

Contents

AMNESTY INTERNATIONAL'S VISIT TO SUDAN	2
STILL A CONFLICT ZONE	3
CIVILIANS UNPROTECTED	3
RAPE AND SEXUAL VIOLENCE	4
FRAGILE HUMANITARIAN SITUATION	5
FAILURES IN THE ADMINISTRATION OF JUSTICE	5
ABUSES BY ARMED OPPOSITION GROUPS	6
RECOMMENDATIONS	6
Protect human rights throughout Sudan	6
To the Sudanese government: protect civilians	7
To the armed opposition groups: stop human rights abuses	7
To the Sudanese government: reform the justice system	7
To the Sudanese government: end impunity	8
To the international community: an effective international Commission of Inquiry	8
To the international community: a strategy to protect civilians	9
To the international community: increase monitoring presence	9
To the international community: suspend supplies of arms	10

Sudan

CIVILIANS STILL UNDER THREAT IN DARFUR

An agenda for human rights protection

People driven from their homes in Darfur are still unsafe, traumatised by the losses of the past, in fear for the present and unsure of their future. Amnesty International delegates, visiting Darfur in September 2004, found a profound gulf between the displaced people, who have lost all trust in the government and fear to leave their camps without international protection, and the government which remains in denial about the extent of the killings and rapes and of its own responsibility for the human rights and humanitarian crisis in Darfur. This feeling of insecurity can only be bridged by a total change in government attitudes and actions and continued and increased engagement by the international community, including greatly enhanced international protection. Most dangerously, continuing abuses and conflict are putting communities up to now, largely unaffected by the crisis, at risk in the north and southeast of Darfur.

The escalation of conflict in Darfur in early 2003 followed from the formation of two insurgent groups in the region, the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM). Yet the 1.4 million people, mostly from sedentary communities, forced out of their villages and now living in fear in camps for the displaced, had nothing to do with the newly formed insurgent movements. The Sudanese government gave free rein to nomad militias, known as the *Janjawid*, to devastate villages and kill people. The militias who emptied vast parts of Darfur of its population were armed, paid and supported by the Sudanese government and often accompanied by government armed forces.

The testimony of displaced people and others in Darfur confirms the role of the government in supporting the militias and the involvement of government armed forces in many attacks. Yet, although some ministers and government officials acknowledged to Amnesty International that there had been violations of human rights and international humanitarian law, most others in the Sudanese government continued to deny that the government encouraged the killings and displacement. Government representatives also rejected Amnesty International's findings that rape had taken place on a large scale.

The government set up a commission of inquiry in May which has not yet issued its report, and "rape committees" in July to investigate allegations of rape. But there is little confidence among displaced people in government initiatives or willingness to cooperate with such investigations. Freedom of expression and freedom from arbitrary detention continue to be routinely denied.

Amnesty International's visit to Sudan

On 1 September 2004 Amnesty International was granted access to Sudan and delegates led by Secretary General Irene Khan visited Khartoum and Darfur between 13 and 21 September. The delegates had meetings with senior representatives of the Sudanese government, the judiciary and the police, as well as Sudanese lawyers, doctors, and members of nomadic and sedentary communities, including many victims of human rights violations. They also met members of governmental and non-governmental human rights organizations, UN and humanitarian organizations, monitors from the African Union and UN High Commissioner for Human Rights, and representatives of the diplomatic community. The delegates were given full and free access to Darfur.

Delegates spoke to hundreds of displaced persons in camps or towns in North, South and West Darfur and in the capital, Khartoum. Similar accounts were repeated over and over again: the arrival of armed men, often described as wearing khaki and accompanied by members of the Sudanese army, who attacked villages, burned homes, and looted herds and goods. Villagers were killed and in many villages women were raped and carried off for days into sexual slavery. Some have not yet returned. In some areas the Sudanese air force used Antonov planes, MIG jet fighters or helicopter gunships to bomb towns or villages. Testimonies indicate that bombing attacks continue.

Amnesty International has followed the human rights situation in Darfur closely for many years. In January 2003 Amnesty International delegates visited Sudan, including Darfur, and held discussions with the governor in North Darfur State and leaders of the police and judiciary. At the time, one month before the formation of the opposition SLA triggered militia and government attacks on sedentary populations, Amnesty International called on the government to set up a national commission of inquiry into the deteriorating human rights situation in Darfur and to implement its recommendations. In April 2003, as attacks on civilians increased, the organization called for an international Commission of Inquiry. In a report in July 2003¹ Amnesty International raised human rights concerns in northern Sudan, including the deteriorating situation in Darfur. Amnesty International also requested that the peace process, underway to resolve the conflict in southern Sudan address human rights issues in all parts of Sudan.

Without having received access from the Sudanese government to visit Darfur at the height of the conflict, Amnesty International delegates carried out research among Sudanese refugees in Chad and published five reports between February and August 2004 detailing killings; destruction of villages; sexual violence against women; failures in the judicial system; restrictions on freedom of expression; and other human rights violations.²

¹ *Sudan: Empty promises? Human rights violations in government-controlled areas* (AFR 54/036/2004, 16 July 2003)

² *Sudan, Darfur: 'Too many people killed for no reason'* (AFR 54/008/2004, 3 February 2004); *Sudan: Darfur: Incommunicado detention, torture and special courts* (AFR 54/058/2004, May 2004);

Still a conflict zone

Civilians are still at risk of unlawful killing and other human rights violations as conflict continues in many parts of Darfur and other areas come under attack. Communities continue to be forced from their homes, both deliberately driven out and as a result of ceasefire violations by all parties to the conflict. New displacements of people have been reported from North Darfur. In southeastern areas of South Darfur, previously not known to have been touched by the conflict, violations of international humanitarian law have been reported during fighting between the armed opposition groups and government armed forces supported by militias. Some of the fighting in South Darfur may also constitute a conflict between communities.

The lack of substantial progress in the peace process means that the conflict could further escalate and that the fragile humanitarian situation could deteriorate even beyond the present emergency situation. If the Sudanese government and armed opposition groups fail to reach a political agreement or incorporate human rights safeguards, there is a strong possibility that a protracted conflict accompanied by violations of international humanitarian law will affect most of Darfur in the years to come. People internally displaced within Sudan and refugees who have fled the country will be unable to return to their homes in safety and dignity. Risks exist that the conflict will also delay the North-South peace negotiations and spread further into Kordofan state.

Civilians unprotected

The lack of protection for civilians remains Amnesty International's overarching concern. There is a total lack of confidence among the displaced populations in Darfur towards government institutions, including the police and the judiciary. Most displaced people say that they do not yet feel that it is safe to return home and some do not even feel safe in the displaced camps. They feel anger at the human rights abuses committed against them and frustration at their present living conditions and their lack of prospects of returning to a secure home.

New police officers in Darfur have been introduced by the Sudanese government, to restore confidence in the police and protect certain areas. However, people still do not trust the police. Most allegations of armed attacks and rape do not yet appear to be investigated at all, while others are not fully investigated.

In addition, there are multiple testimonies that former government-aligned *Janjawid* militiamen have been integrated in the formal government security forces, including the army and the police. It is clear that the government needs to provide concrete, measurable

Sudan: At the mercy of killers – destruction of villages in Darfur (AFR 54/072/2004, June 2004);
Sudan: Darfur: Rape as a weapon of war – sexual violence and its consequences (AFR 54/076/2004, 19 July 2004);
Sudan: Intimidation and denial – Attacks on freedom of expression in Darfur (AFR 54/101/2004, August 2004).

guarantees that the members of militias accused of human rights violations against civilians in Darfur will not be incorporated into the police forces tasked with protecting them. The tension in the camps caused by lack of confidence and feelings of insecurity can be seen when displaced people in camps have attacked, and on one occasion killed, individuals believed to support the militias or represent the government.

People living outside the designated sites for the displaced are often even more vulnerable and anxious about their own security. They include those who are still in hiding and therefore not receiving humanitarian assistance, those who are living in areas close to or held by government-aligned militia, and those who have returned to unsafe areas.

Rape and sexual violence

During their visit in September 2004, Amnesty International delegates received further reports of large-scale rape and sexual slavery dating from the period before the ceasefire of 8 April 2004. They were also told of recent individual rape cases, usually of women gathering wood or grass outside displaced camps, which had been inadequately followed up by police. No one is known to have been convicted of rape in relation to the conflict.

A decree by the Minister of Justice issued on 21 August 2004 removed the requirement that victims of rape report to the police before seeking medical attention. Amnesty International delegates met members of the “rape committees” set up by the Ministry of Justice to investigate allegations of rape. The governmental Human Rights Advisory Council said that these committees had registered only 50 cases of rape. Amnesty International is concerned that this is a gross underestimate of the scale of sexual violence and rape that has occurred over the past 18 months in Darfur. Displaced people in camps told delegates that they did not have confidence in the “rape committees” because they were government-appointed and were therefore not independent, and because they failed to make serious inquiries among the women including the survivors of rape. Members of the committees, which in each state included a woman judge, a prosecutor and a policewoman, insisted that they had made persistent attempts to gain information, including by sitting and talking to groups of women. It is likely that their failure to uncover the extent of the cases reported by women to Amnesty International in refugee and displaced camps and in Khartoum to Amnesty International was the result of continuing distrust among displaced persons of any action by the Sudanese government.

The government of Sudan did not accept the extent of rape and other sexual violence described by Amnesty International in its July 2004 report, *Sudan: Darfur: Rape as a weapon of war – sexual violence and its consequences*. The Human Rights Advisory Council asked the organization to supply a list of all victims. Amnesty International delegates insisted on maintaining the confidentiality of those who had reported rape but promised to supply a list of incidents reported to the organization.

Fragile humanitarian situation

The humanitarian situation remains fragile. Malnutrition and death rates are reported to be still above emergency thresholds in many sites for displaced people.³ Humanitarian agencies are overstretched and often unable to meet the needs of people in the camps where the demands on them have grown. Further communities have been displaced and the agencies have gained access to areas that they could not previously reach or assess. Food distribution remains irregular and incomplete, apparently because of the logistical difficulties in getting the food to the beneficiaries.

Although the government of Sudan has given full and free access to humanitarian organizations in government-controlled areas of Darfur, not all communities can be reached because of the risks of banditry or continuing conflict. In many other areas, humanitarian organizations have been able to negotiate access with the government of Sudan and the armed opposition groups in order to make assessments of humanitarian needs in areas that are not firmly under the control of either the government or the armed opposition groups.

Failures in the administration of justice

People continue to be detained without trial for giving information or for speaking out about the situation in Sudan, and the government has failed to respect international standards for law enforcement and for fair trial. Amnesty International has repeatedly called on the Sudanese government to amend the National Security Forces Act, which allows people to be detained without charge for up to nine months, and to end the use of specialized criminal courts in Darfur that limit rights to fair trial.

In some places, such as Abu Shouk camp in al-Fasher, scores of displaced people were arrested in July and August 2004 reportedly for speaking to foreign delegations or African Union monitors. A few are still detained. Some detainees were allegedly beaten or ill-treated. In Omdurman and Khartoum in September 2004, two people died on the day of their arrest, reportedly after being beaten. They had been arrested with scores of members of the Popular Congress, an opposition party said to be linked to the JEM, on suspicion of plotting a coup. A month later, none of the detainees was known to have had access to lawyers.

Amnesty International delegates discussed individual cases, including cases of killings and rape, with judges, prosecutors, lawyers and police. In al-Jeneina, judges and prosecutors said that perpetrators had not been prosecuted for the killings of thousands of civilians in West Darfur state from May 2003 because there were no complaints and no evidence. In recent months several thousand new police have been moved to Darfur. Amnesty International delegates spoke to new police units in various parts of West Darfur State who had come recently from Khartoum and the east of Sudan. They lack logistical support and still appear to fail to adequately follow up alleged cases of killings and rape.

Delegates also visited a detention centre, under the authority of the National Security and Intelligence Agency in Nyala, and held private discussions with detainees. Those detained

³ UN Darfur Humanitarian profile No.6, 1 September 2004, www.unsudanig.org

under the National Security Forces Act – one for up to seven months – had not been charged or brought before a court, and had no access to a lawyer.

Abuses by armed opposition groups

Amnesty International delegates visited Musai camp, near Nyala, and heard testimonies from displaced members of nomadic groups of killings and rapes by the Sudanese Liberation Army.

The Justice and Equality Movement and Sudanese Liberation Army forces have attacked humanitarian convoys and abducted humanitarian workers. Though most of those abducted have eventually been released unharmed, some Sudanese civilians have reportedly been killed, including two members of staff of the Committee for the Eradication of the Abduction of Women and Children.

Recommendations

Protect human rights throughout Sudan

The crisis in Sudan must be addressed in a comprehensive manner that ensures the protection and respect of human rights for all. International attention has shifted from one area to another in Sudan in a “fire-fighting” pattern rather than a coherent, comprehensive approach to the overall situation in the country. However, lessons must be learned and solutions developed that offer timely, effective and long-lasting protection of human rights. Similar patterns of attacks against civilians and forced displacement have occurred and are still occurring in other areas of Sudan. In order to break this cycle, it is therefore crucial that respect for human rights is strengthened in Sudan as a whole. Impunity for human rights violations, the lack of freedom of expression or association, harsh conditions of detention, unfair trials and an unreformed judiciary, human rights violations against women, the misuse of militias, and arms proliferation – all are issues that need to be urgently addressed throughout Sudan.

- All parties to the conflict should make a public commitment to respect international human rights and humanitarian law in Sudan, in particular by refraining from any direct or indiscriminate attacks on civilians and civilian objects. They should issue clear instructions to all combatants under their control not to kill civilians or use rape or other forms of sexual violence against women.
- The parties to the conflict must place human rights at the centre of the peace talks in Naivasha, Kenya, and Abuja, Nigeria. The peace process should result in firm commitments towards ensuring respect for fundamental human rights, including respect for diversity and non-discrimination throughout Sudan. The international community should put its weight behind the peace process to ensure that it is based on respecting, protecting and upholding human rights.
- All parties to the conflict and international mediators should ensure that the rights of women and their special needs are addressed in the peace process, and that women participate fully in the process.

- All parties should grant the International Committee of the Red Cross all the assistance it requires to carry out its protection mandate.

To the Sudanese government: protect civilians

- The *Janjawid* militias, including those members who have been incorporated into the Popular Defence Forces, the People's Police and other paramilitary forces and which have been involved in attacks on civilians, should be immediately disarmed and disbanded.
- Anyone suspected of violations of international human rights or humanitarian law should be removed from a position where they could continue to commit such acts.
- The Sudanese police should be properly trained in international human rights standards, and should investigate promptly all allegations of human rights abuses.
- The government should cooperate fully with the monitoring missions of the African Union and the UN and other international monitors.
- The government should allow full and free access for humanitarian and human rights organisations to all parts of Sudan.
- The concept of "safe areas", as defined in the August Plan of Action agreed by the UN and the Sudanese government, should be abandoned. There is a risk that "safe areas" will institutionalize the displacement of people, and that government plans to extend existing "safe areas" will lead to additional confrontations with the armed opposition groups.

To the armed opposition groups: stop human rights abuses

- The Sudan Liberation Army and the Justice and Equality Movement must respect international humanitarian law. In particular they should refrain from all attacks on civilians or civilian objects.
- Anyone suspected of violations of international humanitarian law should be removed from positions where they can continue to commit abuses.

To the Sudanese government: reform the justice system

The system of justice in Sudan has failed to protect those who have suffered human rights violations by the state and by government-supported militias.

- Immediately and unconditionally release all prisoners of conscience, arrested solely for the non-violent expression of their opinions;
- Reform of the justice system in Darfur is essential to restore confidence in the rule of law. The decrees instituting the Special Courts or Specialized Criminal Courts in Darfur should be amended to ensure fair trial without the possibility of the death penalty or cruel, inhuman or degrading punishments.
- All detainees should have prompt access to a judicial authority, lawyers and families. Article 31 of the National Security Forces Act, which allows detention without charge for up to nine months, should be immediately amended.

- All places of detention should be registered and be inspected by an inspectorate service under the Ministry of Justice. This inspectorate should have access to every detention centre in Sudan; investigate promptly and impartially cases of torture and other human rights abuses and bring perpetrators to justice.

To the Sudanese government: end impunity

- The Sudanese government should acknowledge its responsibility in the crisis in Darfur. It should condemn attacks against civilians and other grave human rights violations committed by armed militias, government ground forces or the Sudanese air force during the conflict. The resulting impunity for extrajudicial executions, other unlawful killings, torture, rape, abductions and arbitrary detentions can only fuel further human rights violations in Darfur and elsewhere.
- To date, impunity has not been addressed by the Sudanese government. The government should ensure that past and present allegations of human rights violations, including killings and sexual violence, are promptly, thoroughly and independently investigated, and that those suspected of being responsible are brought to justice in trials that meet international standards of fairness without the possibility of the death penalty or other cruel, inhuman or degrading punishments. Victims should have access to redress, including compensation and restitution. The safety of the victims and witnesses should be protected. If the national justice system is not able or willing to bring those suspected of war crimes or crimes against humanity to justice, other mechanisms of international justice should be considered by the newly established UN international Commission of Inquiry.

To the international community: an effective international Commission of Inquiry

Amnesty International welcomes the establishment by the Security Council of an independent UN international Commission of Inquiry to investigate reports of violations of international humanitarian law and human rights and determine whether acts of genocide have occurred. The Commission of Inquiry has strong expertise in human rights and international law. The Commission's specific terms of reference should include:

- Investigation into the extent of war crimes and crimes against humanity committed by all parties, including through forensic examination of graves; systematic documentation of sexual violence and rape; compiling lists of people killed and mapping of villages that have been destroyed.
- The development of a comprehensive plan for ensuring that perpetrators are brought to justice including by examining the capacity of the Sudanese justice system to do so and exploring transitional and complementary approaches to ensure justice for the victims. As part of these transitional and complementary approaches, the Commission should consider the exercise of jurisdiction: before the courts of third states; or by the International Criminal Court, either through a declaration by Sudan under Article 12(3) of the Rome Statute, or by a referral by the Security Council according to

Article 13(b) of the same instrument; and the establishment of mixed Sudanese/international tribunals.

- Proposing a method of eradicating impunity and achieving full reparations for victims of the human rights abuses, including restitution, compensation, rehabilitation, satisfaction and guarantees of non repetition.
- Making public its findings and recommendations within a reasonable period of time.

To the international community: a strategy to protect civilians

- International agencies involved in protection of the internally displaced must coordinate their actions effectively setting common objectives and clearly defined roles and responsibilities. A comprehensive inter-agency strategy for the protection of the internally displaced population in Darfur, which fully respects the UN Guiding Principles on Internal Displacement, should urgently be developed in a process that involves the government of Sudan, the Special Representative of the UN Secretary General and the International Committee of the Red Cross.
- Agencies and organizations that provide protection and assistance to the internally displaced in Sudan or the refugees from Darfur in Chad, should take into account the particular needs of vulnerable groups, including women and children. Medical care including counselling should be available to victims of torture and rape and other forms of sexual violence.
- The safe, voluntary and sustainable return of all displaced people to their homes must remain the ultimate human rights goal for the Darfur crisis. Security must be established to allow such a return, in a voluntary and dignified manner under the auspices of the UN. Individuals must be provided with the means of making an informed and individual choice of when to return. The threshold for determining when return is possible should be the same for both refugees and the internally displaced.

To the international community: increase monitoring presence

Increased international monitoring in Darfur until the displaced and refugees have returned safely is vital to address their concerns for safety and lack of confidence in the government.

- The Sudanese government has accepted an expanded mandate for the African Union monitors and their immediate deployment. The international community should assist the African Union in the prompt implementation of this task.
- The presence of African Union monitors must be extended to every administrative unit (*wahda idariya*) in Darfur. Africa Union ceasefire monitors should monitor not only ceasefire violations but also breaches of international human rights and humanitarian law. They should report their findings fully, and the consent of the parties to the conflict should not be required for the public release of monitoring reports.
- UN member states should provide the support necessary for the Office of the UN High Commissioner for Human Rights to significantly strengthen its monitoring capacity.
- There should be international police monitors to support the national police forces and to reconstitute confidence in the national police authorities. The international policing

body should be deployed rapidly, not only provide advice and training, but also to monitor the system of police recruitment in Darfur to ensure that those who may have committed serious human rights violations are not included in the police force, but are brought to justice.

To the international community: suspend supplies of arms

The government of Sudan is responsible for the violations committed by its armed forces and the Janjawid militia in Darfur. The UN Security Council arms embargo, at present in place for non-governmental entities only, should be extended to include a suspension to the Sudanese government of all transfers of military equipment that are likely to be used to commit human rights violations. A strong monitoring mechanism should be established to investigate possible violations of the arms embargo and report periodically on its findings. A suspension on transfers of arms to the Sudanese government and all parties to the conflict in Darfur, would help contain the conflict and ensure that no further arms are used to commit human rights violations. Such a suspension would also send a strong signal to the Sudanese government that the international community can take decisive action when massive atrocities are being committed.