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Editor's Introduction

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Editor's Introduction

Upon its inception in 2006, *Genocide Studies and Prevention: An International Journal* 1:1 published a special issue entitled "Genocide in Darfur." At that time, the crisis in Darfur had already been the focus of international attention for some three years. That special issue provided an overview of the crisis, the crimes perpetrated against black African women and girls of Darfur by government of Sudan (GoS) troops and the Janjaweed, the legal implications of the US determination that the atrocities in Darfur constituted genocide, a comparative analysis of the atrocities perpetrated in Rwanda in 1994 and Darfur in the early 2000s, and a critical analysis of the US government's Atrocities Documentation Project whose data were used by the US government to make its determination of genocide.

Today, the Darfur crisis is about to enter its seventh year. Rebel groups and GoS troops continue to engage in battle, but just as often rebel groups fight among themselves. Periodic attacks continue to be carried out by the GoS against civilians, which have resulted in the continuance of spasmodic but still relatively massive refugee flows. It is now estimated that over 2.5 million black Africans are internally displaced in Darfur and some 275,000 to 300,000 are refugees in Chad. Girls and women continue to be raped, but not just by Janjaweed and GoS forces but also by members of various rebel groups (in other words, by black African males).

The African Union, which finally came to the realization that it did not have the requisite mandate, manpower, firepower, and resources to handle the mission in Darfur, acquiesced to international pressure and, in conjunction with the United Nations, formed the hybrid United Nations–African Union Mission in Darfur (UNAMID). Unfortunately, UNAMID is now suffering many of the same handicaps faced by its predecessor.

As time has crept by, the GoS has played cat to the international community's mouse. Indicative of this is how the GoS treats and mistreats those agencies providing humanitarian aid, periodically declaring certain groups and individuals *personae non gratae* and kicking them out of Darfur, thus leaving the internally displaced persons (IDPs) to desperately fend for themselves in an already harsh and forbidding climate and situation. Another classic illustration of the cat and mouse game the GoS plays is the fact that it has, more than once, breached the agreement that it would no longer off-load military personnel or material in Darfur. Not only has it breached the agreement but, in the process of doing so, it has also stooped to whitewashing planes and affixing UN insignias to them before flying them into Darfur.

It is little wonder that the situation in Darfur has been described by various actors, including UNAMID personnel, as chaotic and "a conflict of all against all."

Yet, it is also true that the international community's various threats and actions have, in various ways though to an extremely limited extent, pushed the GoS into being somewhat more pliable vis-à-vis certain Darfur-related issues. For example, the GoS allowed the UNAMID force onto Sudanese territory. But, even then, the GoS used brinkmanship and, in the end, significantly limited the ultimate effectiveness of the new force.

It is also true that the number of killings that peaked between 2004 and 2005 has fallen precipitously in the years since. Still, the GoS and the Janjaweed continue to kill black Africans civilians, and many continue to die from unattended injuries, dehydration, malnutrition, and disease.

The exact number of black Africans who have been killed and who have perished due to other causes continues to be a matter of great, and in some ways, maddening debate. By late 2004, various scholars and groups proffered estimates ranging from 180,000 to 400,000. In 2005, though, US Deputy Secretary of State Robert B. Zoellick asserted that the US State Department's estimate of deaths in Darfur was 60,000 to 160,000. While roundly lambasted by many for sorely underestimating the number of Darfurian deaths, he was praised by others for presenting a more "sensible" number. Since then, the numbers cited have ranged from the low 100,000s to the high 500,000s and above.

An example of how the numbers of dead have been bandied about is evident in the way various individuals and organizations mindlessly latched on to a number issued by the World Health Organization (WHO) in 2004. WHO reported that 70,000 had died, and the number was readily accepted by many, without question, as being the "new" total of deaths. In fact, WHO was only referring to deaths that had occurred over a seven-month period and not the entire twenty-six months that the crisis had spanned by that point in time. Furthermore, the 70,000 deaths referred solely to those who died from malnutrition and disease and *not* from violence. Furthermore, the number only referred to the deaths in those areas in the region to which WHO had access.

A constant in the discussion over the crisis in Darfur is whether the actions by the GoS and Janjaweed amount to genocide or crimes against humanity. Following the US Atrocities Documentation Project's investigation into the alleged crimes perpetrated by the GoS and the Janjaweed, the United States government declared, in September 2004, that the GoS and Janjaweed had perpetrated genocide in Darfur in 2003 and 2004. The United States then referred the matter to the United Nations. In late January 2005, following its own investigation—the Commission of Inquiry into Darfur (COI)—the United Nations asserted that what had taken place constituted crimes against humanity but not genocide (though it did leave the door open for a finding of genocide contingent upon more detailed data indicating such). Subsequently, it referred the matter to the International Criminal Court (ICC).

Following an extensive investigation by the ICC, its lead prosecutor Luis Moreno-Campo submitted an application on 14 July 2008 for the issuance of a warrant of arrest for the Sudanese president Omar al-Bashir.

Ultimately, by a majority, the ICC judges found that the materials presented by the prosecutor failed to provide reasonable grounds to indicate that the GoS acted with the specific intention to destroy in whole or in part the Fur, Massaleit, and Zaghawa peoples. Subsequently, the judges issued an indictment charging Sudanese president Omar al-Bashir with five counts of crimes against humanity (murder, extermination, forcible transfer, torture, and rape) and two counts of war crimes (directing attacks on the civilian population and pillaging). One judge, Anita Usacka from Latvia, wrote a dissent, stating that she believed the charge of genocide was accurate.

Moreno-Ocampo filed an appeal in which he asserted that the judges' standard for adding the genocide charge to the warrant was too high, that the judges' desire for him to prove beyond a reasonable doubt that al-Bashir committed genocide was not required for a warrant and only required a reasonable inference of guilt, and that the judges were asking for "a level of evidence that is the level of evidence required at the trial stage, not at the beginning of the process."

Scholars find themselves embroiled in much the same debate, some arguing that it is, at the very least, clear that the GoS committed genocide early in the crisis (2003–2005), while others argue, for various reasons, that while the GoS certainly committed crimes against humanity it did not commit genocide. In doing so, the latter focus largely on what they claim is the lack of intent by the GoS to destroy in whole or in part the Fur, Massaleit, and Zaghawa. Straddling these two poles are those who have deemed the atrocities everything from “an ambiguous genocide” to “genocide-like.”

Early on in the crisis, the media provided extensive coverage of what was taking place in Darfur. Over the past year and a half to two years (2007 through the summer of 2009), though, the coverage has tapered off to a great extent. Indeed, following the Beijing 2008 Summer Olympics, the stream of news about Darfur fell off sharply. Likewise, coverage of the fact that UNAMID continues to struggle mightily in Darfur is slight. All of this is reminiscent of a trenchant observation made many years ago by Milan Kundera in *The Book of Laughter and Forgetting*:

the bloody massacre in Bangladesh quickly covered the memory of the Russian invasion of Czechoslovakia; the assassination of Allende drowned out the groans of Bangladesh; the war in the Sinai desert made people forget Allende; the Cambodian massacre made people forget Sinai; and so on and so forth, until ultimately everyone lets everyone be forgotten.¹

Fortunately, we're not totally at that stage yet vis-à-vis Darfur, but it's also true that other issues and events have pushed it out of the headlines, including but not limited to the wars in Iraq and Afghanistan, worry over the fate of Pakistan, the ongoing bellicosity between the Palestinians and the Israelis, and the recent political turmoil in Iran.

In comparison to the decline in media attention, scholars and activists are focusing ever-increasing attention on Darfur, and over the past several years well over a dozen books have appeared in print about various aspects of the Darfur crisis. Among some of the more notable include *Darfur: A Short History of a Long War* by Julie Flint and Alex De Waal; *War in Darfur and the Search for Peace* edited by Alex De Waal; *Genocide in Darfur: Investigating Atrocities in the Sudan* edited by Samuel Totten and Eric Markusen; *A Long Day's Dying: Critical Moments in the Darfur Genocide* by Eric Reeves; *Darfur: Genocide Before Our Eyes* edited by Joyce Apsel; *Darfur: The Ambiguous Genocide* by Gérard Prunier; *Darfur: A 21st Century Genocide* by Gérard Prunier; *The World and Darfur: International Response to Crimes Against Humanity in Western Darfur* edited by Amanda Grzyb; *Darfur and the Crime of Genocide* by John Hagan and Wenona Rymond-Richmond; *Darfur's Sorrow: A History of Destruction and Genocide* by M.W. Daly; *The Devil Came on Horseback: Bearing Witness to the Genocide in Darfur* by Brian Steidle and Gretchen Steidle Wallace; and *The Translator: A Tribesman's Memoir of Darfur* by Daoud Hari.

Several of the contributors to this special issue of *Genocide Studies and Prevention (GSP)* are some of the most active scholars on Darfur. It is worth noting that whereas the first *GSP* special issue on Darfur provided a roadmap of the crisis, this special issue focuses critical attention on what has transpired in Darfur over the past five years (2004–2009), with a particular focus on the events leading up to and eventuating in the ICC charges against President Omar al-Bashir.

In this special issue's first article, “Darfur: Strategic Victimhood Strikes Again?” Alan J. Kuperman offers a provocative argument regarding various facets of the crisis in Darfur, particularly in relation to the ongoing demand by many for an intervention

in Darfur. More specifically, he asserts that he and a group of select others “contend that the prospect of luring Western intervention to tip the balance of power in their favor is what drives the rebels to fight a war that they cannot win on their own. If not for the prospect of such intervention . . . the rebels long ago would have sued for peace, which the government would have accepted, thereby ending the violence. Thus, . . . Western calls for intervention have backfired, perpetuating fighting in Darfur and the resultant suffering of its civilians.” Kuperman offers a new way of examining the potential seeds and prolongation of the crisis, and raises a host of issues that demand to be analyzed and weighed by diplomats, politicians, and scholars, even if the argument initially puts them off and/or counters their past way of thinking about what has transpired in Darfur.

In “The International Criminal Court, the Security Council, and the Politics of Impunity in Darfur,” Victor Peskin sets out to “highlight the ways in which the ICC and Sudan have and are likely to continue to wage the battle over Sudan’s legal obligation to comply with international prosecutions by handing over suspects and otherwise assisting the pursuit of international justice.” Based on a series of interviews, the author provides readers with an in-depth examination of far-reaching and thorny political and legal issues that are not only germane to the case in Darfur but also likely to impact future ICC cases. In his conclusion, Peskin, in part, cogently argues, “The struggle with Khartoum is not only about fulfilling the Court’s central mission of prosecutions in its most high-profile situation. Also at stake is the ICC’s legitimacy and viability as a permanent court of global justice.”

In the third article, which complements Peskin’s, Alex De Waal and Gregory H. Stanton engage in an exchange of views as to whether the president of Sudan should be charged and arrested by the ICC. In “Should President Omar al-Bashir of Sudan Be Charged and Arrested by the International Criminal Court? An Exchange of Views,” they each raise a host of thought-provoking issues and challenge one another, and the reader, to ruminate long and hard over the value (or, conversely, the danger) of pursuing charges against al-Bashir.

In “A Critical Analysis of the United Nations Commission of Inquiry into Darfur,” Samuel Totten critiques both the UN investigation in Darfur and its finding that crimes against humanity but not genocide had been perpetrated against the black Africans by the GoS and the Janjaweed. Ultimately, Totten asserts that the COI was possibly short-circuited by (1) a biased view of what the findings might lead to before the investigation was even conducted, (2) an investigation that was unsystematic and hastily carried out, and (3) an incorrect analysis of the facts and data collected by the COI.

This special issue is rounded out with reviews of two book on Darfur: Alex De Waal’s *War in Darfur and the Search for Peace*, and Samuel Totten and Eric Markusen’s *Genocide in Darfur: Investigating Atrocities in the Sudan*.

Samuel Totten
GSP Editor

Notes

1. Milan Kundera, *The Book of Laughter and Forgetting* (New York: Viking, 1979), 7.