

## **Sudan- Nuba - the Right to Life in the Face of Ethnic Cleansing**

BY MUKESH KAPILA, 11 JUNE 2012

### **OPINION**

*The world cannot afford to ignore ongoing ethnic cleansing in Sudan's Nuba Mountains.*

Almost exactly one year ago, the latest bloody chapter in Nuba's tragic history was opened by Ahmed Haroun, who was appointed by Sudan's President Omar al-Bashir to govern Southern Kordofan after dubious elections there. Both men, along with the defence minister and several other leaders of Sudan's ruling National Congress Party, have been indicted for crimes against humanity in Darfur.

Haroun was nicknamed the "Butcher of Nuba" after what he did there in the 1990s. He refined his murderous techniques further in Darfur, as I witnessed myself when I was the UN Resident and Humanitarian Coordinator for the Sudan in 2003/04. Nearly a decade later, and now better practiced and equipped with more modern airpower and heavier artillery, Haroun has returned to Nuba with renewed vengeance.

### **Crimes against humanity**

I saw the 'work' that Sudan Armed Forces do first hand - shown in this [film clip](#) - when I visited the Nuba Mountains a few weeks ago. The evidence is clear and mounting that the tactics of the Khartoum regime are tantamount to crimes against humanity.

I saw both deliberate and indiscriminate targeting of villages, including water sources and food stores. I saw fields on fire, as terrified women and children cowered in cracks and caves, while Antonov bombers rumbled overhead. Unable to plant the food on which their survival depends, the people of Nuba are being burnt, displaced, and starved off their land. The numbers of refugees fleeing into South Sudan has increased and the malnourishment levels among the latest arrivals indicates that extreme hunger stalks the land, even as the Nubans' traditional way of life going back hundreds of years is being deliberately destroyed.

As I also saw for myself, the Sudan military is deploying cluster bombs and anti-personnel landmines in the Nuba to kill and maim unarmed civilians. This is a breach of Sudan's obligations under the Ottawa Treaty against landmines, which it has ratified.

We know that these crimes in the Nuba are motivated by prejudice against the indigenous Nuba people because of statements made to that effect by the Arab-dominated Khartoum regime, and especially their senior leaders, Bashir and Haroun. This is borne out by the selective pattern of atrocities on the ground, including mass detention and summary executions of Nubans. All this adds up to prima facie evidence for genocide against the Nuba people.

The Sudan Government has not denied what it has been doing. It has justified its tactics on the grounds that it is fighting an insurgency, and civilians inevitably get caught up. But it has deliberately rejected the provisions of international law on how a war may be justified (*jus ad bellum*) or conducted (*jus in bello*). Furthermore, it has steadfastly denied access for independent humanitarian needs assessment and provision of relief for the victims of the war. This is a further breach of international humanitarian law.

### **International pressure**

With so much accumulated evidence on human rights abuses, war crimes, and crimes against humanity including possibly genocide, the world has an obligation to act. The United Nations could initiate a more serious political process on Sudan to tackle the underlying causes of the conflict. Instead, its desultory and fragmented efforts play straight into the hands of Khartoum, which is adept at divide and rule tactics. The UN, African Union, and Arab League could join together to put pressure on Khartoum. Meanwhile, more African countries could follow Botswana, Zambia, and Malawi in showing their disapproval of Bashir, and the African Union could toughen up its act. In addition, all countries with ambassador level diplomatic presence in Khartoum could withdraw this, sending a strong signal that they will not do business as usual with a regime headed by an indicted war criminal.

The UN Security Council could make a formal enquiry into the atrocities and refer this to the International Criminal Court. It could also consider a no-fly zone over Southern Kordofan though that is probably impractical to agree upon or enforce. It could certainly prohibit arms transfers to the Sudan Government so as to reduce its ability to wage war against its own people. It could also impose economic sanctions to reduce the means by which Khartoum can buy arms. It could also impose tougher personal sanctions against the perpetrators, many of whom are already indicted by the International Criminal Court (ICC). All countries could give more help to the ICC on executing the arrest warrants.

### **Evolving world, evolving rights?**

None of these suggestions which have been put forward in recent weeks appear to be receiving serious consideration in key world capitals. Of course, even if they were to be put into effect, no one is so naive as to believe that this would turn around Khartoum - as Bashir has demonstrated well his ability to defy a hopelessly divided international community. However, they would signal the world's disapproval of those who commit crimes against humanity and increase the cost for Bashir and his henchmen who continue to act with impunity.

Meanwhile, the suffering of the Nuba people increases daily and, quite possibly, they face an existentialist threat. If the world will not or cannot help them, do they not have the right to defend themselves?

The right to self-defence is a cornerstone of international law, enshrined in the UN Charter (Article 51) and numerous Security Council Resolutions. Of course, that measure applies to States. But international law is evolving and the notion that sovereignty is not an absolute right but conditioned on a State protecting its populations from mass atrocities is an emerging norm under the UN initiative on the "responsibility to protect". However, to exercise that norm through armed intervention still requires approval by the UN Security Council or General Assembly. But what can be done if these august guardians of the world are seized-up by interstate politics, allowing the aggressor State authority to commit atrocities with impunity?

Under these circumstances - which currently prevail in Sudan - the people of Nuba may need to resort to a much earlier provision of customary law that goes back several centuries and exists in all cultures: the right to defend the right to live. A derivative of this was invoked more recently with the so-called "humanitarian" intervention in Kosovo that was not approved by the politically-divided Security Council but which is mostly considered to have been the inevitable and correct response to the circumstances.

Right now, it appears that the rest of the world cannot or will not use the ample provisions of international law to stop the atrocities being visited upon Nuba - and in Darfur and the Blue Nile. By this abrogation, the world has also given up the authority to obstruct the people who are in mortal peril from taking matters into their own hands to defend their fundamental and inalienable right to live. Helping them to do so may

be the inevitable course to follow if the great atrocity that is underway is to be halted. Good people around the world who want to do the right thing should take note.

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