violations of IHL and human rights law in Darfur amount to crimes against humanity or war crimes, then the International Criminal Court, when it comes into operation, will have jurisdiction. Sudan signed the Rome Statute of the ICC in September 2000. Amnesty argues that 'When forcible displacement is committed on a systematic basis or large scale, or, as confirmed in Article 7 of the Rome Statute, when it is committed as part of a widespread or systematic attack directed against any civilian population, it is a crime against humanity.*

Whether or not the actions being carried out in Darfur amount to genocide depends on whether or not there is evidence of a policy of extermination that would show 'intent to destroy, in whole or in part, a national, ethnical or religious group' (1948 Convention against Genocide).

*Amnesty, Sudan Darfur, p.22

The need for relief assistance must be seen in the context of these fundamental threats to security, and as being in large part a consequence of those threats. What aid agencies and Western governments can do about these threats is therefore a key question. Aid agencies are grappling with a number of familiar dilemmas. The central dilemma is whether speaking out about the situation in Darfur and attempting to bring greater global attention to it will risk further limiting the already constrained levels of humanitarian access. There may also be concerns that speaking out could put at risk the safety and security of aid workers. Some aid agencies have adopted a strategy of behind-the-scenes advocacy. International human rights agencies, on the other hand, have been vocal in their criticism of those they believe to be responsible, and have been explicit in calling for political action. The recent strong statements by UN officials have been important in highlighting the crisis and, at the beginning of April, the Security Council was briefed on the humanitarian situation.

The humanitarian response and wider political agendas
The Darfur crisis developed during 2003 at a time when the IGAD peace process between the government of Sudan and the SPLA in the south was at a critical stage. The ICG argues that:

The international reaction to the crisis has been woefully inadequate. The IGAD peace talks have been prioritised at the cost of holding the government accountable for its actions in Darfur.¹

The conflict in Darfur and the IGAD peace process are intertwined in various ways. The rebel groups in Darfur concluded

that they had to fight lest decisions on power and wealth-sharing for the entire country be taken without them. The ICG argues that the Khartoum regime correctly judged that the international community would not criticise it at a crucial point in the peace process, so slowed the process down to give itself time for a major offensive in Darfur. In turn, the conflict in Darfur threatens the peace process between the Sudanese government and the SPLA, has the potential to inspire insurgencies in other parts of Sudan and could threaten the political regimes in both Sudan and Chad. The US sees Sudan as an important player in the 'global war on terror', further complicating the political calculus. Sudan remains on the list of states that the US considers as sponsors of international terrorism.

The importance of achieving a sustainable settlement of the conflict between north and south Sudan, which has caused untold levels of human misery for more than two decades, is agreed by all. However, a number of commentators have cautioned that, in the pursuit of a peace settlement in the south, there is a significant risk that the unfolding crisis in Darfur will be downplayed or ignored. It will be vital, therefore, that both international and Sudanese actors uphold their respective responsibilities under international law to protect civilians, including their responsibility to facilitate humanitarian access.

The fact that arguably the worst humanitarian crisis in the world today has been able to develop with such a weak international response once again reinforces the dangers of linking humanitarian action uncritically to political processes that do not necessarily prioritise humanitarian outcomes. It suggests the continuing relevance of the findings from HPG's 2000 study on policy coherence:

The primary failure of international policy towards conflict remains in the political realm, not the humanitarian.

The study argued for:

A more articulate division of humanitarian and political labour, where the boundary between the two is marked, and where the rules for interaction are clearly articulated.²

There are also dangers in describing the Darfur ceasefire agreed in the Chad talks as a 'humanitarian ceasefire'. Humanitarian access should not be linked to the presence or absence of a ceasefire, but should be insisted upon as part of the IHL obligations of all parties to the conflict.

It is perhaps salutary to remember Samantha Power's description of a similar tendency over Rwanda in 1994, where some US and UN officials were so preoccupied with trying to keep the Arusha Accords alive that they were reluctant to acknowledge the developing genocide. As Power argued in a *New York Times* article on 6 April:

The lessons of Rwanda are many. The first is that those intent on wiping out an inconvenient minority have a habit of denying journalists and aid workers access and of pursuing bad faith negotiations. Thus far the Sudanese government has pursued both approaches, and Western officials have been far too trusting of their assurances.

Good humanitarian donorship

In June 2003, 15 official donor governments committed themselves to a series of principles and good practice for humanitarian donorship.³ Donor governments agreed that humanitarian action should be guided by four core humanitarian principles, including 'independence':

the autonomy of humanitarian objectives from the political, economic, military or other objectives that any actor may hold with regard to the areas where humanitarian action is being implemented.

This independence of humanitarian action should form the basis for engagement with the humanitarian situation in Darfur. Ensuring the safety and protection of the population ultimately requires a successful peace process, which includes Darfur. However, pursuit of a political process aimed at resolving the conflict should not compromise the immediate need to ensure that populations are protected from violence. This in itself, of course, requires political action.

The good humanitarian donorship principles specifically include protection: 'Donor governments agreed that humanitarian action includes the protection of civilians and those no longer taking part in hostilities'. They committed donors to 'Maintain readiness to offer support to the implementation of humanitarian action, including the facilitation of safe humanitarian access'. In the context of Darfur, this would imply a sustained and robust political engagement to pressure the government of Sudan and other parties to the conflict to allow access for humanitarian agencies and remove the existing restrictions.

'Poor performers'

The crisis in Darfur can also be seen as symptomatic of a wider crisis of governance within Sudan and the difficulties that international actors face in protecting basic levels of assistance to vulnerable populations in the face of this crisis. A recent ODI study on 'Aiding poorly performing countries' aims to address the pressing question of how to provide assistance effectively and so protect and support poor people, while also avoiding reinforcing governments whose behaviour actively undermines development and humanitarian goals. The study notes that the politics of international engagement and perceptions of performance continually influence the nature of international assistance.

In the case of Sudan, it is striking that recent international diplomatic and developmental re-engagement has not been driven by a demonstrated commitment on the part of the government to invest, deliver and meet the basic needs of the population. Engagement has been premised primarily on the coming of peace and on reconciliation between north and south. The marginalisation of rebellions such as that in Darfur highlights a tension for the international community, which is both eager to achieve a lasting deal between the SPLA/M and the government, and aware that issues of legitimisation and inclusion are fundamental to whether Sudan breaks out of the cycle of conflict and violence. Already, there are signs that the crisis in Darfur could increase tensions in other parts of Sudan, such as Kordofan and the Red Sea Hills.

The 'poor performers' report concludes that responding to the challenge of supporting and protecting people living in contested or weak states will require the development of new aid instruments and a more politically informed analysis of development performance over time, in which aid and international relations are acknowledged to play a part. The implication for Sudan is that any response to Darfur will require a sustained international commitment that also takes into account the wider crisis of governance that the crisis highlights.

Conclusions

The protection of civilians in Darfur depends on the willingness of the parties to the conflict, particularly the government of Sudan and the militias it supports, to respect international humanitarian law, protect civilians and allow humanitarian access. The key question then becomes: what pressure can be brought to bear on the parties to the conflict to respect international humanitarian

and human rights law?

The Darfur crisis presents in stark form a number of familiar dilemmas around the limits of humanitarian action when civilians are being deliberately targeted by violence.

- Effective political action to resolve the crisis is crucial, but in attempting to reach a political settlement, the needs of civilians in the interim should not be neglected.
- Sustained political engagement and pressure on the parties to the conflict to respect international humanitarian law and allow unrestricted access to humanitarian agencies is vital if humanitarian needs are to be met and to avert the threat of an even greater crisis during the hungry season. Political action to enable immediate humanitarian needs to be met should not be neglected in a focus on the peace process.
- The ability of aid agencies to meet humanitarian needs will depend on their neutrality, independence and impartiality being respected by all sides to the conflict. The need to maintain access may make it difficult for agencies to speak out publicly about the crisis in terms that condemn the position of one or other of the parties. This raises the question of whether neutrality, in this sense, is a condition of access.

Notes

1. International Crisis Group, *Darfur Rising*, p.24
2. Macrae and Leader, *Shifting Sands*, p.64
3. *The Principles and Good Practice of Humanitarian Donorship* (2003), www.utrikes.regeringen.se/inenglish

Key resources

Human Rights Watch (2004), *Darfur in Flames: Atrocities in Western Sudan*
 Amnesty International (2004), *Sudan Darfur: Too Many People Killed for No Reason*
 International Crisis Group (2004), *Darfur Rising: Sudan's New Crisis*

Relevant ODI/HPG publications

Joanna Macrae and Nicholas Leader (2000), 'Shifting Sands: The Search for Coherence Between Political and Humanitarian Action', *HPG Report 8*
 Joanna Macrae et al. (2002), 'Uncertain Power: The Changing Role of Official Donors in Humanitarian Action', *HPG Report 12*
 Joanna Macrae et al. (2004), *Aid to 'Poorly Performing' Countries: A Critical Review of Debates and Issues*, Overseas Development Institute, March 2004

This Briefing Note is not intended to provide a full picture of the humanitarian situation. Weekly updates of the humanitarian situation are provided by the UN and are available on ReliefWeb (www.reliefweb.int).