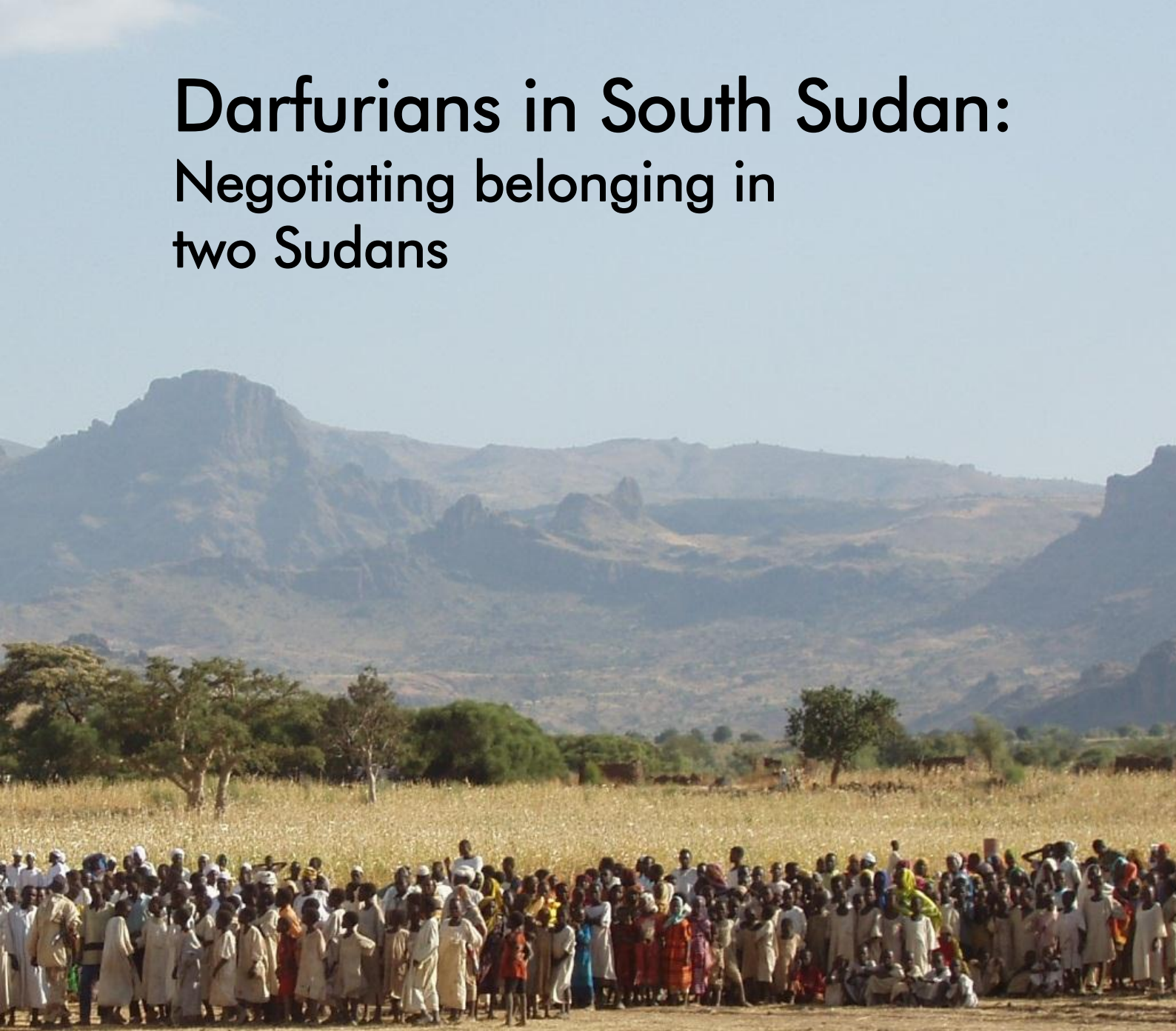
Darfurians in South Sudan:
Negotiating belonging in two Sudans



CITIZENSHIP AND DISPLACEMENT IN THE GREAT LAKES REGION
WORKING PAPER 7

MAY 2012

International Refugee Rights Initiative

Darfur Refugees Association in Uganda

Background to the Paper

This paper was drafted by Dr. Lucy Hovil of the International Refugee Rights Initiative (IRRI), with additional drafting by Deirdre Clancy of IRRI. The field research team was led by a senior researcher who is not identified in order to maintain security and safety. Other members of the team included Joseph Okumu, Dismas Nkunda and David Kigozi of IRRI; Maimona Abdalla Fator, Yagoub Adam Abdelrasoul, Mohammed Issa Ibrahim Shata and Mohamed Ishaq Quscondy and members of the Darfur Refugee Association in Uganda. Deirdre Clancy and Olivia Bueno of IRRI reviewed and edited the text. Dr. Albaqir Aafif Mukhtar and Dr. Munzoul Assal kindly reviewed an earlier draft of the paper. However, the content of the paper remains the responsibility of IRRI. The team would like to express its gratitude to all those in Uganda and South Sudan who participated in the study.

The International Refugee Rights Initiative would like to thank the Open Society Institute for its generous support of this research.

Cover photo: Darfur, 2005, anonymous

Citizenship and Displacement in the Great Lakes Region, Working Paper Series

This paper is the seventh in a series of working papers that forms part of a collaborative project between the International Refugee Rights Initiative, the Social Science Research Council, and civil society and academic partners in the Great Lakes region. The project seeks to gain a deeper understanding of the linkages between conflicts over citizenship and belonging in the Great Lakes region, and forced displacement. It employs social science research under a human rights framework in order to illuminate how identity affects the experience of the displaced before, during and after their displacement. The findings are intended to facilitate the development of regional policies that promote social and political re-integration of forced migrants by reconciling differences between socio-cultural identities and national citizenship rights that perpetuate conflict and social exclusion.

Previous works in this series (available at www.refugee-rights.org):

- "Going Home or Staying Home: Ending Displacement for Burundian Refugees in Tanzania," 2008.
- "Two People Can't Wear the Same Pair of Shoes: Exploring the Challenges of Access to Land and Reintegration in Burundi," 2009.
- "Who Belongs Where? Conflict, Displacement, Land and Identity in North Kivu, Democratic Republic of Congo," 2010.
- "A Dangerous Impasse: Rwandan Refugees in Uganda," 2010.
- Lucy Hovil, "Hoping for peace, afraid of war: the dilemmas of repatriation and belonging on the borders of Uganda and South Sudan,"2010. (A UNHCR Working paper)
- "Shadows of Return: the dilemma of Congolese Refugees in Rwanda," July 2011.

Introduction

This paper is about the construction of citizenship, identities and belonging at a moment of huge political change: the secession of South Sudan from the Republic of Sudan (Sudan or North Sudan) that took place on 9 July 2011. At the heart of this seismic political shift lay decades of abuse by a centralised source of power that was, and still is, profoundly unjust. Since independence from colonialism, the majority of people who were legally defined as "Sudanese" have had little, if any, ability to influence political processes in their country. This political exclusion lay at the root of decades of conflict across many parts of Sudan. All of the conflicts have reflected, at some level, the reality of people living on the peripheries, experiencing a second class form of citizenship, unable to participate meaningfully in the political governance of their country.

The creation of the new state of South Sudan offers both threats and opportunities for the peoples of both Sudans. On the one hand there is considerable optimism that independence has heralded in a new era of equal citizenship for those in the South that will override the tensions and divisions of the old Sudan – and reflect a microcosm of the vision for Sudan that was embedded in the Comprehensive Peace Agreement (CPA). On the other hand, there is a real possibility that this new configuration may simply reinforce the history of exclusion and partisanship that lies at the root of Sudan's fragmentation.

The division of Sudan, therefore, has had a profound impact on *all* Sudanese people, whether those perceived as "southern" who now find themselves stranded and rejected as foreigners in the North, "northerners" who do not identify with a repressive Sudanese government, new South Sudanese citizens returning to a newly configured South Sudan, or those displaced by the multiple and growing conflicts across Darfur and the border regions of South Kordofan and Blue Nile states. Beneath the surface of political change are multiple narratives and stories of individuals and groups who do not necessarily conform to tidy political categories, who find themselves in circumstances in which state-centric articulations of citizenship do not adequately reflect their circumstances, and who simply do not belong.

This paper explores one such narrative: the way in which Darfurians living in the South perceive, and are negotiating, their position within the new political configuration of South Sudan – whether temporarily or permanently. While ascertaining the status of Darfurians in South Sudan might not currently seem a priority in the broader scheme of what is taking place – not least the looming threat of an escalation in the conflict between Sudan and South Sudan – the paper argues, based on 104 interviews with Darfurians displaced from Darfur, that the inclusion of apparently peripheral or marginalised groups lies at the heart of building a new state in the South. By creating an environment that enables people to secure their safety, South Sudan is more likely to encourage an era of peace and reduce the likelihood of a return to conflict both within the country and on its borders. The treatment of the relatively small number of Darfurians in South Sudan, therefore, represents

something significant: by emphasising a state built on inclusion rather than exclusion, the fledgling South will enhance its ability to develop into a robust and sustainable political, economic and social community in which diversity is recognised as an asset rather than a threat, and core principles such as protection and the granting of asylum are upheld.

At the same time, developments in South Sudan can not be disconnected from those in Sudan, where the strong arm of the state is only becoming increasingly oppressive, and where the space for negotiating belonging continues to contract. The need for an inclusive approach to citizenship and residence in South Sudan, therefore, is particularly important in a context in which access to the rights that are supposed to accompany citizenship are being denied to all but a small minority in (North) Sudan. Indeed, with the recent attacks on civilians in Southern Kordofan and Blue Nile, South Sudan's role as a place of respite is only going to become more acute. Consequently, this paper is also about the exclusion that continues to define citizenship in Sudan, not least for Darfurians whose homeland is a zone of increasing conflict.

Background

For millions of Sudanese, the creation of the new state of South Sudan offers enormous opportunity to break with a violent and repressive past – the opportunity to finally attain citizenship that has both substance and meaning. Yet for millions of others, this dramatic political change – and the fundamental re-alignment of the meaning of citizenship in the two states that has gone with it – has meant an increasingly uncertain future.

One group that is emblematic of the effort to find belonging in both a conflict-ridden Sudan and the nascent and fragile state of South Sudan are displaced people from Darfur. Darfur is a region in western Sudan that since 2003 has been the site of a conflict between rebel groups and the government of Sudan, leading to the displacement of millions of Darfurians across the region, including into South Sudan. While previously this movement of Darfurian forced migrants to the south allowed them to stay within the state of their citizenship, secession of that part of the territory has put them across an international border, complicating not only their stay in South Sudan but also their potential to return to Sudan where their access to citizenship may be contracting.

It is this specific group of exiles that forms the focus of the paper, which explores the way in which Darfurians living in South Sudan perceive, and are negotiating, their position within the new two-state political configuration – whether temporarily or permanently. Their stories are one small part of a highly complex process in which issues of belonging and citizenship are being re-negotiated and re-imagined throughout a territory that, until recently, constituted one country. The current and future treatment of this group provides a lens through which to view many of the

challenges, threats and opportunities currently facing the construction of the new South Sudan and the emergence of a reconfigured state in the north.

At the heart of this discussion are questions over the kind of polity that will emerge in South Sudan. As Jok Madut Jok emphasises, the future of South Sudan as a cohesive state can only be built on an inclusive form of citizenship in which all are equal.[1] Indeed, the many challenges facing South Sudan cannot be over stated, not least the danger that South Sudan may replicate the exclusionary and partisan policies out of which it was born. Within this context will Darfurians be excluded as foreigners, or welcomed as ideological, political or ethnic compatriots? Should Darfurians be entitled to the protection of refugee status, viewed as migrants or welcomed as citizens? What role will – or should – refugee protection play in creating a bridge to the reestablishment of effective citizenship in one or other polity? How will citizenship be imagined for Darfurian exiles who wish to settle long term in the South? Will South Sudan continue to emphasise political and social divisions that have created so much violence and destruction, or will it break with the past and build its future on something more robust?

The study considers the extent to which the current political and legal transition in the two Sudans is reflected in Darfurian understandings of belonging, and seeks to understand some of the ways in which Darfurians see themselves within the broader process of political change. How have Darfurian identities been affected by the war in Darfur and the secession of the South? How are identities shifting in the emerging configuration of a South-less Sudan (or a north-less South Sudan)? Where, or to whom, are Darfurians looking for their future security and access to their rights – to the South, to the North, regionally, or potentially to their own eventual secession? And what does their future hold – a future that is being formed in a context of marginalisation, conflict and exile?

These are not easy questions to answer, and reflect the highly complex situation that many Darfurians find themselves in. On the one hand, despite a history of economic and political exclusion, Darfurian communities have traditionally been seen by those in the South as aligned with the political centres of northern Sudan and the ruling elites, enforced by the fact that since independence, the majority of the lower ranks of the Sudanese army were recruited from Darfur. Darfurians as a group, therefore, have been strongly involved in and associated with the Khartoum government in the two decade long war between what became the “North” and “the South”. Whether or not this presumed allegiance will ultimately inhibit the possibility of Darfurians forming new allegiances with South Sudan remains to be seen. Although the Sudan People’s Liberation Army/Movement (SPLA/M) was involved in seeding the birth of the Sudan Liberation Movement/Army (SLM/A – the main opposition movement in Darfur) the SPLM has not been actively involved in efforts for promoting peace in

[1] Jok Madut Jok, “Which way South Sudan? Cultural Diversity and the Fundamentals of Nation-Building.” African Arguments blog, Royal African Studies and Social Science Research Council, 28 March 2011. (found at http://africanarguments.org/2011/03/28/which-way-south-sudan-cultural-diversity-and-the-fundamentals-of-nation-building/)

Darfur: this is not to suggest that it is not concerned about the conflict, but implies an ambivalence, or restraint, in its relationship to Darfur.

At the same time, Darfurians have been profoundly alienated from the central Khartoum government structures – structures that have waged a war against them for the past decade. Their homeland is under the control of a government whose president is wanted by the International Criminal Court (ICC) for serious international crimes including genocide against groups within Darfur. The situation of Darfurians in South Sudan, therefore, cannot be divorced from the way in which they have been rejected (at best) by the government that is supposed to be responsible for their protection. Therefore it is not surprising that many Darfurians have aligned themselves ideologically (and increasingly militarily) with the "freedom fighters" of South Sudan, united against a common enemy.

This paper, therefore, is about the construction of the new state of South Sudan from the specific perspective of a group of people who, at a legal and geographical level, are not automatically and intuitively part of that process. But it also about the wider prospects for this group beyond the immediate question of their current status in South Sudan.

Background to secession: a state built on exclusion

Since seizing power in 1989, the current government in Khartoum has built on a long history of exclusion, and sought to subjugate the country under a narrowly defined Sudanese identity, against which numerous groups have reacted with violence.[2] At multiple levels, Sudan has been, and continues to be, a deeply divided territory in which the majority of people have been alienated from a minority central power source that has fought for control not only political and economic resources, but also deeper social and cultural forms of belonging – the very basis of Sudanese-ness.

Alongside this process of marginalisation between the centre and the peripheries has been the creation of a number of simplistic, and often falsely constructed, binary social categories: geographically (between the "North" and South); ethnically (often described as being between "Arabs" and "Africans"), and along religious lines (Muslims and Christian/non-Muslim).[3] The construction of these binaries has been both the cause and consequence of the numerous configurations of conflict across a country that, as Prunier states, "has never been a nation state."[4] The way in which identities have been constructed, manipulated, and designated either as superior or inferior, has led to chronic instability and heartbreaking violence. As Albaqir Alafif Mukhtar says, "[i]n all these conflicts, perception of identity lies at the heart of the

[2] Ibid.
[3] See Rogaia M. Abusharaf, 1997. "Sudanese migration to the New World: socio-economic characteristics." International Migration, 35(4): 513-536.
[4] Gérard Prunier, "A Comprehensive Assessment of U.S. Policy Toward Sudan." Statement before the United States House of Representatives Committee on Foreign Affairs, Subcommittee on Africa, Global Health and Human Rights. 4 October 2011.

problem. Glossing over the diversity of identities in Sudan constitutes the fundamental problem and defines all the Sudanese conflicts."[5]

These injustices were further catalysed in the secession of South Sudan from the north, a development that cemented, at a political level, some of these differences. Secession was the end result of the longest standing conflict in the country, spanning two civil wars, between the geographical south of the country and the central government in which millions of lives and livelihoods were decimated. The war officially ended with the signing of the Comprehensive Peace Agreement (CPA) by the Government of Sudan and the SPLM/A on 9 January 2005. The CPA provided that after an 'interim period', in which the parties would attempt to make 'unity attractive', 'Southerners' would be given an opportunity to opt for secession. This effort to transform the state as an alternative to schism reflected the vision of Dr John Garang, the then leader of the SPLM/A, who dreamed of a united and democratic "New Sudan". As he said at the signing of the CPA, the deal paved the way for a united and pluralistic Sudan "in which all Sudanese are equally stakeholders". He pledged that his movement would work to preserve Sudan as "a great nation that is voluntarily united in diversity":

> From here on Sudan for the first time will be a country voluntarily united in justice, honour and dignity for all its citizens regardless of their race, regardless of their religion, regardless of their gender or else if the country fails to rise to this challenge of moving away from the old Sudan to the new Sudan of free and equal citizens, then the union shall be dissolved amicably and peacefully through the right of self determination at the end the six years of the interim period.[6]

Ultimately, however, the CPA state failed to deliver on the expectations of its marginalised citizens and one group of them, "southerners" (as defined by the parties who agreed the CPA), voted overwhelmingly at 98.83% to leave. South Sudan declared independence on 9 July 2011.

Unfortunately, the independence of South Sudan has neither resolved conflicts in other parts of Sudan nor ensured inclusive governance in either state. This was due – at least in part – to the fact that the negotiations that led to the CPA were essentially bilateral, between the SPLM (the strongest opposition force with its roots in the South) and the National Congress Party (the ruling party). Other political parties, including those representing marginalised groups in the East and far North, as well as civil society organisations, were for the most part excluded. Although the vision of the peace agreement was one that recognised the need to transform the state as a whole, in practice – and as a result also of the polarising violence and rhetoric of the war – its fulcrum was a narrative of north/south grievance. Ultimately, therefore, it failed to resolve other conflicts in the country. As a result, while independence might have brought about greater political representation for those in the South, and its

[5] Albaqir Alafif Mukhtar, "Beyond Darfur: Identity and Conflict in Sudan." In *Sudan's Killing Fields: Perspectives on Genocide.* Laura N. Beny, Sondra Hale, and Lako Tongun, (eds). University of Michigan Press, forthcoming. Found at http://kacesudan.org/files/6amygttk6f.pdf

[6] Speech by John Garang at the signing of the CPA, 9 January 2005, as recorded by the Sudan Tribune (http://www.sudantribune.com/TEXT-Garang-s-speech-at-the,7476, accessed 3 May 2012)

benefits should by no means be belittled, numerous groups and communities from other parts of Sudan, particularly those that remain in the geographical north of the country (or whose territory is currently being disputed) continue to be marginalised. In addition, numerous tensions between communities, ethnicities and political groupings within South Sudan itself remained unresolved.

Complicating the possibility of real transformation of the state, the signing of the CPA in 2005 was overshadowed by the outbreak of war in Darfur. Massive displacement has been caused since then by the ongoing conflict: millions of Darfurians have had their homes decimated and have become scattered across the region – some internally displaced within Darfur, and others living in exile in neighbouring states. Ultimately, the government that was supposed to protect them has not only failed to do so, but has been responsible for much of their suffering, thus creating a fundamental crisis in their status as citizens in Sudan. Therefore the bond of citizenship – or lack thereof – and the rights and values attached to it, provides a trope for analysing the situation of the group of Darfurians that forms the focus of this study.[7]

Background to the Conflict in Darfur

In order to explore the history of Darfur and its place within the political configuration of Sudan (both pre- and post-secession), it is important to first clarify the language that is used in constructing that history. As mentioned above, binaries have become a tool for describing conflict, as well as a source of manipulation by power elites. At the heart of the conflict in Darfur lies the particularly pernicious and over-exposed "African"/"Arab" binary, creating a dichotomy that is "historically bogus, but disturbingly powerful."[8] This Arab/African binary needs to be treated with extreme caution, and should be understood to reflect a person or group's perception of their own – or someone else's – identity rather than as a fixed form of race or ethnicity. In particular, and as will be explored through the paper, they reflect people's political positioning within the wider national and multi-national context of the two Sudans. Most importantly, these descriptors need to be seen as fluid and constantly shifting.

By way of a caveat, it is worth stressing that although this paper tries to tease apart some of the dynamics surrounding these descriptors, it cannot pretend to do justice to the highly complex reality of identity among Darfurians specifically and Sudanese more generally. At the same time it is also somewhat impossible to avoid using these categoric terminologies, not least as they were commonly deployed by those who

[7] It is also important to note that, while acknowledging the significance of *national* citizenship, the analysis retains a broader perspective: the findings are analysed within a framework that also recognises the importance for individuals and groups to forge appropriate linkages at a *local* level (though being recognised and accepted within the specific locality in which they are living). Both forms of belonging – and the spectrum between – provide the basis on which people are able not only to access their basic rights, but to also feel a legitimate sense of belonging. Local and national inclusion, we argue, is vital for people's ability to live in freedom from fear and want.

[8] Alex De Waal, "Who are the Darfurians? Arab and African identities, violence and external engagement." *African Affairs*, 104 (415), 181 – 205, p. 197.

were interviewed for the study. Suffice to say, where identity labels are used, they are used as a description rather than an explanation.

The concept of an exclusive "Darfurian" identity also needs to be treated with caution. Fixed and rigid interpretations of identity are rarely accurate or helpful. Indeed, Darfurians have formed multiple allegiances and experienced a range of understandings of belonging: they also reflect a wide range of ethnic, racial, livelihood, language and political identities. While war and exile often reinforce or create strong perceptions of a group identity, therefore, the existence of a fixed and monolithic Darfurian identity must not be presumed. The brief historical overview of Darfur, as well as the analysis that follows, uses these terms in the context of this caveat.

Darfur, which is comprised of multiple ethnic and cultural groups, functioned as an independent Fur Sultanate for centuries. Its existence as a succinct political unit lies at the heart of the strong sense of Darfurian-ness that has endured to this day. It lost its autonomy when it was incorporated into Sudan (then under British colonial rule) in 1916.[9] Sudan gained independence in 1956, but the next decades were marked by internal and external conflicts with groups throughout the country feeling marginalised from the newly independent central state. Geopolitical dynamics included the founding in 1966 of the Chadian opposition *Front de Libération Nationale du Tchad* (FROLINAT)[10] in Darfur, and the smuggling of weapons to Chadian opposition groups by Colonel Qadhafi as part of his quest to create an Arab belt into central Africa. In the 1970s, Qadhafi sought to establish a base of operations in Darfur and arm Chadian opposition groups and the Islamic Legion – a "pan-Arab" army – there. As a result, armed arabised supremacist groups numbering in the thousands came to exist in Darfur. After President Nimeiri of Sudan was overthrown in 1985, Qadhafi convinced the successor government to ignore this incursion and use of Darfur in exchange for weapons from Libya[11] – thus enhancing notions of Arab supremacy in this period.

Militarisation of Darfur increased in 1986 when the government adopted a "militia strategy" in relation to the civil war with the SPLA whereby it armed and supported Baggara (arabised) groups in South Darfur for the purpose of raiding, pillaging, and massacring populations of Dinka and Nuba (ethnic groups from the front line areas) suspected of sympathising with the SPLA. This was the first arming of the al-Muraheleen,[12] which later led to the arming of the *Janjawiid*.[13] Numerous massacres occurred in this period, the most notable of which was the Al-Du'ayn massacre of

[9] Darfur's then ruler, Sultan Ali Dinar had sided with the Ottoman Empire during WWI and, as a result, the British deposed the Sultan and conquered Darfur, absorbing it into the British Empire by 1917. (Flint and de Waal, p. 11-12)

[10] FROLINAT was an insurgent rebel group that was active in Chad between 1966 and 1993.

[11] Flint and de Waal, pp. 23; 50 – 51

[12] Al-Muraheleen was the militia operating in South Darfur and South Kordofan, drawn primarily from Baggara cattle breeders. They are the ones believed to have committed the al-Du'ayn massacre in 1987.

[13] The Janjawiid is the name of the militia who operated in North and West Darfur, drawn primarily from camel breeders of North Darfur.

April 1987 when a government-sponsored militia shot and burned over one thousand displaced Dinka in a village in southern Darfur.[14]

This arming of "Arab"[15] groups in Darfur sparked an Arab-Fur conflict in 1987. The Arabs, supported by the Sudanese and Libyan governments, fought against the Fur – the largest "indigenous" ethnic group within Darfur – who received some support from the pro-African (or anti-Arab) Chadian government of President Hissene Habre. Thousands were killed in the conflict, and hundreds of villages were burned. In 1989, a peace agreement was reached, calling for restitution, mutual disarmament, deportation of Chadians, and many other measures regarding pasture, water, land rights, and the return of displaced persons. However, the agreement was never implemented.[16]

In 1989, Al Bashir, the current President of Sudan, took power in Khartoum in a coup that displaced the democratically elected government of Saddiq Al Mahadi. His regime exacerbated tensions in Darfur by strengthening ties with Libya.[17] Meanwhile the war between the central government and South Sudan began to spill over into Darfur: in 1991, a small group of SPLA troops entered Darfur with the intent of sparking a rebellion there. Their presence was reported to the Sudanese government, and they were captured.

In 1994, Darfur was divided into three states as part of the colonial administration's policy of using "Native Administration" or indirect rule as a means of control. This division substantially diminished the influence of the Fur who went from being the largest population in Darfur to a minority in all three new Darfurian states. Furthermore, the Native Administration system was reintroduced in such a way as to ensure that "Arab" groups dominated the regional governments of Darfur. The granting of political power formerly held by "African" groups to those who were seen as "Arabs" created significant tensions within Darfur,[18] and conflict proliferated.

It was against this background that the current phase of conflict in Darfur started in 2003, when the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) took up arms against the government leading to a vicious counteroffensive by the *Janjawiid*, the militia drawn primarily from camel breeders of North Darfur who operated in North and West Darfur. Formed into a full paramilitary wing with communications equipment, arms, artillery, military advisors, and air support from the Sudanese government, joint operations of the *Janjawiid* with the government's Popular Defence Forces (PDF) made it difficult to distinguish between the two organisations. With the government strategy based on destroying local support for the rebels *Janjawiid* focused less on engaging its enemy militarily

[14] See Mansour Khalid, *War and Peace in Sudan: A tale of two countries*, Dar el-Turath, Cairo, 2003, p. 412.
[15] As discussed above, the use of the word Arab – as well as "African" – is used with extreme caution.
[16] Flint and de Waal, p. 56
[17] Ibid
[18] See, for example, Amir Idris, "Understanding the Genocide Politically: the case of Darfur." Sudan Tribune, Comment and Analysis, 10 September 2005, found at http://www.sudantribune.com/Understanding-the-Genocide,11564

than attacking and pillaging villages and killing civilians; typically, the *Janjawiid* enjoyed air support from the government during such raids.[19]

A number of strategies have been undertaken locally, nationally and internationally to end the war in Darfur.[20] The most recent attempt to broker a negotiated political resolution to the war was the Doha peace process, which concluded in July 2011. None of these agreements have really offered a solution to the conflict, marred by a lack of genuine commitment to peace on the part of the government of Sudan, the lack of inclusive representation of different factions within Darfur – and indeed its citizens – and a general delinking from the wider process of reform which is so desperately needed in Sudan as a whole.[21] As the African Union High Level Panel on Darfur (Mbeki Report) determined in 2009, "the current grave situation in Darfur is a manifestation of the broader political challenges facing Sudan as a whole." Indeed, during the research many of the Sudanese interlocutors spoke of "the Sudan crisis in Darfur," arguing against the formulation "the Darfur crisis in Sudan."[22]

In September 2004, US Secretary of State Colin Powell declared the government's actions in Darfur to be genocide and the UN Security Council set up an Independent Commission of Inquiry into Darfur (ICID).[23] The ICID, which published its report in January 2005 detailing the patterns of abuse in Darfur and, found that the "Government of the Sudan and the *Janjawiid* are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law."[24] Following the ICID's recommendations, the UN Security Council referred the Darfur situation to the ICC in March 2005 and, two years later, the ICC issued arrest warrants against Ahmad Haroun and Ali Kushayb;[25] and against Sudan's president al-Bashir in March 2009 on counts of crimes against humanity and war crimes. The crime of genocide was later added to the charge sheet.

Charges were also laid against three rebel leaders for attacks on a peacekeeping base at Haskanita: they voluntarily surrendered to the Court and one trial (involving

[19] See "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General Pursuant to Security Council Resolution 1564", 18 September 2004, Geneva, 25 January 2005, p. 31.

[20] In April 2004 talks between the government, the SLA and JEM agreed on a ceasefire and disarmament of the Janjawiid. The Darfur Peace Agreement between Khartoum and SLA leader, Minni Arko Minnawi, was signed in Abuja in 2006. Other parties later came on board. However, lack of commitment, particularly on the side of government, meant that the *Janjawiid* were not disarmed and, instead, continued their assaults against civilians, and new waves of violence and displacement subsequently occurred as rebel groups splintered into different factions.

[21] The Doha Document for Peace in Darfur (DDPD) was effectively a bilateral agreement between the GoS and the Liberation and Justice Movement, a loose coalition of Darfur insurgent movements with minimal military and political presence in the region. (Darfur Relief and Documentation Centre, "Analysis of the Doha Peace Process." Geneva, September 2011.)

[22] See "Recommendations of the AU Panel on Darfur", African Union Panel on Darfur chaired by Thabo Mbeki, October 2009.

[23] "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General pursuant to Security Council resolution 1564 of 18 September 2004." 25 January 2005, at para. 573; UNSC Resolution 1593 (31 March 2005)

[24] Ibid.

[25] See *The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")*, Warrant of Arrest for Ahmad Harun, ICC-02/05-01/07-2, 27 April 2007 and Warrant of Arrest for Ali Kushayb, ICC-02/05-01/07-3, 27 April 2007.

two leaders) is now ongoing. In 2012 the Minister for Defence Abdelrahmeen Muhamed Hussein was charged with war crimes and crimes against humanity.[26] To date, the government of has refused to cooperate with the ICC on the enforcement of the arrest warrants. Other governments in the region and the African Union have also objected to, and refused to comply with, the arrest warrant against President Al Bashir.

The international response to the situation in Darfur was also complicated by efforts to bring an end to the north-south axis of the conflict and implement the CPA. As Prunier states, "The CPA was designed as if the only violent contradiction existing in the Sudan was that between a supposedly homogenous Muslim North and a similarly homogenous Christian South."[27] Of course, this was not entirely true: although the CPA certainly focused on addressing North/South animosity, it did integrate a democratic reform programme that reflected a holistic and *national* understanding of conflict in Sudan. The frailty of this wider agenda for change, however, was demonstrated just six months later when the SPLM leader, John Garang was killed and power within the SPLM shifted to those inclined to secession. Although now nominally part of the central government, the SPLM was unable to prevent the havoc that continued to be wrecked in Darfur,[28] with their focus intent on ensuring a smooth transition to a new southern state. Just as independence was declared however attacks by the central government on what is now being termed "the new south" commenced, with the outbreak of conflict in Abeyi, Southern Kordofan and Blue Nile. It is clear that the compartmentalised approach to peace is not working: the same disease of exclusion is replicating itself in new sites just as the old locus has been calmed. In April 2012, as this report was being finalised, the two Sudans were on the brink of war.

The Situation for Darfurians in South Sudan: IDPs, refugees, migrants or citizens?

The migration of people between South Sudan and Darfur, which share a border to the north west of South Sudan and the south of Darfur, has taken place for centuries, notably during the 1880s when the Sultan of Darfur, Ali Dinnar, attempted to spread Islam further south in competition with the Catholic missionaries in South Sudan. Darfurians who moved to the South at this time were mostly either Islamic teachers, mainly from Fur and Masalit groups, or merchants who were predominantly Zaghawa involved in ivory trade between South Sudan and Europe via Libya. By the time of Sudan's independence, thousands of Darfurians (along with other

[26] For more information on status of proceedings in these cases see http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0205/.
[27] Prunier, 2011.
[28] 2010 saw a threefold increase in fatalities from 2009. OCHA, Key facts and figures for Sudan with a focus on Darfur, June 2011. As the Sudan Democracy First group recently stated, "Despite statements that there is a decline in the scale of violence, civilians are still shot inside their homes and randomly in the streets and markets, and robbery and rape of women are becoming an everyday reality. Darfur is moving towards a Somalia scenario..." Sudan Democracy First Group, Weekly Briefing 3, 31 October 2011. (http://democracygroup.blogspot.com).

Northerners more generally) were found in South Sudan, mainly involved in petty trade.

Third generation families originally from Darfur are now living in the Southern towns of Raja, Wau, Awil and have more recently also settled in Juba. They earn their livelihoods mainly from working as small merchants in the markets and shops in urban areas. Some are religious leaders in mosques, others are technical workers in the building sector or mechanics in the industrial areas and a few are employees of international organisations.

In addition to these patterns of migration, since fighting broke out in Darfur in 2003 an estimated 3 million Darfurians – almost half the population of Darfur – have been forcibly displaced from their homes, many more than once.[29] Between 1.9 million and 2.7 million Darfurians have been internally displaced – the majority within Darfur – and an additional estimated 250,000 refugees living in camps in Chad.[30] A relatively small, but unknown, number of Darfurians fled to Uganda. Uganda, which hosted up to 200,000 Sudanese registered refugees during the height of the North-South war, continued to host approximately 16,500 Sudanese refugees as of January 2011. However, it is unclear how many of these refugees are from Darfur as opposed to South Sudan or elsewhere.[31] It is likewise unknown how many Darfurians have fled to South Sudan itself, where internally displaced persons (IDP) numbers as a whole peaked in 2008.

Massive displacement, often of particular ethnic groups, has been a deliberate strategy of the war. The result has been a tremendous shift in the life and livelihoods of a large segment of Darfur's population, including from a predominately rural to an urban base. The prospects of sustainable return, however, continue to be hampered by continued insecurity.[32]

The question of return is politically fraught in the context of Darfur, with both the government of Sudan and armed militias having a strong agenda in influencing the decision-making process. The government of Sudan, with support from the United Nations/African Union Mission in Darfur (UNAMID) and bilateral donors, are encouraging the dismantling of internally displaced persons (IDP) camps: the policy document released by the government of Sudan in September 2010 focused on this highly controversial strategy with allegations of use of violence and destruction of settlements as a tactic of implementation. In January 2011, for example, it was reported that an attack on Zam Zam camp by Government armed forces resulted in

[29] Internal Displacement Monitoring Centre, 2009. "Sudan: 4.9 million IDPs across Sudan face ongoing turmoil." http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/A5170810EB2A7213C12575C300342A91/$file/Sudan_Overview_May09.pdf.

[30] Internal Displacement Monitoring Centre, 2010, Sudan. http://www.internal-displacement.org/countries/sudan.

[31] UNHCR, 2011. "UNHCR country operations profile – Uganda." http://www.unhcr.org/pages/49e483c06.html.

[32] IDMC, 2009.

the deaths and torture of IDPs and massive looting and destruction of property.[33] On the other hand, return is actively discouraged by a number of rebel groups: in addition to a highly precarious security situation, these groups appear to be interested in maintaining visible evidence of the suffering in Darfur, as well as working to ensure that return occurs only in the context of a peace agreement which they support.[34]

Return is also hampered by the lack of resolution of root causes of conflict and the deep underlying tensions that have been both cause and consequence of the war. In particular, conflict and subsequent displacement in Darfur have inevitably altered the relationship between the state and many of Darfur's populations. The destruction of villages, coupled with resettlement by other groups – including allegedly by some from outside Sudan – are contributing to the construction and radicalisation of "Arab"/"African"/"outsider" identities and deeply complicating the prospects for future stability.

Even Khartoum-based Darfur communities, assimilated in many ways to life at the centre, have been forced to re-examine their identity in the light of the impact of a massive programme of repression and detentions aimed at their community since the start of the conflict, exacerbated during the government's response to the 10 May 2008 attack by the Justice and Equality Movement (JEM) on Omdurman.[35] The conflict has deepened a profound sense of exclusion.

Not only has Darfur as a whole been marginalised, therefore, but Darfurian identities have become highly fragmented as a result of ongoing conflict and political marginalisation. As Assal says, while the scenario of the crisis in Darfur is not unfamiliar in a post-colonial African context, the scale of the crisis is huge,

> due to protracted instability, endemic proclivity for destructive power struggles among politicians, and lethargic Darfurian political elite that has historically allied with Khartoum. The manner in which Khartoum has reacted to the problem has indeed been one of the aggravating factors. Inaccurate characterisation of the crisis, tampering with the complex ethnic makeup of Darfur, and the use of excessive force are the main features of Khartoum's reaction.[36]

At the same time, armed groups within Darfur have also been accused of committing atrocities and exacerbating violence amongst civilians, including through manipulating ethnic allegiances.[37]

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[33] IDMC, 2009. See also "Message from Internally Displaced Persons (IDPs) in North Darfur to the international humanitarian bodies", Women's Initiative for Gender Justice (http://www.iccwomen.org/documents/Message-from-the-IDPs-of-North-Darfur_FINAL.pdf).

[34] ODI, 2008.

[35] See Human Rights Watch, "Crackdown in Khartoum." June 17 2008. (http://www.hrw.org/reports/2008/06/16/crackdown-khartoum, accessed 7 May 2012).

[36] Manzoul A. M. Assal, "Preface," *Darfur: An Annotated Bibliography of Social Research on Darfur.* University of Bergen, Norway, 2005.

[37] See, for example, Munzoul Assal, "Locating responsibilities: National and International Responses to the Crisis in Darfur." In Salah Hassan and Carina Ray (eds), *Darfur and the Crisis of Governance: A Critical Reader*. Cornell University Press, 2009. See also David Black and Paul Williams (eds), *The politics of international mass atrocities: the case of Darfur*. London: Routledge, 2010.

The South Sudan context

Meanwhile, South Sudan is, itself, recovering from decades of civil war. Given the chronic and intractable situation in Darfur which continues to force many to remain in exile, what are the prospects for Darfurians in South Sudan post-independence? Is South Sudan a place of sanctuary where they can feel entitled to remain either indefinitely or until such time as they can return to Darfur? Are they entitled to South Sudanese citizenship on the basis of their Sudanese nationality, their period of residence, their racial/ethnic background, their political history and allegiances or are they foreigners? Are they now refugees rather than IDPs? And if so, what are the implications for their protection?

The context in which these questions need to be asked is one in which the multiple demands on the South Sudan government to provide for those who find themselves within its borders cannot be exaggerated. In addition to setting up a new state and implementing a process of recovery from decades of conflict and neglect, the country is also in the midst of a massive returns process, with extraordinary resource requirements, most of which are not being met.[38] Furthermore, the outbreak of a new (or reignited) conflict in South Kordofan and Blue Nile states (in Sudan) has created a new wave of displacement to South Sudan. Renewed interstate aggression between the two states has also resulted in additional internal displacement in Unity state in South Sudan due to aerial bombardments by Sudan.[39] In light of these new crises, which threaten the very integrity of the state as a whole, it is understandable that questions surrounding the status of Darfurians in the South are not viewed as a priority.[40]

Methodology

The paper is based primarily on field research that took place in two locations and in two phases. The first phase took place in May and June 2011, a few weeks prior to independence, and was conducted in South Sudan and Kampala, Uganda. In South Sudan, the intention was to conduct research in two locations, Juba and Wau, chosen for their significant Darfurian populations. Interviews in Kampala were intended to supplement these interviews by providing additional perspectives on the prospects for Darfurians post-secession.

The research team that travelled to South Sudan consisted of two men and a woman, from different ethnic groups within Darfur. The team began their fieldwork in Juba, the capital of South Sudan, a city that has grown rapidly over the past few years, with significant numbers of migrants from all over the region. The research in Juba proceeded relatively smoothly, although the considerable presence of army and police on the streets meant that interviews generally took place indoors. Only

[38] Interview with SSRRC, Juba, 6 October 2011.
[39] See UNOCHA, "South Sudan Humanitarian Update, Jan- April 2012." (http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_3978.pdf)
[40] Interview with UNHCR protection officer, Juba, 4 October 2011.

individual interviews were conducted: although the team had intended to conduct some focus group discussions, they were advised by Darfurians living in the area that it would be unwise to do so as it might attract attention and be misunderstood as a politically-focused meeting.

The team then travelled from Juba to Wau. However, they were only able to complete two interviews before being stopped by the South Sudan security forces. They had their laptops and passports taken away from them and were required to stay at their hotel pending investigations. At the time of the research, the moment for secession on 1 July was approaching and South Sudanese security was on considerable alert, concerned that something might occur to prevent a smooth transition. There seemed to be a suspicion that the researchers may have been sent by the government in Khartoum to spy on activities in Wau. After six days, the team was allowed to go on their way freely and they immediately returned to Juba to complete the research. Although this prevented interviews taking place in Wau, which would have allowed for a greater geographical spread in the research, the experience itself is revealing: it points to the suspicion that surrounds Darfurians in general and shows the potential vulnerability of their status in the South.

Meanwhile interviews were carried out in Kampala with Darfurians who had either been living in South Sudan, or who had relatives living there. The research in Kampala took place throughout the city between 18 May and 24 June, and was conducted by a team comprised of a Ugandan lead researcher, two Darfurian refugees based in Kampala, and IRRI staff members. As the Darfurian community in Kampala is relatively small, care was taken to ensure that a cross-section of individuals was interviewed, including both men and women, those with different ethnic identities and those who lived in different areas within the city.

Although the Kampala phase of the research was intended primarily to augment the findings in South Sudan, the problems the team encountered in Wau meant that the balance of interviews shifted: out of a total of 71 interviews conducted during this phase of the research with 78 Darfurians living in both locations, 34 interviews took place in South Sudan and 37 in Kampala. Although it would have been preferable to have a greater number of interviews with those currently living in South Sudan, it is important to bear in mind that Darfurians living in Kampala tend to be a highly mobile population, and all had experience of and/or informed views on the situation in South Sudan.

The second phase of research took place in Juba in October 2011, *after* South Sudan's independence, and was conducted by the lead researcher who had previously gone to Juba, and a senior IRRI staff member. During this second phase, follow-up interviews were conducted with 16 Darfurians living in Juba, five of whom had been interviewed during the first phase of the research. In addition, ten interviews were conducted with government, UN and NGO officials based in Juba.

In total, therefore, 104 interviews were conducted throughout the research. With the exception of the official interviews, the vast majority of those interviewed were

young men between the ages of 25 and 30, reflecting the demographic of the Darfurian refugee population in Kampala as a whole and, to a lesser extent, South Sudan. The pattern of displacement has been such that many women and children have remained in IDP camps in Darfur or across the border in Chad, unable to make the journey further afield, while men have fled on their own. Most of those interviewed were from South Darfur, and almost all spoke Arabic and either Fur or Zaghawa. Of the 78 people interviewed in the first phase of the research, eight were senior leaders of Darfurian rebel groups in exile: four in Kampala and four in Juba. Interviews took place in Arabic and were translated at the point of transcription.

Our findings are by no means exhaustive of the multiple perceptions and permutations that no doubt exist among different groups of Darfurians, whether living in Darfur, South Sudan or further afield. However, the interviews point to some of the salient issues facing those who are confronting a future that is profoundly precarious, and allow us to make a number of recommendations regarding the need for greater clarity over the legal and policy framework governing citizenship in the two Sudans.

Findings

The following presentation of the research findings explores Darfurian exiles' understandings of the conflict in Darfur; their views on the political changes marked by secession of South Sudan; their ideas regarding their own position in the new political configuration; and the way in which they are expressing notions of belonging within this context, in particular through changing political alignments at this time of transition.

A war rooted in marginalisation

Not surprisingly, the ongoing conflict in Darfur was – and continues to be – the defining feature of people's lives, creating a situation of protracted displacement and uncertainty for millions. The impact on the civilian population is hard to exaggerate, and every person interviewed told excruciatingly sad stories of exile, brutality, families being separated, and of a war that has seen a bewildering spectrum of abuse from the aerial bombardment and burning of entire villages to individual torture.

One woman described how she was chased from her village in Darfur by the *Janjawiid*, then the IDP camp to which she had fled was bombed as well. Her husband was killed in the first attack and she fled with her six children, one of whom is chronically sick as a result of being tortured by government forces.[41] Clearly traumatised, she described the war as being like "losing your soul".[42] Another interviewee recounted how her village was attacked by *Janjawiid,* forcing her to flee:

[41] Interview with Darfurian refugee woman, Kampala, 24 May 2011.
[42] Interview with Darfurian refugee woman, Kampala, 24 May 2011.

> as we ran away, soldiers killed my brothers and my father-in-law was shot in the legs. From there we had no means to move far and as we continued we got near another barracks where my mother-in-law was shot at and killed. By then I was alone and fled to another village. The village had been completely destroyed but I met some women and we fled together climbing over the hills.

She eventually made it to Wau in what is now South Sudan.[43]

The war remains unresolved. One man, who was forced to flee on his own, talked of how he worries every day about his family's safety in the IDP camps in Darfur.[44] Indeed, the trend of young men fleeing further afield and leaving the rest of their family behind in Darfur was common throughout the interviews, as demonstrated by the fact that a disproportionate number of those in exile in both Kampala and South Sudan are young men. As we were told, many women and girls are not able to join them because they are unable to make the journey.

All of those interviewed stressed the extent to which the war is deeply rooted in the imbalance of power relations between central power-holders and Darfurians. The many injustices associated with political marginalisation have led to – or been exacerbated by – economic, social and cultural marginalisation. As one man in Juba said:

> The reason for war in Darfur is because of greedy people in the government since the British left. This led to an absence of development and marginalising certain places like Darfur. Therefore the people in those places started asking for improvement, but the central government did not respond to their requests from the beginning and instead they declared war.[45]

Specifically, many saw the war as having a strong ethnic, or in some cases racial, profile – a war that is deliberately against Sudan's "African" population. As a refugee in Kampala said, the war started because "the constitution does not favour black people. It is not democratic, hence marginalisation of black people resulting in lack of education... So when people from Darfur sent representatives to government to demand for services, government responded by calling them rebels and then Darfur was attacked."[46] Divisions along ethnic lines were seen to be exacerbated by the way in which the government used proxies to attack those in Darfur: "They imported *Janjawiid* from neighbouring countries like Niger and Mali, and also those local Arabs. The war in Darfur is not simply a tribal conflict, but it's clearly ethnic cleansing against blacks and they started saying that we got rid of Southerners, now it's your turn."[47]

The war, therefore, has reinforced one of Sudan's many binaries, drawing upon tensions between "Arab" and "African" Darfurians. In this particular narrative, rebels

[43] Interview with Darfurian refugee woman, Kampala, 25 May 2011.
[44] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[45] Interview with Darfurian man, Juba, DATE? M2
[46] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[47] Interview with Darfurian refugee man, Kampala, 21 May 2011

are "black people like SLA, JEM",[48] while the *Janjawiid* "are also Darfurians, but they are fighting for the Khartoum government. They are a constituted by members of nomadic or arabised tribes, especially Reizigat and the Maharia."[49] The war has reinforced a particular logic regarding who does and does not legitimately belong in Darfur, as explored in greater depth below.

Specifically, from the perspective of those interviewed, the invasion of these "outsiders" was interpreted as a ploy for them to gain land in Darfur: "The *Janjawiid* were not even Darfurians but were looking for properties and land so when the Darfurians started to make their demands, they then got an ally in government and began fighting the Darfurians."[50] "Everyone knows this land [in Darfur] is ours."[51] As another man said, the war happened because "the Arabs want to take over the land of the black people."[52] These comments should be understood in a context in which many arabised groups in Darfur were traditionally nomadic and therefore most did not own land. However, as desertification and pressure on the land has increased, struggles over land use have inevitably increased and becoming highly potent. The addition of government forces into the mix, therefore, was interpreted as a form of colonisation by an external Arab minority to eradicate or subjugate the population of Darfur. It has also solidified some highly problematic binaries that are not only inaccurate, but dangerous in their potential divisiveness, as explored in greater detail below.

As a result of these deeply embedded divisions and injustices, there was little optimism about a possible peaceful resolution to the war due to the fact that "the government is not serious about stopping the war in Darfur."[53] As a rebel leader in Kampala said, "We have participated in Libya. Also in Doha with the idea to unify movements for peace. But we found it was useless to talk about peace. These peace negotiations will not work because the government is not serious."[54] There was a strong view, therefore, that the government remains fundamentally uncommitted to resolving the war which, in turn, was translated into a realisation that sustainable return to Darfur was currently not seen as an option.

An additional factor that was seen to be preventing resolution of the conflict in Darfur was the fragmentation of Darfurian resistance. As one rebel leader described it, "there are three types of Darfur movements. The first is the cartoon movement that has no existence in the field, the second one is only fiddling on the internet, and the third one is the real revolutionary movement with concrete principles. But they do not work together."[55] Although the biases in this statement hardly merit comment, it shows the extent to which a solution to the war continues to be hampered by a lack of unity. As another man said, "To stop the war, firstly the Darfur

[48] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[49] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[50] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[51] Interview with Darfurian refugee woman, Kampala, 24 May 2011.
[52] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[53] Interview with Darfurian man, Juba, October 2011.
[54] Group interview with three rebel leaders, Kampala, 23 June 2011.
[55] Interview with Darfurian man, Juba, October 2011

rebel groups should unify regardless of tribe and ethnicity, because the government policy was to split the Darfurians. We must sit together as Darfurians to resolve the root causes of our disputes, and we should give concessions from our side to end the split based on our values."[56]

In the second phase of the research, the bleak prospects for resolving the war in Darfur were further reinforced by the outbreak of war in the Nuba mountains and Blue Nile region, which were seen to be "for the same reasons as the war in Darfur."[57] As interviewees said, "The government is the creator of the wars in Darfur, Abyei, Nuba mountains and Blue Nile. The characteristics of all these wars as the same – even the one in the South before. The Arabs in central government want to control the resources and power in the country."[58] "The wars in South Kordofan and South Blue Nile are the same symptom as the war in the South and Darfur. We are all from the marginalised areas of Sudan."[59] Others distinguished various sources of conflict: "In Abyei the fighting is over petroleum resources; in the Nuba mountains it is about gaining power and securing the border with the South; and in Blue Nile it was about eliminating the SPLA from the North."[60] However, as the same interviewee then went on to say, "But all of these wars have resulted in the same: the killing of innocent people and displacement. If the [Khartoum] government was wise it would stop these wars, but they are fearful of change."[61] Therefore the pattern of aerial bombardment and eradication that characterise the latest attacks, particularly in the Nuba mountains, was seen as reinforcing the extent to which the Khartoum government is prepared to use violence against its own people. Prospects for resolution, therefore, remain as bleak as ever.

The referendum and independence: Darfurian perspectives

Given the protracted nature of this conflict, and the reality that return to Darfur is not seen as viable for the foreseeable future, where does this leave Darfurians who fled to the south of their country, and now find themselves in a new state?

There was widespread support among Darfurians for the South's independence, acknowledging that the people of the South had achieved a great victory in ridding themselves of the Khartoum government. They strongly identified with the abuses suffered at the hands of the northern government and saw themselves as fellow freedom-fighters: "I am very proud of them for getting their independence."[62] As one woman said prior to independence: "When South Sudan becomes independent it means our brothers have land and it means that Darfurians will join them because they are our brothers, they are black like us."[63] Although many talked of how they would have preferred a solution that kept Sudan intact, there was a strong

[56] Interview with Darfurian man, Juba, October 2011.
[57] Interview with Darfurian man, Juba, October 2011.
[58] Interview with Darfurian man, Juba, October 2011.
[59] Interview with Darfurian man, Juba, October 2011.
[60] Interview with Darfurian man, Juba, October 2011.
[61] Ibid.
[62] Interview with Darfurian man, Juba, 29 May 2011.
[63] Interview with Darfurian refugee woman, Kampala, 24 May 2011.

realisation that this had been untenable. One man talked of how it was because "Bashir's government is so bad" that South Sudan had to separate: "there is no way to trust Khartoum which only favours Arabs."[64] For some, the South's independence was also seen positively as something of a prelude to Darfur's liberation, or even future independence: As one of the rebel leaders said, "we believe that the new South Sudan government ... will help us and might give us, as Darfurian people, a chance to stay there until we solve all our problems in Darfur."[65] A refugee man in Kampala went further: "I think the independence of South Sudan will encourage us Darfurians to seriously look for our independence."[66]

At the same time, some retained hope that Sudan would one day re-unite. As one man said, "Now the rebels in Darfur are starting to unify, which is what Garang did successfully in South Sudan that led to their independence. We can learn from South Sudan and then together [Darfur and South Sudan] we can fight Khartoum. And if we win, South Sudan and North Sudan can reunify as a 'new Sudan'"[67] This sentiment expresses the hope that the government of South Sudan may somehow unite with the Darfurian opposition against the government in Khartoum. For the most part, however, the hope that southern leadership could create national change has dwindled as the new state has come into being. As one of the rebel leaders said, "It was very harmful for us as political leaders for South Sudan to secede. We were calling for a united Sudan. The Southern Sudanese were forced into secession, but it is not what they want. We carry the common values among all Sudanese, and we would have loved to have maintained that. South Sudan was forced to act because of the [Khartoum] government."[68]

Therefore, while seen as positive for the people of the South, there was acknowledgement by some that secession not only failed to benefit Darfur, but has made their situation worse – or at least more uncertain: "After the referendum people in the Northern part will be made to suffer a lot especially the groups that have been fighting the government. All the weapons that were being used on the Southerners will now be turned to fight other groups within the North. It will make those in Khartoum even more difficult because they will not want to lose another part. But it is also going to make other rebel groups demand for independence."[69] "As a Darfurian [the outcome of the referendum] does not make any sense to me. It will benefit the Southern Sudanese only."[70]

Not only has the hope for a unified and liberated Sudan disappeared, but some Darfurians now feel they have been casualties of the South's independence. Independence for the South removed the most effective alternative power source – the SPLM – from the Sudanese political scene: their opposition went some way to constraining NCP behaviour. Thus, just as many Southerners looked with suspicion to

[64] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[65] Group interview with three rebel leaders, Kampala, 24 June 2011.
[66] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[67] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[68] Group interview with three rebel leaders, Kampala, 23 June 2011.
[69] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[70] Interview with Darfurian refugee man, Kampala, 19 May 2011.

Darfurians during the South/North civil war, many Darfurians now look at southerners with disappointment to the extent that they feel the secession of South Sudan has made them more vulnerable to the tyranny of the Khartoum government.

What future in South Sudan?

So where does that leave those living in the South? Pre-independence, living in South Sudan made a lot of sense, and growing numbers of Darfurians based themselves there: they were able to remain in their country, but live in safety – away from the war in Darfur, and further from the reach of the Khartoum government (although by no means completely out of it). Post-independence, the interviews suggest that little has changed so far. As one man living in Juba said, "The number of Darfurians in the South is increasing because they found themselves secure in the South."[71] Another man, currently living in Kampala, said "I would move to South Sudan because these people understand the situation of Darfurians and they have also experienced the same situation."[72] Since independence, this trend has apparently continued, with numerous interviewees stating that increasing numbers of Darfurians were moving to the South in search of safety and employment opportunities.

Some, albeit a minority of those interviewed, had had negative experiences. One woman talked of how she had done domestic work in South Sudan, but her employer started mistreating her: "They were saying that black Darfurians have been killing Southern Sudanese so what do they [Darfurians] want from the Southern Sudanese?"[73] As this quote demonstrates, the association of Darfurians with the North, and specifically with foot soldiers in the government of Sudan's war against the South, has left its mark: "they think we are not very different from the Arabs – maybe because most of the Darfurians are Muslims."[74] As another man living in Kampala said, "[In Juba] it was bad because there was discrimination – the Southerners were seeing anyone from Northern Sudan in the same perspective like Arabs. That is what made me to seek asylum in Uganda where I would be under UNHCR."[75] The construction of Arab identity in this quote points to the problematic of Arab/African binaries and the way in which they are highly changeable. One man talked of life in Juba as being "half-half": "the negative I observed is the attitude of the people of South Sudan who think that we Darfurians are not different from *Jallaba*."[76]

The majority, however, talked of how they had found a degree of acceptance in the South. People have set up businesses, are living in compounds with Southern Sudanese, and talked of strong levels of acceptance within Juba. As one man said,

[71] Interview with Darfurian man, Juba, 18 May 2011.
[72] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[73] Interview with Darfurian refugee woman, Kampala, 25 May 2011.
[74] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[75] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[76] Interview with Darfurian refugee man, Kampala, 19 May 2011. *Jallaba* is a derogatory term used by southern Sudanese to refer to northerners.

"we all enjoy working freely in the South."[77] Another man, a successful car mechanic who owned his own garage, described his life in Juba: "Since 2000, I have never experienced racial discrimination related to my Darfurian roots. On the contrary, they respect me as a professional – as a good mechanic. I have trained almost ten mechanics from South Sudan who now have their own workshops and they come and consult me from time to time. As you can see here, I have several cars belonging to the government that are under repair."[78]

Whatever their assessment of life in Juba, there was a strong recognition that post-independence, their status was going to fundamentally change. They would no longer be living in their own country, but would be in a foreign land. Darfurians realised that independence would alter their status: "[after independence] things will change for the worse because the Darfurians in Juba will now be considered foreigners."[79] "After independence, the South will be like any other foreign country for us."[80] As Darfurians, whose territory remains in the geographical north of the country, they are not automatically included in the newly liberated South Sudan.

In practice, this was translated into a realisation that they might be seen as foreigners and need documentation to travel. One man said he was unsure whether or not Darfurians would be chased from South Sudan after independence, but that it would "no longer be [their] land" and that they might be required to present a passport in order to be allowed to stay.[81] Of greatest concern was the idea that the South might decide to copy the exclusionary tactics that have been deployed by the Khartoum government: "Bashir has announced that the one from the North is from the North, South from South. If the Southerners say the same thing then no Darfurian will be able to stay."[82] There was concern that the North was going to continue destabilising the South, thus keeping alive anti-Northerner feelings.

In particular, there was a concern that the change in their legal status was going to make them far more vulnerable as they will no longer legitimately belong as citizens: "Up to present I have not decided where I should be after independence of the South. I will stay where I find my freedom and where people accept me."[83] "The people in the South know us as Darfurians from our features even if they don't ask any questions about where we're from. We introduce ourselves as Darfurians."[84] A refugee in Kampala expressed his concerns: "[after independence] the Darfurians will suffer in South Sudan because they will discriminate against Darfurians."[85] In particular, there was a fear that if they become recognised as refugees, that they would be forced to move into camps with all the restrictions associated with forced encampment.

[77] Interview with Darfurian man, Juba, October 2011.
[78] Interview with Darfurian man, Juba, October 2011.
[79] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[80] Interview with Darfurian refugee woman, Kampala, 25 May 2011.
[81] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[82] Interview with Darfurian refugee man, Kampala, 22 May 2011.
[83] Interview with Darfurian man, Juba, 19 May 2011.
[84] Interview with Darfurian man, Juba, 18 May 2011.
[85] Interview with Darfurian man, Kampala, 19 May 2011.

Despite these concerns, however, people were generally positive about their ability to stay in a newly independent South Sudan, albeit with an altered legal status: "[after independence] I would love to stay in the South by any means whether I am a refugee or if I have to apply for citizenship, because there is no peace and security in Darfur... Up to now there has been no misconduct towards us as Darfurians. The Southerners are considering us as part of them. I will be the first person to ask for citizenship in the South."[86] "Up to now all the indicators point to us being allowed to stay in this house [after independence]. The question of citizenship request is too early to say, or even the refugee status."[87] Furthermore, several interviewees talked of how the South would become safer for them post-independence because the northern government would no longer have any legitimate access to them. There was also optimism that new opportunities would open up in the South. As a refugee in Kampala said, "it will provide job opportunities for the marginalised youth of Darfur who are intentionally deprived of work because of racial reasons in the North. There are already many Darfurians in South Sudan now."[88]

A number of the rebel leaders echoed this sentiment. Although they did not believe that they would automatically be offered citizenship, they did not think that Darfurians would have a problem staying in South Sudan: "I think that giving citizenship will be difficult because South Sudan has its own problems. But I think Darfurians can live in freedom in South Sudan."[89]

The second phase of research endorsed many of these views – on the one hand, there was no indication that people were feeling less welcome post-independence, yet on the other hand the lack of clear guidelines regarding their status was of concern. As one rebel leader based in Juba told us, "The Southern government and the citizens here have shown no change in behaviour towards Sudanese from the North. The president even invited us for Ramadan breakfast in his house and expressed his welcoming and personal protection to all Northerners who live in the South."[90] Yet, as another interviewee said, "yes, we have very good relationship with the Southerners and we have never felt like foreigners ... but the reality at the end of the day is that we are from Darfur so we are refugees in the South."[91] There was a strong awareness that their presence might be accepted in the euphoria surrounding the aftermath of independence, but their freedom to remain with legitimacy in the South into the future was less certain.

Not surprisingly, therefore, realities on the ground are rife with contradiction. For instance we discovered that there had been a local directive in Juba town that forbade the driving of public transport by foreigners, primarily directed at the growing number of Ugandan and Kenyan taxi drivers in the town. A number of Darfurians had replaced these "foreign" drivers, the latter of which were now

[86] Interview with Darfurian man, Juba, 18 May 2011.
[87] Interview with Darfurian man, Juba, 19 May 2011.
[88] Interview with Darfurian man, Kampala, 18 May 2011.
[89] Group interview with three rebel leaders, Kampala, 24 June 2011.
[90] Interview with Darfurian man, Juba, October 2011.
[91] Interview with Darfurian man, Juba, October 2011.

working as cash collectors within the taxis. However, we were also told that another directive had been issued stating that all advocates who are not from the South had to stop practicing law. As a result, a number of Darfurian advocates have apparently stopped practicing.

These apparent contradictions or different perspectives point to the uncertainty that people are living with: on the one hand *in practice* their presence is generally accepted in the South – whether specifically as Darfurians or, more generally as Northerners who have left the North – and most believe that this is likely to continue. Yet at the same time there was a strong awareness that without the security and legitimacy to belong that goes with legal citizenship, their position in the South was going to become far more vulnerable. They are accepted locally as non-foreigners when it comes to driving taxis, but they cannot practice law. Juba offers abundant economic opportunities at the moment, but what will happen when these opportunities begin to dwindle and competition increases? How do you prevent xenophobia against Darfurians as "outsiders" from developing? What would be the impact of increased open conflict between the two Sudans?

Evolving forms of identification

War and exile inevitably shape and alter the way in which people identify themselves not only in relation to the state, but also in relation to localised forms of belonging. The war has literally torn apart communities, and millions of Darfurians have been physically prised away from the land and the people they have lived with all their lives. In this context, people have had to constantly re-negotiate and re-invent their allegiances in order to best ensure access to safety and physical survival. This process of re-negotiation is simultaneously an intensely localised process – one in which people strive to be accepted within the specific locality in which they are living – and a more national, political process, whereby people recognise the need for a new form of legitimacy in their relationship with the state.

Therefore beneath the pragmatics of choosing where to live – of making wise choices that enable people to best find safety and meet their daily needs – is a more hidden narrative that points to how people perceive themselves within the changing political and territorial contours of Sudan (both old and new). How has Darfurian sense of belonging as a group being shaped, destroyed or reinforced as a result of war? What are the implications for finding places in which they can be accepted, where they can legitimately belong, either as migrants passing through or as people trying to create new roots of belonging? And to whom do they express their allegiance both politically and socially? In other words, how do people's *ideological* or political notions of belonging match with deeper understandings of "home" and territorial belonging? It is these more hidden narratives of allegiance and belonging that are explored, albeit tentatively, in the following section.

Not surprisingly, the findings show a fundamental disjuncture between the way in which interviewees expressed understandings of belonging, and their current circumstances. It was striking throughout the interviews that people have retained –

or created – a strong sense of their identity as Darfurians, which has only been exacerbated by their exile and uprootedness. All of those interviewed saw South Sudan (or Kampala) as a temporary dwelling place until they could return home to Darfur. South Sudan might offer possibilities in the present, but they did not see this as permanent: "I find myself only in Darfur in the future."[92] "For me personally as Darfurian and carrying the problem of Darfur with me, staying in the South is just a temporary stage until we resolve the Darfur problem."[93]

Not surprisingly, most of the rebel leaders interviewed had particularly strong views on this, stating unequivocally that staying in South Sudan was temporary. As one rebel leader said, "we are just temporarily in South Sudan for different reasons. When the situation changes, we will go back to Darfur. We will stay in South Sudan as refugees for a while until the situation is better in Darfur."[94] As another said, "our message to the Darfurian community in South Sudan is that we need to be Darfurians and *not* stay in South Sudan."[95] Another rebel leader said, "The problem is that Darfurians don't want to withdraw from their country. If you give up the country of the North, then you leave it for the newcomers. This cannot happen. It is our country. We are North. This is our land. We cannot leave it for other groups. I cannot leave my home place in the North to live in the South. Darfur is my homeland. And I cannot talk just of Darfur: it is all of Sudan. I will fight for all the North now that the South has gone."[96]

Yet their Darfurian identity has created a dilemma in as much as the potential for them to re-connect with their homeland was seen to present huge problems – many of which currently seem insurmountable. As stated above, there was a realisation that the possibility of a united, democratic Sudan in which Darfur has an equal place – a sentiment articulated most notably by rebel leaders, whose *raison d'être* is strongly linked to this possible outcome – was now impossible. For most of those interviewed, there was a strong feeling of hopelessness regarding this ideal. Therefore, given the impossibility of a united Sudan once secession had taken place and of the bleak prospects of a genuine resolution to the conflict in Darfur whereby Darfurians are able to exercise their political rights, Sudan as a political construct was seen to offer little traction.

As a result, striking throughout *all* the interviews was the incredibly strong sense of a Darfurian identity set apart from a broader notion of being Sudanese: people had disconnected their Darfurian identity from a broader Sudanese identity. As one man said, "I am a citizen of Darfur."[97] When asked where he sees his home, one man replied: "My home as I see it is Darfur because it is the country of my great grandfathers and is the place where I was born, grew, and where I was until I became a complete man. That is why it is my ultimate home."[98] "Darfur is my home

[92] Interview with Darfurian man, Juba, 18 May 2011.
[93] Interview with Darfurian man, Juba, 120 May 2011.
[94] Group interview with three rebel leaders, Kampala, 23 June 2011.
[95] Group interview with two rebel leaders, Kampala, 24 June 2011.
[96] Group interview with three rebel leaders, 23 June 2011.
[97] Interview with Darfurian man, Juba, 19 May 2011.
[98] Interview with Darfurian refugee man, Kampala, 18 May 2011.

and one day I will go back."[99] It is where his ancestors are and where he hopes future generations will be. "I describe home as somewhere for my great grandfathers and I remember them when I mention home."[100]

Unequivocally, therefore, many people wanted to reject a broader Sudanese identity that linked them in any way to the Khartoum government and identified themselves as Darfurian as a way of distancing themselves from it. "I describe myself as a Darfurian but not a Sudanese. I am a Darfurian who has fled the war in Darfur. If I say I am Sudanese, they will think we are the ones who are committing the wrongs in Darfur."[101] Another man, when asked what it means to be Sudanese, responded: "It does not make any sense to me because Sudanese are known to be Arabs and Sudan is a name symbolic of the suffering we have gone through."[102] But as he then went on to say, "I feel happy being a Darfurian because that is where I originated from."[103] As another man said, "Sudanese people are without pride about the place because there is no unity in our feelings towards the land... There has never been unity between the centre and other parts of Sudan."[104]

Of course, it is likely that the experience of exile has strongly influenced this self-perception in as much as they recognise the need to distance themselves from the Khartoum government in order to find acceptance in Juba or Kampala: this self-perception, therefore, is likely to have a strongly tactical element to it. However, the notion of "Sudan" in this context, represents a repressive central regime in Khartoum. The fact that the territory of Darfur is within the borders of Sudan is somewhat meaningless as a result.

Total alienation from the state was further enforced by stories of harassment and torture by security agents and of nepotism/discrimination by those who had tried living in Khartoum. These stories tell of the marginalisation of Darfurians in the current political configuration. They are not just second-class citizens, they are almost non-citizens. One young man now living in Juba talked of how he was arrested, jailed and tortured as a university student in Khartoum.[105] This is the basis on which people are rejecting their Sudanese identity: the rejection of an oppressive government.

When asked what it meant to be Sudanese, therefore, one man replied: "it doesn't make sense at all because it means that I am part of the Khartoum regime which is bad."[106] Likewise another man said, "If I identify as a Sudanese, some people end up mistaking me for those who are committing atrocities. If I say I am Darfurian, they know about our problem and that gives me the right to seek asylum."[107] Within this

[99] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[100] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[101] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[102] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[103] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[104] Interview with Darfurian man, Juba, 22 May 2011.
[105] Interview with Darfurian man, Juba, 19 May 2011.
[106] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[107] Interview with Darfurian refugee woman, Kampala, 25 May 2011.

political configuration, Darfurians see themselves as having been utterly rejected by the government that is supposed to represent them: "Being a Darfurian means the person the Sudan government doesn't want. And that is why they are killing us."[108] The war has proved to them that they do not belong and that they are not wanted.

Yet there was also an interesting parallel narrative in many of the interviews. While people at times rejected a Sudanese identity when it was linked to notions of political belonging and citizenship, there was also a realisation that it was a positive identity marker outside of Sudan. One man talked of how Sudanese outside Sudan are "good Sudanese": "if you meet a Sudanese outside the country you assume that person is running and doesn't like Sudan."[109] In other words, strong sentiments against the central government should not be equated with a more general rejection of Sudanese identity, especially as embodied in those who are struggling for change, whether in exile or inside the country.

The manipulation of an "Arab"/"African" binary

As the previous quote demonstrates, the way in which people identify themselves and others is both context-specific and changeable. And in this context, the war has irrevocably changed (or reinforced) the way in which people talk about themselves in relation to the state. It has also created huge divisions within Darfur as the very notion of Darfurian identity has become imbued with contradictions. The alienation and marginalisation represented by a war that has been characterised by the obliteration of their homes, families and communities, therefore, has left people with the need to (re)create new forms of belonging. In particular, the need to be accepted and identified with the South was a strong concern.

Within this context, a dominant theme that came out of many of the interviews was the extent to which people identify themselves as specifically *African* as opposed to Arab. When asked what it means to be Darfurian, these were some of the responses: "It is more meaningful to say I am Darfurian because it identifies me with my place of birth and it shows that I am an African and not an Arab."[110] "It means I am a Darfurian African."[111] "It means I am not an Arab but an African with a mother tongue."[112] "My home is Africa and Darfur."[113] Being "African" allows them to align themselves with the newly emancipated South and distance themselves from the government in Khartoum.

While it would be naive to think that divisions and tensions did not exist prior to 2003, what is clear is that the "Arab" profile of the Khartoum government, coupled with the way in which it has used local arabised militias as proxies in its war against Darfur, has massively exacerbated African/Arab divisions within Darfur. "The government came to other Darfurians who were with us living together long time

[108] Interview with Darfurian refugee woman, Kampala, 24 May 2011.
[109] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[110] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[111] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[112] Interview with Darfurian refugee woman, Kampala, 25 May 2011.
[113] Interview with Darfurian refugee man, Kampala, 19 May 2011.

ago, even we were married among each other, and they deceived them and gave them guns, telling them these are *Zurga*,[114] they are inferior to you, so you genocide them. Then they started killing innocent villagers and burned houses and displaced them all."[115] As another man said, "This dichotomy of Arab/African started in the 1990s. Even when we were young we were not conscious of them. It is just politics."[116] "It came from the Sudanese government who have always been the minority Arabs. These came as Islamic missions to spread Islam and settled in Sudan. But for me, my grandfather was African, a black."[117] "These Arab/African categories came from existence early in Sudan, but mostly started since 1989 when this government came into power."[118]

As a result, many of those interviewed emphasised their *African* identity, with only approximately five interviewees identifying themselves as "Arab", and 10% saying that they did not care whether their origins were African or Arab. As one man said in response to the question of how he sees himself, "First, I am an African." What makes you an African? "I was born in Africa and my great grandparents are Africans and I see Africa as my home, particularly Darfur because it is where I was born."[119] By contrast, as he went on to say, "[Arabs] are people who have unique colour… and like oppressing others."[120] Or as another man said, "The term Arab is related to discrimination and thinking they are better than others. So I am truly African."[121]

But there was also a recognition that African/Arab distinctions were not primarily about race; that Darfurians who might be classified as "Arab" had also been victims of the war, and that there was no single Arab identity. One man distinguished between two types of Arabs: the Arabs in Khartoum and northern Sudan who have controlled the country since independence, and the Arabs in Darfur who are "second-class" compared to other Arabs.[122] Another man explained how the Arab tribes in Darfur are not considered African, but equally they are also not considered as real Arabs, so they have no identity. As he said, "they are neglected by Khartoum" and rejected by Africans: "When you don't have inner peace you can't exist." He sees those *Janjawiid* who have come from within Darfur as fighting for somewhere to belong within Sudan.[123] These quotes show just how successful the Sudanese government has been in fomenting division within Darfur: "The government succeeded in having militias to fight for them by proxy and managed to let the Darfurians fight against each other."[124]

Yet these divide and rule tactics have built on decades of marginalisation and abuse not only in Darfur, but also in the peripheries throughout Sudan. With power vested

[114] Derogatory term used as a racial slur to refer to 'black' people.
[115] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[116] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[117] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[118] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[119] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[120] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[121] Interview with Darfurian refugee man, Kampala, 18 May 2011.
[122] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[123] Interview with Darfurian refugee man, Kampala, 19 May 2011.
[124] Interview with Darfurian man, Juba, 20 May 2011.

in a small minority at the centre, the majority of Sudanese have felt like second class citizens. A centralised, oppressive dictatorship, therefore, lies at the heart of this narrative, and the extent to which African/Arab distinctives were discussed reflects a political context in which Darfurians have felt like outsiders within Sudan on account of not being like those in power. As one man said, "One of our main problems in Sudan is citizenship – like whether you are from Darfur, North Sudan, South Sudan. It affects everything... Let me tell you a story. I am from Darfur. When I graduated I got 'excellent' and I applied for a job with other groups. But people were just taken for interviews on the basis of their features without considering their results. I never got any job. Tribalism and nepotism is playing a vital role in the employment."[125] He then went on to talk about equal citizenship for all Sudanese as being the answer to conflict: "I wish for there to be a peace settlement for all marginalised people of Sudan. For there to be no separate treatment between the one people of Sudan based on ethnicity."[126]

At the end of the day, therefore, the fundamental distinction is between those who fall within the inner circle of the government – regardless of whether they would be described as Arab, African, Darfurian or any other category that might be used – and those who are outside of it. And this is precisely the dilemma facing Darfurians: they do not belong politically in the current Sudan political configuration, and yet their territorial home remains under its control. Not surprisingly, therefore, South Sudan – with its strongly *African* profile – offers a powerful alternative for those who need to belong, whether temporarily or permanently. Renegotiating their position in the South, therefore, is seen as vital not only to their day to day survival, but also to their ability to form a base from which to one day return to a liberated Darfur.

Who belongs where now? A legal and policy reflection

If tensions and contradictions of self-perception are rife within the Darfurian community, they are even more so in the constantly shifting legal, political and policy framework with which the communities and groups have to grapple in the two Sudans. Indeed, the secession of a part of a territory of a state will always create challenges with regards to constituting the initial body of the citizenry. In the Sudanese context, the question of citizenship, residence and access to rights for citizens of both states is highly fraught and is one of the most critical issues still not agreed almost a year after formal separation of the two territories. Finding a solution has been made even more difficult by the escalating conflict between the two countries during the first months of 2012.

Although driven primarily from the south, the war that led to the creation of South Sudan drew many "northerners" to the cause, including into senior leadership of the SPLM. Seeded in the experience of exclusion in the south, the vision of a "new Sudan", which was embraced by many within the SPLM, was one that sought to erode the divisions of ethnicity, tribe and territorial allegiance within Sudan as a whole. As Yasir Arman explained during a speech in early 2012 at Harvard University,

[125] Interview with Darfurian man, Juba, 18 May 2011.
[126] Interview with Darfurian man, Juba, 20 May 2011.

"the old South was not a geography – it was a human dimension in the first place, it was the long struggle for recognition of diversity, democracy and social justice."[127]

While the foundation of South Sudan heralded a new beginning, therefore, for those who could claim belonging in its territory, it also meant abject failure: the failure to transform Sudan into a Sudan "for all" in line with the CPA, a failure that particularly rebounded on the over 30 million Sudanese, including Darfurians, who remained primarily associated with the "North". As soon as the separation of the South became inevitable, official government of Sudan statements increasingly reflected a rigid conception of what a reconfigured Sudan and its citizenry was going to look like. President Bashir vividly encapsulated the redrawing of the battle lines in a speech in December 2010:

> If South Sudan secedes, we will change the constitution and at that time there will be no time to speak of diversity of culture and ethnicity [..] Sharia and Islam will be the main source for the constitution, Islam the official religion and Arabic the official language.[128]

For citizens who had suffered marginalisation and exclusion, such as many in Darfur, these unitary descriptions of the state represented a traumatic disappointment. Intensifying the exclusionary impact of this rhetoric, the increasing use of force by the state against restive populations in Darfur, Nuba Mountains, Blue Nile, the far north and the East – precisely those groups less likely to fit such narrow prescriptions – seemed to embody this ideological remodeling of the state.

Meanwhile, the South Sudan Nationality Act 2011, adopted just prior to secession, described the category of persons who were to be considered as citizens by birth in South Sudan. Constructed around identification of the individual's antecedents place of birth, tribal heritage or continuous domicile the text of the law potentially encompassed a wider range of persons than had been eligible to vote on the question of secession.[129] The law, however, still strained to find a way to acknowledge both the reality that the experience of violent ethnic discrimination had been central to the foundation of the state, while at the same time recognising that it had been secured by the struggle of so many Sudanese of all heritages inspired by the values of equality and diversity.

Ironically, the ambiguities within South Sudan's definition of its citizenry provided further ammunition for the government of Sudan to question the nationality of increasing numbers of those still in Sudan who could be perceived as "southern". In August 2011, an amendment to the Sudan Nationality Act of 1994 introduced, inter alia, a prohibition on dual nationality with respect to South Sudan. With no appeal

[127] See Yasir Arman, Secretary General, Sudan Peoples' Liberation Movement North (SPLM-N), Secretary of External Affairs, Sudan Revolutionary Front (SRF) The Northern Question and the Way Forward for Change, Presentation at the Carr Center for Human Rights Policy, Harvard Kennedy School, April 20-21, 2012.
[128] Quoted in *Omar al-Bashir: northern Sudan will adopt sharia law if country splits*, The Guardian (web edition) Sunday 19 December 2010 http://www.guardian.co.uk/world/2010/dec/19/omar-bashir-sharia-sudan-referendum accessed 16 May 2012.
[129] See South Sudan Referendum Act 2009

permitted and no caveat for involuntary acquisition, automatic loss of nationality was the result: the law potentially denationalised millions in a stroke.[130]

As the battle lines became more violently drawn in the field, the ethnic origin and religious exclusion that had focused on "southerners" began to be expanded to encompass a more overt political and military dimension. With the banning of what was left of the SPLM in the North (known as the SPLM-North), an increase in arrests, detention and restriction in freedom of expression of those perceived to support the opposition, a "new south" began to converge. The outbreak of conflict in Southern Kordofan in June 2011 and Blue Nile in September was followed by the declaration of the formation of the Sudan Revolutionary Front in November, a coalition of armed opposition groups from Darfur and elsewhere, particularly the forces of the SPLM-N in Southern Kordofan and Blue Nile. This development seemed only to confirm the replication of a new "south" and "north" binary within the truncated state.[131]

Citizenship law and the status of Darfurians

Against this background, how has South Sudan responded to the shrinking official conception of who can be considered rightfully a Sudanese citizen? And where do Darfurians who have fled to the South find themselves welcomed or otherwise within the framework of law and policy?

As noted above, at its creation, South Sudan's laws provided for a relatively flexible approach to its citizenry, while retaining the boundaries of blood and connection to territory which were central to its initial claim for self-determination. On a generous reading, therefore, a number of Darfurians may have an entitlement to South Sudanese citizenship by birth. Among the categories of persons described by the South Sudan Nationality Act as South Sudan nationals are individuals with "any" parent, grandparent or great-grandparent born in South Sudan.[132] Some Darfurians, especially those from communities from the border areas and pastoralists, may fall into this category. There are a number of cross border communities such as, for example, the Kresh, Kara, and Yulu from South Darfur/Western Bahr el Ghazal who are present on both sides of the border. There are also pastoralist communities who move regularly from Darfur in to the south for grazing such as the Bagara pastoralists (Habania, Rizegaat and South Darfur resident Missereya). Members of these groups may have ancestors who were born in what is now the territory of South Sudan.

The other category into which some Darfurians may arguably fall is within that of "indigenous tribal communities of South Sudan". The Act does not provide a list of such communities, and it is unclear how the phrase will be interpreted by either South Sudan in considering applications for a passport or indeed by the *Sudanese* in terms of its automatic denationalisation provisions. Another category set out in the

[130] Precisely in order to avoid such an outcome, international law provides that persons should not be stripped of their original citizenship if they do not wish to avail of the new citizenship which may be available.
[131] The Sudan Revolutionary Front, an alliance of forces opposed to the government in Khartoum, was declared on 12 November 2011.
[132] Section 8 (1) (a) South Sudan Nationality Act 2011.

Act, *viz* those who have "acquired and maintained the status of a South Sudanese national by an uninterrupted domicile" may also apply to Darfurian migrants. It should also be noted that in addition to those sections governing recognition of nationality, the Act also provides for a naturalisation process through voluntary acquisition. The threshold for making an application for naturalisation is relatively straightforward, requiring ten years of continuous domicile, demonstration of an intention to reside permanently and an absence of conviction for serious offices or those "related to honesty and moral turpitude."[133] Five years' domicile is the primary condition for the issue of a certificate of naturalisation in case of a non national married to a citizen.[134]

However, the relative room for manoeuvre in these provisions for Darfurians may not amount to much. As reflected in the research, the reality is that perceptions of belonging *in practice* tend to be emotionally constructed, founded on the notion that there is an inner truth to belonging that can be discovered and known, whether in terms of association with a particular territory, livelihood practice, or more simply, skin colour. The Yulu, for example, are a cross border community straddling South Darfur and Western Bahr el Ghzal in South Sudan. During the research, for instance, when asked about their potential to be recognised as citizens of one state or the other, one key informant immediately responded that they are "of course African" and "really southerners", whatever the law may provide for in theory.

Therefore, although as a matter of law it may be possible to argue that some Darfurians have a right to claim Southern Sudanese citizenship, not only will the burden of proof be difficult to discharge as a matter of practice, but it will be hard to challenge ingrained notions of who is and is not South Sudanese at a more empirical level. The categories of northerner/southerner/Arab/African/black were deeply embedded in the way the war was fought and experienced on the ground. Yet at the same time, the ideologies around equality and diversity espoused and developed in the political discourse which drove the conflict and drew in many "northerners" also *challenged* these exclusivities. The resulting paradox is reflected in the way Darfurians are being treated in the South.

Darfurians and the right to reside

Since secession, Sudanese people have generally been permitted to reside and operate freely in South Sudan, and, in many respects are regarded as potential citizens. However, the research found that there was confusion on the ground about the official status of Darfurians, and an apparent lack of consistency in the extent to which civil society, government and UN agencies had absorbed and understood the ambiguities of the law and the exigencies of the political history of the war. As a representative of the South Sudan Human Rights Commission (SSHRC) put it, Darfurians were free to stay in South Sudan and go about their business as they wish, but the longer term issue of their status within South Sudan was not high on

[133] Section 10 South Sudan Nationality Act 2011.
[134] Section 13 South Sudan Nationality Act 2011.

the Commission's (or the government's) agenda.[135] It is not surprising, therefore, that to date there has been no in-depth assessment or registration of Darfurians in the South.[136]

Meanwhile, the question of whether or not Darfurians should be treated as asylum seekers was also somewhat confused. The granting of refugee status is, by definition, recognition that a person is both a non-citizen and an individual in respect of whom the state of asylum is willing to exercise protection on behalf of the international community where the protection of their own state has failed in a significant way. Despite the fact that African refugee law explicitly provides that the grant of asylum "is a peaceful and humanitarian act, and shall not be regarded as an unfriendly act by any member State" it remains a delicate question.[137] In particular, the SSHRC representative noted that Sudanese people who were part of the struggle that had resulted in the new South Sudan – such as those from the Nuba Mountains and Southern Blue Nile – are not, and cannot be, regarded as refugees unless they choose to be: "The South Sudan government is to adopt the best practice that is internationally known – the option of choice," he said. "Politically, they are regarded as citizens but legally they are not until this is formalised."[138] Government officials interviewed at the time of the research echoed this approach, explaining that they were not using the term "refugee" to refer to those who were displaced from the North, including Darfurians. We were told, "we are all one with Sudanese people".[139]

Although South Sudan has ratified neither the 1951 UN Relating to the Status of Refugees nor the 1989 AU Convention Governing the Specific Aspects of Refugee Problems in Africa, it has to date been relatively generous to refugees. The government of South Sudan has a relatively open door policy towards that in flight and seeking protection, not only towards Sudanese from Darfur, Blue Nile and South Kordofan, but also from other countries including the Democratic Republic of Congo, Ethiopia and Eritrea. Indeed, officials indicated in 2010 as they were preparing for the creation of the new state that because of the people of South Sudan's own history of exile and displacement, they intended to create the "best" refugee laws and practices in the world.[140] In September 2011, a committee was established by the South Sudan Ministry of Interior to create a South Sudan law on refugees and it had its first meeting during the last week of September 2011. The inspiration for the projected law is from similar laws in the region, which seem to be preferred over those of Sudan, and the expectation is that there will be something in draft form by the end of this year.[141]

[135] Interview with South Sudan Human Rights Commission representative, Juba, 5 October 2011.
[136] Interview with representative of the Centre for Peace and Development Studies, University of Juba,3 October 2011.
[137] See Article II(2) of the 1969 African Union Convention Governing the Specific Aspects of Refugee Problems in Africa.
[138] Interview with South Sudan Human Rights Commission representative, Juba, 5 October 2011.
[139] Interview with government official, Juba, 5 October 2011.
[140] Interview with, senior official.
[141] Interview with UNHCR protection officer, Juba, 4 October 2011.

Since the research was conducted, however, the picture has become more complex. During the research, the SSHRC pointed out that although Southerners had been mistreated in the North, the government of South Sudan had decided not to retaliate.[142] With escalating tensions along the border, however, and continued bombing of South Sudanese territory, changes were bound to occur. On 10 April 2012, the South Sudanese Minister of the Interior issued a statement declaring that "in response" to procedures taken in Sudan with respect to those viewed as South Sudanese nationals, a series of new measures would be put in place with respect to Sudanese nationals in the South. The first provision of the statement is stark: "all nationals of the Republic of Sudan are declared foreigners as to 9 April 2012." The statement goes on to clarify that all Sudanese will, from that point on, require entry visas at any point of entry but that those "who are currently in the Republic of South Sudan shall be registered and provided with temporary stay documents free."[143] The statement also makes clear that "Sudanese nationals shall be accorded fair treatment and full respect in regard to their human rights."[144]

It is not clear to what extent this declaration has been implemented. And, although the statement conforms to international law, the trajectory towards increasing exclusion and control of Sudanese citizens, although understandable, is worrying – not least as it entrenches the position of the two states, while the issue of special arrangements and favourable treatment of each others' nationals is still on the table in theory in the faltering inter-state negotiations. The 9th April declaration by the authorities in Juba was certainly triggered by the fact that in the days just prior to the statement the army of South Sudan was marching into Heglig, a major oil producing area considered by Sudan to be firmly within their territory. If the escalation in the conflict between the two countries continues, the status of Darfurian nationals in South Sudan may become even more precarious. In particular, the classification and control of mutual "enemy aliens" in the new state is going to create new issues for exiles to grapple with. Inevitably, new wars will bring new alignments. Furthermore, inter-state conflict between the two Sudans will inevitably be intertwined with the internal conflicts still raging in Sudan and the smaller conflicts and violence which continue to create insecurity in the South. The question, therefore, remains: as Sudan's "new south" consolidates militarily and ideologically to encompass Darfur, how will Darfurians be viewed by the old South, and how will Darfurians position themselves with respect to these faultlines?

[142] Interview with SSRRC, 5 October 2011.
[143] See also the Section 7 South Sudan Passports and Immigration Act 2011 which provides that the Directorate of Passports, Nationality and Immigration is charged with, inter alia, registering aliens upon their arrival.
[144] Ibid.

Conclusion

The independence of South Sudan symbolises a moment of extraordinary achievement and hope. It represents the potential end of decades of conflict, enabling the South to rid itself of subjugation to a discredited and dictatorial regime. However, it is important that the implications for those who are impacted by this change, and yet who do not immediately appear to benefit from it, are not overlooked. In particular, the reality of ongoing and escalating conflict in Darfur, South Kordofan and Blue Nile continues to cast a sinister shadow over the whole transition, and if these issues are not resolved it could bring this fragile process crashing down. Indeed, as we go to press, the threat of war between South Sudan and Sudan has never been greater.

The status of Darfurians in South Sudan, while important, might not currently seem to be a priority in this context. However, this paper argues that the inclusion of apparently peripheral groups lies at the heart of building a new state; it is vital that the processes inherent in the creation of a viable state are not overwhelmed by logistics – and initial signs are encouraging. As Jok Madut Jok says, in the run up to independence, "the main preoccupation of political debate in Juba was not just the anticipated independent statehood, but how to turn South Sudan into a viable nation: that is, how to turn its ethnic and cultural diversity into a useful asset, forming the colourful and unified country that everyone had yearned for since the 1940s, long before Sudan's independence from British colonialism."[145]

Building not only the structures of state, but also an inclusive nation, is going to be a huge challenge in a country that is characterised more by its diversity than its homogeneity. Yet it is a task that cannot be overlooked: by creating an enabling environment for people to best secure their safety in their current circumstances, the creation of South Sudan is more likely to herald in an era of peace and reduce the likelihood of a return to conflict both within the country and on its borders.

The presence of a relatively small number of Darfurians in South Sudan is a small part of this wider story. Yet somehow their presence represents something of profound significance: their ability to remain in South Sudan, to be part of this new state, and for the South to be part of the solution to their longer-term desire to one day return to Darfur in freedom, provides a significant opportunity for the new South to live out some of the ideals it has been fighting for. It has the potential to offer Darfurians a place to belong and become part of the process of building a new South Sudan state as they negotiate the terrain of shifting forms of identification. And it can provide a secure base from which they can re-negotiate their return to Darfur. Ultimately, therefore, by creating the political and social space within which this can happen – by emphasising a state built on inclusion rather than exclusion – the fledgling South will enhance its ability to develop into a robust and sustainable political, economic and social community in which diversity is an asset rather than a threat.

[145] Jok Madut Jok, "Diversity, Unity and Nation Building in South Sudan." United States Institute for Peace, Special Report 287, October 2011.