

## **Land Rights Confusion Hinders Darfur IDP Returns**

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As pressure mounts to send IDPs home, little is being said about the crucial issue of land rights. Abdalla Adam, an IDP (internally displaced person) leader from Alryad camp in El Geneina, West Darfur, says that he desperately wants to return to his village, Mestarei, from which he was forced to leave in 2003, but cannot because others have occupied his land.

Shortly after he was expelled, Arab settlers moved in. He says that at first they were simply illegal squatters, but between 2007 and 2008 many were given the opportunity to register the land they had acquired, through the local municipality in El Geneina.

“We were evicted by force from our land, which was given to settlers,” he said. “The ultimate goal of this campaign of killing and displacement is to eliminate us and give our land to these settlers. We don’t want to live in these camps but for now we have to because there is no where to go.”

Adam says that a committee was formed to take this issue before Sultan Sad Abdulrahman Bahreldin, the traditional ruler of Dar Masalit, the regional district, who advised the IDP leaders to complain to the minister of agriculture of West Darfur.

“The minister said he would refer the issue to President Omar al-Bashir, but so far the leaders haven’t heard anything back,” Adam said. “In the meantime, the settlers have succeeded in registering the land and received legal documents. Today, they are not only the de facto occupants of the land, but can prove ownership as well.”

Adam says that he feels angry that Arab settlers have been able to seize his ancestral homeland in this way, but vows that he will not give up his fight to have his rights to the land restored.

“This is about our land, which we are very attached to, where we have our houses, farms and orchards, and where our ancestors lived, died and were buried,” Adam explained.

Adam is not alone in expressing such anxieties. Many other IDPs would also like to leave the camps and return to their former villages, once the situation improves, but fear that they no longer have land to go back to. Nor are they confident the government will ensure they return safely or protect them once they return.

The dispute over land rights in Darfur has long fanned the flames of the conflict, which broke out in 2003, and many observers are baffled by the international community's apparent reluctance to do anything to address the problem.

Mohamed Abdalla Aldoma, a lawyer from the Darfur Bar Association, said, “Land occupation in Darfur is a very vital issue. But, unfortunately, everybody, including the [United Nations] who documented it in 2007, are silent now.”

But now with a number of key international figures expressing fresh optimism for Darfur's future, the question of land rights has become all the more important.

In August, General Martin Agwai, the outgoing head of the joint African Union-UN peacekeeping force in the region, said that fighting in Darfur had significantly subsided.

During a recent tour of the area, Scott Gration, United States envoy to Darfur, also said that small steps towards peace have been taken, and recommended that Washington adopt a more conciliatory approach with Khartoum. His views made it into a US strategy paper that was unveiled in mid-October.

## ROOT OF THE PROBLEM

Around three million Darfuris (mainly members of the Fur, Masalit and Zaghawa so-called black African Darfur tribes) have been displaced by government forces and allied janjaweed militia since 2003.

Perceiving these tribes as disloyal and harbouring insurgents, the Khartoum government deliberately targeted this section of the population, destroying homes, crops, livelihoods, killing men, raping women and forcing people off their land.

There are claims that Khartoum annulled traditional customary law - which gave ownership rights to the region's sedentary African tribes and leasing rights to Arab nomads - and then actively encouraged Darfur Arabs and Arabs from other countries such as Chad to settle on land previously occupied by the Fur, Masalit and Zaghawa, in a bid to swell support for Bashir's regime.

One estimate from the UN High Commissioner for Human Rights, UNCHR, puts the number of Chadians that migrated to Darfur between 2006 and 2007 at 30,000, but gives no indication that the Sudanese government was responsible for encouraging this influx.

Aldoma says that he has documented many cases where settlers, who were clearly foreigners, were given Sudanese IDs. "In some places the settlers have taken full control of the land including farms, orchards and water resources," he said.

Aldoma says what he describes as the systematic settlement of land has been one of the strategic policies of the government in Darfur. "Since some Darfur ethnic groups have been classified as non-loyal and been targeted accordingly, it is easy to understand why the government brought in these people," he said.

But Sudanese minister of humanitarian affairs, Dr Abdulbagi Eljailani, contests this.

"We have never tried to replace one citizen by another; this is a complete lie. The allegation that we, as government, brought people from outside is mere propaganda and hollow political talk aimed at tarnishing the reputation of the government of Sudan," he said.

"If it's proven that there are individuals living in villages that are not theirs, it's the duty of the government to remove them and give the land back to its original owners.

“It’s our duty to do justice for our citizens in such cases and I ask any Darfuri who has information with regards to land occupation to come forward and let us know so that we can take action and expel occupiers. The western media ...is always trying to depict the government of Sudan as targeting the African tribes of Darfur and favouring the Arabs tribes which is baseless.”

Since land ownership is such an integral part of the conflict in Darfur, many believe that, unless steps are taken to address the problem, it will be difficult to achieve a lasting peace in the region.

But, due to the inherent complexities that surround the issue, it is not so easy to see how this might be done.

One of the main problems is that war-related movement of populations has apparently caused the customary system of land tenure in Darfur to unravel.

Dr Idris Yousif Ahmed, an ex-parliamentarian and state minister for West Darfur, said, “Traditionally, people within our communities had access to land for living and farming, while newcomers had the right to live but no [ownership] rights. But now things have changed, with large numbers [of people coming from outside the region] whom the government has given citizenship to. This is not legal and will lead to conflict.”

Helen Young, a researcher at Tufts University in the US, agrees that “in many places customary law has broken down irretrievably, and this is the fundamental problem. It doesn’t matter if you are an IDP or Arab or who you are, land rights are a real problem.

“Everyone who has resettled, not only outsiders like Chadians who have come in...but also any of the IDPs and others who have moved to a different part of Darfur, none of them have land rights that have a strong foundation in customary law.”

The issue of the land ownership is complicated by poor record-keeping. Most land is not officially registered with the authorities, so the only proof of ownership comes from the collective knowledge of the local community.

Salih Osman, a Sudanese legislator and human rights campaigner, warns time is running out to resolve the problem and that, in the absence of official records, traces of villages and land ownership could disappear. During the fighting, many villages were razed and surrounding fields burnt.

“In time, the remnants of the ruined villages will vanish, and someone will come and say he found the land and there was no sign of previous possession,” Osman said.

“The longer we keep people in camps, the longer there is a possibility of something like this happening. We all fear that this will be an ethnic cleansing, in the sense that millions of people will never be able to go back to their regional homes.”

Few of those that have been displaced by the fighting in Darfur have heard of an official body that is supposed to resolve land disputes in the region. Even fewer have any idea about what it is supposed to do.

The Darfur Land Commission, DLC, was set up in 2006, under the terms of the Darfur Peace Agreement, DPA.

Among other things, the DPA stipulated that those who had seized land by force during the hostilities should not automatically retain the right to settle there.

Originally, the DLC was supposed to be headquartered in El Fasher, the main town in North Darfur and military base of the UN operation there.

But logistical difficulties meant that the head office was eventually set up in Khartoum, hundreds of kilometres away from the people that it was supposed to benefit.

Another problem is that, more than three years on from its inception, the DLC has not yet been involved in any land disputes, nor will it be for the foreseeable future.

“How can we start thinking about who owns the land while there is still fighting going on?” Adam Ahmed, head of the body, said.

Instead, the activities of the DLC are limited to a comprehensive data-gathering exercise, which, while an important element of its mandate, is still a long way from the organisation's main remit.

Ahmed says that the ultimate goal is to set up a database of land usage, which will help in resolving disputes in the future. He adds that 25 firms have been invited to tender for the management of this database.

“We have 30 people in Darfur going through localities and collecting data,” he said. “It is important to have this kind of bottom-up approach, engaging with the local communities, so that once we have completed the planning phase, we will know who owns what piece of land and can resolve disputes efficiently. It is too early to talk about land entitlements now.”

One of the key dilemmas the DLC faces, Ahmed admits, is a lack of money, compounded by an apparent unwillingness from the Sudanese authorities to honour the original agreements that they made.

“We have a problem with the government in that they have not paid the money that they promised to us,” Ahmed said. “The only way to resolve the Darfur crisis is to document the historical land rights of the people, and we must get the government to agree to pay for this.”

LACK OF COORDINATED RESPONSE

The DPA was widely supported by the international community as a positive effort to help end hostilities. However, many feel that it was never truly representative of the people of Darfur.

This is largely because the Sudanese government only persuaded a single rebel group – a faction of the splintered Sudanese Liberation Army, SLA, led by Minni Minawi – to sign.

The other rebel groups abstained, saying that the agreement did not adequately address their concerns.

Few now have any faith left in the agreement, and few UN agencies, NGOs, Darfur human rights activists, lawyers or IDPs themselves are confident that returnees would be safe from renewed attack if they were to go home.

International officials know that putting IDPs back in their villages may expose them to more danger, and do not know whether to dig wells and build schools in previously flattened villages. If they encourage IDPs to return home, and the government renews its attacks, they'd be guilty of putting the vulnerable in an even more dangerous position.

Confusion and inaction therefore continue to surround the international community's efforts to do anything about land ownership rights in Darfur.

The UN Development Programme, UNDP, which is tasked with helping Sudan achieve sustainable peace and development, recognises the importance of resolving disputes over land ownership but says that there is very little coordinated action at the moment.

“International organisations are paying the issue attention,” said Mohammad Iqbal, speaking on behalf of the UNDP senior regional coordinator. “It is an issue that needs to be resolved, but at the moment we’re not doing anything.”

The UNDP is providing some assistance at a local level, however.

“We are trying to provide support for IDPs whose rights have been infringed,” Iqbal said. “We are pursuing things through the local courts and lawyers.”

But many fear that such a fragmented approach is unlikely to make much of a lasting difference in the region.

Regional instability makes it difficult to find an enduring solution to the question of land rights, since large swathes of Darfur remain off-limits for many organisations.

“When I was [in Darfur], there was nothing I wanted more than to go into these areas and check [about land occupation], but there was no security clearance for anyone to get into these areas,” Gert Ludeking, from the agency UN Habitat, said.

UN Habitat conducted an assessment mission on land tenure issues in Darfur two and half years ago, but have not been able to complete their research because of the security situation.

“We have been waiting for long to be able to go and generate [the information we need]. As soon as people move out of secure areas they are hijacked or whatever.

“So we are prevented from getting to the next level of information which would allow us to quantify and qualify our proposals on how to render [adequate] support.”

The International Office of Migration, IOM, says low-level banditry is on the rise. Break-ins and kidnapping are increasing, and it is becoming more difficult for the humanitarian community to work there.

“Always [there] has been lawlessness, but now it is getting worse because there is less order in general,” a spokesman said.

#### DANGER OF RETURNING

IDPs report that, whenever they try to leave the camps, they are in danger of being attacked by militiamen.

When two IDPs, Omer and Ali, left their camp at Kereinig, east of El Geneina, recently to cultivate peanuts a few km away, they were ambushed by armed men. They were then beaten and Omer’s arms were broken.

“We were very lucky to survive,” he said. “We thought they were going to shoot us, but instead they beat us and threatened to kill us if we come back again.”

Omer said that the two men had wanted to leave the camp to grow something for their families to eat.

“But these armed men in military uniform have prevented us,” he said. “They told us that they are the government, and they are the masters of this land.”

Ibrahim Adam, from the Kasab IDP camp in Kutum, North Darfur, recalls how he was attacked by four armed soldiers when he took his goats to graze in bushland 20 minutes walk away from the camp.

“They knocked me down and started to kick me with their boots all over my body while I kept rolling like a ball,” he said. “Then they tied me to a tree and left with the goats.”

Ibrahim was eventually discovered by his family, who managed to free him from the tree.

Ibrahim says that neither UNAMID, the UN peacekeeping operation in the region, nor the police were able to take any action.

“We are just living in big prisons,” he said. “We have no freedom to move, let alone go back to our destroyed villages.”

Noureddine Mezni, a UNAMID spokesman, said peacekeepers cannot be present 24 hours a day in every single camp, but are doing their best.

“Wherever we are present we are trying to make a difference. We are urging the international community to provide us with equipment like helicopters. We are struggling every day to give protection to IDPs,” he said.

“We are not there to replace the government or to be a party to the conflict. We are in a very sensitive mission – we are a peacekeeping mission in an area where there is no peace on the ground to keep.”

Other UN agencies, such as the UNHCR, say lack of security is a factor prohibiting them from working more on the land issue.

“Security doesn’t allow the humanitarian community access. We have our own security rules at the UN. Nearly everywhere we go outside the towns you need armed escorts, which is a huge limitation on your possibility to move around because they are not easily available,” said a source.

The government, meanwhile, insists that people are leaving camps in vast numbers and going back to their villages.

Eljailani, the minister of humanitarian affairs, said, “IDPs started to return back voluntarily since the beginning of the rainy season this year to cultivate their lands. The only challenge we are facing now is how to provide basic services such as water, food and health care to the returnees.”

Responding to reports from IDPs that the situation is not secure enough for them to return, he said, “Yes this could be true but it’s one of the repercussions of war - [but] this is not a complete deterioration of security. The security situation has improved by 98 per cent in North Darfur, for example.

“We have only few isolated incidents perpetrated by gangs and outlaws in the form of abductions of aid workers and car-jackings but we are working closely with local communities and Darfur civil society leaders to combat this phenomenon. Overall, the situation in Darfur is peaceful and secure.”

## AFRICAN UNION PRESSURE

In a recent report written by a panel headed by the former South African president, Thabo Mbeki, the

African Union stressed that Khartoum has a responsibility to facilitate the return of IDPs and refugees in a “secure and orderly manner”, and that there must be investigations into allegations of land occupation.

It said Darfuris are entitled to return to their villages, receive compensation for loss of property, as well as other forms of reparation for harm suffered.

“The [Sudanese government] should consider establishing a Standing Body, including representatives of IDPs and repatriated refugees, to investigate land ownership and occupation. More generally, [it] should examine the question of land...resettlement, and identify mechanisms which will allow disputes arising from land to be settled in a satisfactory manner,” the report said.

“Working together with UNAMID, [Khartoum] should engage the IDPs and refugees to facilitate their voluntary return to their homes. This requires provision of adequate protection and the necessary conditions of safety and security, as well as the provision and rehabilitation of services and amenities in the areas of return.”

And that is the problem.

It has been reported in several newspapers in Sudan that the government plans to shut down several large camps in south Darfur by 2010.

While welcome news on the face of it, camp residents are afraid that they will be forced back to villages in which there is no guarantee of protection from government or janjaweed attack, or a system to resolve the land rights disputes.

In September 2007, government forces are alleged to have attacked the Kalma camp ostensibly to seize weapons which they thought were being stashed by rebels. Twelve people were killed. Camp residents fear that was an attempt to disperse them, and get rid of the evidence of mass displacement in Darfur.

Little has changed since then. Sheik Ali Ibrahim El Tahir, leader of the Kalma camp, recently told IWPR, “The government is trying to block food and create an atmosphere of harassment and fear around the camps, so that people will leave the camps. I call on all IDPs to resist any such forceful removal unless the conditions of displacement created by the government are brought to an end and the security situation improves.”

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