

Despite a humanitarian ceasefire brokered last year, hostilities and the Janjaweed's scorched earth policy continued. Hundreds of African villages were burned, their residents raped, killed or driven into the desert. Estimates put the death toll somewhere between 180,000 and 400,000, with more than two million people now living in refugee camps in Darfur and neighboring countries.

Despite human rights advocates and humanitarian groups branding these attacks as genocide, a recent United Nations commission of inquiry concluded that the Sudanese government did not pursue a policy of genocide. But the question of genocide continues, with some declaring the United Nations a failure.

From a legal point of view, applying the term genocide to Darfur or any other region is not simple, according to Jamal Jaafary, Senior Research Assistant with the Public International Law and Policy Group in Washington, D.C. He asks, "Have victims been killed? Have they experienced severe bodily and mental harm, that type of thing? Apart from that, you also have to look at what was the intent of the perpetrator. In essence, what the Genocide Convention tries to do is separate cases where there have been accidents or unintentional harm to civilians from cases where intent to harm civilians was very clear and was the purpose of the violence. That's what we're seeing more in Darfur."

Mr. Jaafary, however, notes that the United Nations commission allowed for exceptions not supported by law in order to argue that there was no official policy of pursuing genocide in Darfur.

Eric Reeves, a long-time advocate for Darfur who teaches at Smith College in Massachusetts adds that a finding of genocide would have been a political minefield for the United Nations Security Council. He adds, "I think that a genocide finding would have been too controversial for China and Russia, and perhaps Pakistan. But I also think that this commission of inquiry was very, very attuned to the fact that the African Union has not called this genocide, and that the Arab League is very much opposed to it being called genocide, and that Khartoum, of course, has adamantly denied that it is engaged in genocide. So, one way or another, this determination was going to be made in a political context, unfortunately."

Nonetheless, it is this controversy that led Physicians for Human Rights, which is active in Sudan, to use the term 'unfolding genocide' to describe the situation in Darfur.

Senior Communications Associate John Hefferman explains, "You don't need a genocide declaration to stop the killing. But we felt that you didn't need to make an unassailable case for genocide in a court of law to invoke the vital portion of the Convention that talks about preventing genocide."

Khartoum has repeatedly denied engaging in a policy of genocide, or financing and arming the militias responsible for much of the devastation in Darfur.

If this is the case, analyst Jamal Jaafary argues the Sudanese government should help repatriate Darfur's displaced population.

<http://www.voanews.com/english/NewsAnalysis/2005-06-06-voa43.cfm>