

FORCED MIGRATION, INTERNAL DISPLACEMENT AND TRANSITIONAL JUSTICE IN SUDAN



Khartoum, Sudan. Image credit: Musnany

INTRODUCTION

Sudan represents one of the main host countries for forced migrants in Africa. For more than five decades, Sudan has attracted more forced migrants than any of its neighbors. The total number of refugees and asylum seekers in the country stands at nearly 1 million,¹ including 773,000 from South Sudan, 113,144 from Eritrea, 13,477 from Ethiopia, 11,679 from Syria, 7,463 from Chad, 2,283 from the Central African Republic, and 2,562 from Yemen.²

By mid-2021, an additional 45,152 Ethiopian refugees and asylum seekers had been registered in Kassala and Gedaref in eastern Sudan because of conflict in the Tigray region in northwestern Ethiopia, which started in November 2020.³

Meanwhile, the total number of internally displaced persons (IDPs) in Sudan stands at 2.55 million. The IDPs are from Darfur, South Kordofan and Blue Nile states, with over 2 million from the Darfur region alone.⁴

The huge influx of refugees and asylum seekers resulted from conflicts in neighboring countries, while the increasing numbers of IDPs are related to protracted conflicts and political instability that has characterized the development of Sudan since independence, with the many abortive peace attempts and unimplemented peace agreements between central governments and rebels in peripheries. Thus, transitional justice in Sudan remains neglected, as this study will explain.

Factors that have contributed to conflicts in Sudan are socioeconomic, cultural, environmental and political in nature. This has much to do with post-independence politics and policies, which were intrinsically linked to the legacy of colonial rule. As previously and convincingly stated, “the protracted conflict in Sudan reflects the long-standing economic disparities, political exclusion and social and cultural deprivation in the distribution of political and economic power between the centre and the peripheries.”⁵ The modern state in Sudan has inherited a highly centralized authoritarian governance system and an uneven pattern of regional development. This reality shaped the evolution of post-independence Sudan and significantly contributed to the marginalization of the peripheries, Darfur included. Thus, since independence, Sudan has regularly experienced varying degrees of conflict and violence.

Sudan’s open borders with more than eight countries have attracted huge numbers of forced migrants and labor emigrants to Sudan. These open borders coincide with instability in some neighboring countries, including Ethiopia, Eritrea, South Sudan, Central Africa and Chad. During the liberation war from the 1970s to the 1990s, the different Eritrean factions had their bases inside Sudan. Also, Chad was characterized by instability during the 1980s and up to the 1990s and beyond. Thus, Chadian refugees crossed Sudan’s borders into Darfur. South Sudanese also frequently used to cross to North Sudan as IDPs to escape the civil war. Following independence in 2011 and because of civil war among South Sudanese political rivals, huge numbers of South Sudanese were forced to seek refuge in Sudan again, this time as refugees.

The Sudanese government has repeatedly engaged in or been associated with massive attacks on its citizens. Apart from the conflict in southern Sudan (1955 to 1972, 1983 to 2005), which ended with the separation of the region and the formation of South Sudan as a sovereign state in 2011, other insurgences in peripheral areas in the north have occurred and kept spreading for the past four decades. For example, in the 1980s, the civil war expanded from southern Sudan to include the Nuba Mountains in South Kordofan and the Blue Nile. In 2003 the civil conflict further expanded and fierce war broke out in Darfur. The central government responded to these developments with attacks by local ethnic militias coordinated and supported by the Sudanese Armed Forces (SAF) to the extent of committing genocide, as in the case of Darfur.⁶

THE GLOBAL INITIATIVE FOR JUSTICE, TRUTH AND RECONCILIATION

In 2014, the International Coalition of Sites of Conscience (ICSC) launched the Global Initiative for Justice, Truth and Reconciliation (GIJTR), a consortium of nine international organizations focused on offering holistic, integrative and multidisciplinary approaches to issues of truth, justice and reconciliation. GIJTR works primarily with local populations, civil society organizations, survivors and governments to develop transitional justice approaches that are victim-centered, collaborative, and support dignity, respect, inclusion, and transparency in societies emerging from conflict or periods of authoritarian rule. Since its founding, GIJTR has engaged with people from 72 countries, worked with 681 CSOs, and has conducted 323 community-driven projects and supported 5040 initiatives dealing with human rights violations.

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Despite this history of protracted violence and armed conflict, including atrocities and gross human rights violations, Sudan has experienced no genuine attempts to apply transitional justice measures. The Addis Ababa Agreement in 1972,⁷ which ceased the civil war in the south for a decade, and the Comprehensive Peace Agreement in 2005,⁸ both with rebels in southern Sudan, did not include any provisions in connection to transitional justice. Hence, transitional justice issues have not been addressed following these peace agreements. A similar practice has been observed regarding transitional justice measures in Darfur. The Darfur Peace Agreement (DPA) – signed in Abuja in 2006⁹ between the rebels in Darfur and the government of Sudan and later the Doha Peace Agreement signed in 2010¹⁰ – included provisions regarding transitional justice. However, they have not been implemented.

This case study focuses on forced migration and transitional justice in Sudan, with a particular focus on internal displacement in Darfur. Darfur is the focus because more than 80% of the IDPs in Sudan are from Darfur. The study employed the following methods of data collection: documentation review, focus group discussions (FGDs), key informant interviews and observation. An individual researcher based in Sudan worked with two local national nongovernmental organizations (NGOs), SoS Sahil and Community Development Association, to help facilitate and organize the FGDs. Five FGDs were organized, with participants residing in four IDP camps located in North and Central Darfur, namely Zamzam, Abushock, Al Salam and Ronga Taz IDP camps. The fifth FGD comprised IDPs originally from West Darfur state now living in Khartoum with a host community. Further, interviews were conducted with seven key informants, including men and women of different ages and different social, educational and professional backgrounds, some of them from NGOs and civil society organizations. They include a solicitor and human rights activist, an aid practitioner, a gender and development expert, two community leaders and two teachers.

This case study includes five sections, on the context and dynamics of conflict in Darfur; the living conditions of IDPs; mental health and psychosocial challenges they face; and peace, justice and political agendas. The final section includes conclusions and recommendations.

The Context and Dynamics of Conflict in Darfur

As mentioned above, protracted violent conflicts and the impunity associated with them have contributed to neglect of transitional justice as an important subject in Sudan. The United Nations (U.N.) defines transitional justice as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”

Since Darfur was annexed by Sudan in 1916, it has been marginalized as a region, with some ethnicities holding the opinion that they have been further marginalized within the region. The negative consequences of this marginalization have resulted in significant neglect for Darfur, in terms of both power sharing and allocated financial and economic resources, with successive national governments making no change to the core of this policy.¹¹ Very soon after independence, Darfur’s people started to call for equal rights of political representation. The Darfur Development Front was formed in 1964 to lobby for the interests of the people of Darfur in their struggle over power and economic resources with the central government.¹²

As the situation went from bad to worse, the year 2003 marked a turning point in Darfur. Civil war broke out and continues today, despite various efforts to resolve it. The rebel Sudan Liberation Movement (SLM), led by Abdul Waheed Nour and composed mainly of tribes of African origin (Fur, Massalit and Zaghawa), launched a rebellion against the central government. SLM later divided into two groups, and another rebel group, Justice and Equality Movement, emerged in Darfur. However, these rebel groups fractured along tribal lines to over 20 factions.

Conflict in Darfur has different layers and levels. Besides the larger rebel-versus-government conflict, ethnic and intercommunal conflicts also exist. The government during the al-Bashir regime built on the tensions and mistrust between some tribes of Arab origin and others of African origin, namely the Fur, Massalit and Zaghawa, and created tribal militias. The most notorious of these militias were those known as the Janjaweed.¹³ Janjaweed refers to militias recruited by the government to support the SAF in their operations in Darfur. The U.N.'s International Commission of Inquiry on Darfur found that "the Janjaweed not only received weapons and logistics from the government, but they also have close ties with government officials."¹⁴ Because of all the aforementioned atrocities and human rights violations in Darfur, including genocide, transitional justice is an essential process to overcome this huge legacy.

IDPs and Living Conditions

The U.N. Guiding Principles on Internal Displacement define IDPs as "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border."¹⁵ Thus, the U.N. has clearly described IDPs as individuals who are forced to leave their homes and habitual residence. The concern then shifts to the continued residence and living conditions of the IDPs.

According to participants interviewed for this case study, IDP camps are poor in terms of shelter and provision of services. This is a common characteristic of internal displacement, as the literature suggests that the poor and those who come from rural areas or belong to minorities are more susceptible to internal displacement and thus continue to live in a state of poverty when displaced.¹⁶ In Sudan, most of the IDP population lives in wood huts, and only a few are able to build rooms out of mud and bricks. Their movement is restricted, and they are vulnerable to attacks daily when collecting wood or fetching water. Those who attempt to go to their farms during the rainy season are susceptible to attacks by militias.¹⁷

IDPs have their own internal administration system in each camp. Their management structures include different forms, such as a representative of the idara ahliya (Native administration), omdas, sheikhs of the camp, women's union and youth union. IDP camps are usually divided into sectors, and each sector is inhabited by a specific community (tribe, subtribe). Each sector selects individuals to represent them, and they are usually sheikhs (men and women) and youth representatives (young men and women) for the entire camp with some sheikhs to serve their sectors. The camps are located around urban centers in the main cities of Darfur: "The locations are mostly agricultural land; either belonging to individuals or to government. Attempts of relocation were made, especially through pressures on the government by private owners. Nevertheless, the IDPs resisted such attempts and no action was taken to implement such measures."¹⁸

Many IDPs have been displaced twice or even several times. It has been noted that “hundreds of displaced families who were returning to their areas of origin in South Darfur in connection with seasonal farming were forced to flee after large Misseriya nomads’ crowds began arriving from different parts of the region.”¹⁹

Returnee numbers remain modest, as the insecurity and land occupation in Darfur persist. Land occupation here refers to the fact that after IDPs and refugees fled, their farms and properties were occupied by other people, mostly of Arab origin. The occupiers are from the local population, and foreigners allegedly came from Chad and Mali.²¹ The ownership of the land is disputed. Conflict over land is one of the largest issues that need to be addressed through transitional justice. This is why all the agreements regarding peace in Darfur have included provisions relating to recognition and reinstatement of a traditional land tenure system.²² Particularly, the traditional tribal land ownership system known as Hawakeer, plural of Hakura, is being emphasized, which would offer IDPs and refugees guarantees of the right to return to their original land.

The involvement of the international community is an important factor in providing humanitarian assistance and ensuring peace processes in Sudan.²³ For example, the U.N. World Food Programme provides food, and the U.N. Office for the Coordination of Humanitarian Affairs coordinates support to the IDPs. International NGOs (INGOs) and local NGOs provide different services to IDPs, ranging from food to shelter, health, education and sociopsychological support.

In March 2009, the al-Bashir regime expelled 13 reputable international humanitarian organizations and closed three important Sudanese relief organizations, which together formed about half of the humanitarian capacity in Darfur. A political message was behind this action, namely that the expulsion served, among other things, to signal to the U.N. that Khartoum wished such comprehensive reporting on human rights violations – in connection with civilian protection and reports related to accusing the Sudanese government of obstructing distribution of humanitarian aid and access to people in need in areas of conflict – to stop. The consequence of that expulsion is still felt in the IDP camps, as limited access to or availability of basic services remains a key challenge.²⁴ The following two quotations explain these challenges in detail:

“Some IDPs from [the] Fur tribe have been displaced more than once. [For example,] in 2003 they were moved to East Jebel Marra, and in 2012, after [the] Abuja Peace Agreement, they were forced by the SPLM-Minawi to move from East Jebel Marra to Shaddad IDP camps in Shangl Tubay, then from Shaddad to Abushock and Zamzam IDP camps. Also, the Zaghawa tribe IDPs in [the] Kalma camp were forced to leave the Kalma camp following the DPA – they moved to Draij IDP camps.”²⁰

The expulsion of prominent humanitarian aid organizations has resulted in negative consequences in the daily life of IDPs, as the participants in this study have noted. IDPs have become increasingly dependent either on remittances they receive from their relatives in the diaspora and armed movements or from their seasonal agricultural work, though with high risk due to militia harassment.

“Sudan[ese] Red Crescent provided water pumps, UNHCR promised resettlement but did not come back and Far East Organization provided agricultural support some time ago. Oxfam and Médecins Sans Frontières (MSF) used to work with us but were expelled [in 2009 following the indictment of President al-Bashir by the International Criminal Court (ICC)]. Since then, the situations in the IDP camps continue to go from bad to worse.”²⁵

Humanitarian agencies have reported that the COVID-19 pandemic has complicated an already highly challenging humanitarian situation.²⁷ Lockdown measures imposed in response to COVID-19 have constrained mobility and brought work in the informal sector to a standstill. IDP households depend on informal daily labor for their survival.²⁸ Consequently, food security for IDP groups is further at risk because of the pandemic. Thus, the COVID-19 restriction measures negatively affected low-paid workers and workers like IDPs, particularly women.

“Food distributed by the World Food Programme is not enough. Some IDPs [are] involved in agriculture, while others receive support from the migrants in the diaspora and others from the armed movements – especially the Zaghawa. The migrants are very organized; they are organized in social media groups along tribal lines, and they sponsor some families and send financial support on [a] monthly basis.”²⁶

The IDPs did not mention these aspects in their discussions. This could be because the COVID-19 restrictions in Darfur have not been observed firmly by ordinary people, as clearly noticed by the author during the field mission.

The IDPs have been forced to flee their homes and the places they love for about two decades. The overthrow of the al-Bashir regime and the formation of a transitional government gave them hope that their suffering is gradually coming to an end. The Juba Peace Agreement (JPA) was another highlight that added to the hope and positive expectations. However, the performance of the transitional government and the delay in the implementation of the JPA have resulted in huge disappointment for IDPs. They are still in the camps, and their living conditions continue to deteriorate. As described by those who took part in this study, the security situation and living conditions in the IDP camps are going from bad to worse, and transitional justice measures are on hold. This has added to IDPs’ frustration and the existing suffering due to horrible experiences.

Mental Health and Psychosocial Challenges

IDPs in Darfur suffer from trauma, mental health problems and lack of psychosocial and emotional support. All of these have had devastating and long-lasting negative impacts on IDPs. This was mentioned during the FGDs and the interviews, during which the majority of the participants agreed that IDPs have been traumatized and consequently suffer mental health challenges. Nonetheless, all the participants, with no exceptions, noted that the problem has not been dealt with seriously and that no psychosocial support has been made available to IDPs.

These factors have resulted in negative impacts on the social fabric within communities, leading to loss of confidence and social ties.³⁰ Furthermore, there are cases within families in which a mother killed her daughter and a father killed his son in relation to the stress and depression they experienced.

Behavioral change, as explained by a respondent, refers to the fact that most IDPs have become nervous, anxious and increasingly intolerant because of the verbal and physical abuse they have experienced. This reality makes IDPs feel anxious often and prevents them from engaging effectively in transitional justice consultations. Some are against the Juba peace process altogether and refuse to engage in any process that relates to the JPA.³¹

Regarding mental health and psychosocial challenges and needs, IDPs have arguably been left to face all these negative impacts alone. They have developed coping mechanisms of their own, such as gathering at a victim's home after an incident and bringing food to share, or collecting money to send to an injured person or raped woman to a hospital far away from the camp, as well as sitting and talking to those who lost loved ones. By doing this, they show sympathy and solidarity. These strategies are not enough, however, to address trauma and mental health challenges without some external, professional support.

The quotation above describes the psychosocial problems that continue for a long time without serious intervention to help IDPs to overcome them. Tackling trauma resulting from atrocities and violations must be an integral part of transitional justice measures. Otherwise, these problems hamper proper engagement by forced migrants.

“IDPs experienced ‘behavioral change’ as they [were] rooted out of their social and cultural environment. Their behavior tends to be aggressive and violent [because of] the atrocities, such as forceful displacement [and] verbal and physical abuses, that they have been subjected to.”²⁹

“The mass killing, the rape, the destruction of properties [and] livelihood, looting and other atrocities made our people suffer [a] range of psychological problems that have ... manifested in different forms, such as depression, hallucination and nightmare, lack of motivation and frustration. These problems have been most prevalent among youth; young men and women. They feel helpless [and] deprived, and they do not have work to do. This makes them suffer even more. The impact manifests itself in suicide, drug dealing and addiction, domestic violence and aggression. Cases of divorce increased and crime rates [rocketed] too. Youth commit crimes without realizing [because of] trauma and psychological problems.”³²

“Some people had witnessed their fathers, brothers [and] sons [being] killed, and their daughters or wives ... raped in front of them. Every ... IDP has become traumatized and psychologically unfit. I myself [am] deeply traumatized and psychologically damaged. I witnessed the murder of my uncle and two of my brothers – killed in front of [my] eyes on the same day. Since then and until now, I could not forget and/or recover. I still live with the trauma.”³³

The quotations in this section demonstrate the devastating consequences of the war in Darfur. They shed light on the mental and emotional suffering and psychosocial problems that IDPs have experienced and continue to experience. They have also affected children and young people, particularly those who lost their parents during the war and further lost their innocence and childhood. Transitional justice must be taken seriously to help address these issues.

“IDPs sympathize and support each other through social gatherings, meetings and sharing of experiences, sharing food and [donating] as much as they could, which [is a] symbol of solidarity in difficult times. I know [a] young woman who has been subjected to rape and later on suffered mental health problems and in the end became psychotic. Another girl was abducted and raped, [and] when her father [found out] what happened to his daughter, he became psychotic as well. It happened in Zamzam IDP camp – there was a big shelter for the children whose parents got killed or [had] gone missing, and [it] was not possible to be reunited with their families. The INGOs bring them food and clothes.”³⁴

Peace, Justice and Political Agendas

Since the signing of the JPA, the security situation in Darfur has continued to be complex and fragile.³⁵ The Sudan Liberation Army led by Abdul-Wahid (SLA-AW) refused to join the peace process and has maintained a military presence in Darfur, although only with pockets in and around the Jebel Marra area.³⁶ Although clashes have been constrained to a local level, there has been an increase in violent confrontations in the Jebel Marra region since mid-March 2018, causing further displacement and forcing civilians to seek refuge in mountains and in neighboring areas in North, Central and East Jebel Marra.³⁷ Access to IDPs in these areas proved to be difficult and remains limited. In addition, the city of Al Geneina in particular has suffered increasing violence and displacement as recently as 2021, largely as a result of uncapped militias and fighting between Masalit people and tribes of purportedly Arab origin.³⁸

In addition, humanitarian reports indicate that since the beginning of 2021, over 200,000 individuals were displaced in West Darfur, in the Gereida and Tulus localities of South Darfur, as well as parts of East Jebel Marra and the Kabkabiya locality of North Darfur, mainly because

of tribal violence, with villages being burned and livestock and markets being looted.³⁹ This, in combination with larger developments in Sudan, has made IDPs lose hope and become further frustrated.

The case study research indicates that three groups of displaced people exist: first, individuals who fled their areas because of the conflict between the government and armed movements; second, individuals who left because of ethnic/tribal conflicts; and third, individuals who left because of attacks and forced land occupation. The first group is the only one that can return now, as clashes between the government and rebels have ceased. However, the other two groups need certain arrangements, such as ethnic/tribal reconciliation and a stop to land occupation, before they can return to their land – a goal that is far from being fulfilled. The participants also noted the need for accountability.

Regarding the peace and transitional justice processes, IDPs seem to have different opinions. All the participants in this study support peace in principle and express a desire to see peace prevail in Darfur. However, when it comes to the JPA, they divide into those who fully support the JPA, those who oppose the JPA and those who offer conditional support to the JPA. Thus, there is no consensus on this issue. The first group is politically motivated, and its representatives are more likely to be supporters of the armed movements that are signatories to the JPA. It seems that representatives of this group have been engaged, received invitations and taken part in the consultations on the ongoing peace process. The following quotation provides an example of this group:

“We, IDPs, lost hope because in terms of security, the situations look like [they are] going from bad to worse. The peace is only on papers, nothing being implemented. We have the experience of the Abuja Peace Agreement [and the] Doha Peace Agreement, and now JPA is going in the same direction.”⁴⁰

“We want justice: Justice is the only thing that can make situations get better. By justice we mean perpetrators must be prosecuted and held accountable. We want rule of law in a sense that everyone must [be] subject to law. Now the Arabs in Darfur do not abide by or [are] subject to law; i.e., they are not held accountable. Justice has been absent in Sudan for so long. You know there were a lot of atrocities, such as genocide, rape [and] crimes against humanity, ... yet no one was prosecuted. We do not trust [the] judiciary system in Sudan. We want international justice – [the] ICC is the only option.”⁴¹

“I personally took part in Juba talks and represented my community within El Salam IDPs’ camp. However, I cannot claim that I represented the entire camp, as the camp is divided into five sectors and each sector is composed of a certain community group. Some communities refused to take part because they do not believe that Juba talks can bring about peace.”⁴²

The second group, which opposes the JPA, also seems to be counting on political viewpoints. The division among the IDPs looks to be based on ethnic lines. This group is closer to the SPLA-AW position. The following quotation expresses their position:

“Regarding JPA, in the Abushock IDP camp, we have been contacted by the armed movements to take part in Juba peace talks, but our opinion was different in a sense that we do not support partial peace agreements.”⁴³

The third group, which offers conditional support to the JPA, looks to be neutral in their relations with the armed movements; they do not have clear political affiliations and may belong to neither the Fur nor the Zaghawa, which are the two main rivals within the IDP camps. They seem to be keen to separate IDPs’ agendas and demands from the political agenda of the armed movements – an intention that armed movements are not pleased with. The following quotation reflects this position:

“We in [the] Zamzam IDP camp did not take part in Juba talks. It is true that the armed movements in Juba have contacted us to bring our representatives to take part in Juba peace talks. However, when our representatives came to take part in the preparatory consultation meeting held in El Fasher, the security organs denied them access to the meeting, and hence they did not go to Juba. This is why we do not consider ourselves as part of [the JPA]. But if [the] JPA is to bring about peace, security and justice, we do not mind to welcome it.”⁴⁴

The absolute majority of the participants in this study were skeptical when it came to the present status of the peace and transitional justice processes. They revealed that in terms of legal frameworks, new policies, legislation reform and the establishment of related mechanisms, nothing significant has been achieved. Issues like redressing the legacy of the ousted regime in terms of violations, proliferation of weapons, land issues and equal rights of citizenship have received no attention in their eyes.

Regarding transitional justice specifically, IDPs appear also to have different views. They are aware of the concept in a broad sense and that the overall objective of transitional justice measures is to address injustice, grievances and the legacies of atrocities committed by the ousted regime. For some, the atrocities do not relate to the former regime alone but include rebels, as there are serious allegations against some of their military leaders.⁴⁶ Some rebel leaders, such as Bahr Idriss Abu Garda, were accused of taking part in human rights violations in Darfur and were being indicted by the ICC.⁴⁷ It seems that IDPs are aware of not only the violations and alleged perpetrators but also the prerequisites of transitional justice, as the following quotation illustrates:

“[Transitional justice] is much bigger than just a legal issue and should not be left for the Ministry of Justice and lawyers alone to handle. [Transitional justice] relates to socioeconomic, cultural and political issues, which need to be identified beforehand [and] then [a decision needs to be made on how to address them]. Questions should be asked about what type of justice [that transitional justice] is hoping to achieve. Who are the victims, and how they can be effectively included and engaged?”⁴⁵

The IDPs who participated in this study were divided into three groups reflecting their conceptualization of transitional justice: The first group believes that transitional justice as stipulated in the JPA would bring justice to Darfur if implemented in good faith; the second group has no confidence in the JPA and describes it as a partial agreement that was born dead and one that can offer nothing regarding transitional justice in Darfur; and the third group appeals to the government to be brave and take decisive action that can make a difference and bring about justice without waiting for peace agreements. Again, the views of the first two groups appear to be aligned with certain political factions. However, all three groups agree, as stated during the FGDs, that IDPs’ demands are as follows, sequentially:

“The first prerequisite of transitional justice is the confession – i.e., perpetrators must confess that they have perpetuated crimes and now they are seeking forgiveness and [are] ready to sit with the victims to see how they can resolve the problems and overcome the legacy of the past. Against this background, IDPs must be an integral part of the consultations with regard to transitional justice arrangements, including proposed institutions and procedures, a thing [that] did not happen up to now – neither in Juba peace talks nor before that.”⁴⁸

1. **Confession and apology:** Victims would consider this a sign of genuine reconciliation and forgiveness.
2. **Security and disarmament:** This would provide an end to the proliferation of the militia and arms, which has been conducive for conflicts to erupt and escalate.
3. **Criminal accountability:** In most cases when speaking about perpetrators being tried by the ICC, IDPs mean the senior leaders of the ousted regime, like al-Bashir and his colleagues. Nevertheless, IDPs believe that perpetrators at the local level can be dealt with through a mix of measures, including local courts and traditional adjudication.⁴⁹
4. **Ending land occupation and right of return:** This is a complicated issue, as it encompasses multiple aspects. One aspect of land occupation is where newcomers, alleged to be Arabs, have arrived from neighbouring countries. These groups are believed to have allied with the Al-Bashir regime, received weapons, fought beside the Sudan Armed Forces and forcefully removed the original inhabitants from their areas. Following the displacement of the original population, these groups occupied the land and use it for residential, grazing and cultivation purposes. This is the most complicated case of land occupation to deal with, as the newcomers are not willing to go, have nowhere to go, and still have their weapons.

A second aspect of land occupation relates to neighbouring tribes who came to use the land for agricultural purposes following the original owners being forced to leave. This is a less complicated case and can be resolved according to the traditional land tenure system, as tribal land boundaries are well known in Darfur.

A third aspect of land occupation involves tribal leaders who did not leave when their community was forced to migrate. Instead, they stayed behind and sold the land to people from a different ethnicity/tribe. The original inhabitants call this land occupation, while the new owners refute this description, showing documents proving that they bought the land legally.⁵⁰
5. **Rehabilitation and development:** Participants highlighted the need for schools, hospitals, water and paved roads, as well as other facilities, such as police stations, various forms of assistance and friendly spaces.
6. **Reparations:** This includes trauma support to victims, and financial compensation as well.

It seems that displaced people are counting on the government to disarm the militias and pave the way for them to return to their original areas to claim their land. The IDPs see the process as an easy task that depends on the willingness of the government to make brave decisions. However, some key informants see this as a legal battle that might take a long time before being settled.⁵²

“None of these demands has been achieved. The only noticeable difference now is the freedom of speech. During the previous regime we could not sit with you like this and talk openly about our concerns. The security organs used to suppress us. Now I am hoping that the transitional government makes brave decisions which can enable us to go back and live with dignity in our original lands. We are attached to our land socially and psychologically.”⁵¹

Conclusion and Recommendations

This case study shows that forced migrants in Darfur, particularly IDPs, have not been properly consulted with regards to TJ, including proposed institutions and mechanisms of implementation. The consultations that took place were overshadowed by political manipulation, especially by armed movements. To a large extent, it appears that IDPs are divided regarding their position on TJ and that their position is often reflective of their political leaders' position. More research is needed on this topic, as this case study covers a small area and a limited number of participants.

The JPA was highlighted as both an obstacle and an opportunity for the transitional justice process in Sudan. For JPA supporters, it is an opportunity, while for the opponents, it is an obstacle. Other key hindrances to accountability and redress are the presence of armed militias and the proliferation of weapons, which increase insecurity in Darfur. Resistance by new settlers to leaving land they gained by force during the conflict is another significant problem. The absence of legal frameworks and institutions is an additional hurdle. The traditional land ownership system could possibly resolve some land disputes, especially among and within local communities. However, regarding newcomers and land selling, current land and property laws may not be enough to resolve these issues. These laws were in place long before the conflict and thus need to be reviewed and updated to properly respond to the consequences of the war and the new reality.⁵⁴

Mental health challenges and the lack of mental health and psychosocial support services are a major concern that was repeatedly mentioned by participants in this research. Further, IDPs noted that they were suffering from trauma due to the physical and verbal abuse they experienced.

It was clear from the discussions that the key issues that TJ must address are security, through law enforcement and disarmament of the Janjaweed, militias, Rapid Support Forces (RSF) and the armed movements, as well as prosecutions of perpetrators, ending land occupation, ensuring the right of return, rehabilitation of destroyed areas, and providing reparations.

Although IDPs in Darfur, with very few exceptions, are from communities of African origin, they are diverse in terms of tribal affiliation and, of course, in terms of age and gender. When it comes to race and religion, they are more homogeneous. The individual priorities in relation to TJ at this particular moment seem to remain unique for all IDPs, as mentioned above.

“The transitional government need to bear responsibility and take brave and effective decisions regarding implementation of JPA and transitional justice, such as prosecution of perpetrators and handover those who have been indicted by the ICC. Few months ago, Fatou Bensouda [ICC prosecutor] came and visited the IDPs' camps. This is the kind of actions we want. This visit sent a message of emotional and moral support as it's for the first time the Sudanese government allowed a senior official from the ICC to visit the IDPs' camps and talk to us directly. Without a comprehensive peace agreement, there will be no security, no peace and no justice in Darfur.”⁵³

The following recommendations suggest ways to overcome the obstacles facing TJ in relation to forced displacement:

1. Regarding security, the central government must make it a top priority in the peripheries. This means it has to accelerate security sector reform, including implementation of the JPA, especially the provisions connected to security arrangements and the disarmament, demobilisation and reintegration of rebel combatants and militias.
2. Regarding the peace process, efforts must continue to reach an inclusive peace that leaves no faction or community behind. This particularly refers to the Abdul Wahid group and the Abdul Aziz Alhilu faction, which have not joined the JPA.
3. Regarding legal frameworks, the government should establish the necessary instruments and institutions at the national level, such as the proposed national legislature, a Human Rights Commission to support TJ and the Truth and Reconciliation Commission, as provided for in the JPA, together with related institutions at the provincial level.
4. Regarding inclusive TJ consultations, creative mechanisms must be deployed that suit local communities and encourage effective engagement, especially for women and youth.
5. Regarding mental health and psychosocial support services, these must be an integral part of the TJ process to ensure effective engagement.

This case study, “Forced Migration, Internal Displacement and Transitional Justice in Sudan,” is part of GIJTR’s project on Forced Migration and Transitional Justice conducted by Consortium partners, the International Coalition of Sites of Conscience and the Centre for the Study of Violence and Reconciliation. This project addresses the disenfranchisement of forced migrants, including Internally Displaced People (IDPs), refugees, and asylum seekers, in national transitional justice processes in countries of origin. By looking beyond humanitarian approaches to addressing victimhood and human rights violations, this project examines forced migration as a transitional justice issue and the extent to which it has been integrated into transitional justice processes, developing recommendations for improving responses to forced migration. Through case studies of diverse country contexts in different phases of transition, and the experiences and activism of a variety of forced migrant groups – from refugees resettled in the diaspora and IDPs displaced by insurgency to trans-border migrants in regional conflicts – the project provides evidence-based policy solutions for addressing forced displacement through inclusive and holistic transitional justice processes, which are responsive to the needs and demands of affected populations. This case study was authored by Zuhair Bashar, freelance researcher and aid practitioner.

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