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African Commission on Human and Peoples' Rights: Oral statement on item 6: Human rights situation in Africa - Ending Impunity in Sudan

Chairperson, Commissioners,

Amnesty International is seriously concerned that the failure to bring to justice those who have murdered, raped and looted, has served as a green light for the continuation of those crimes in Darfur and many other places in Africa.

The killings and destruction in Darfur by government-supported militias, armed forces and aerial bombing have only repeated what happened in the Nuba mountains and southern Sudan, where some two million people are believed to have died as a result of the conflict. The cycle of violence must be stopped.

In Darfur, since 2003, militias armed and supported by the government, often alongside government troops, have forcibly displaced 1.86 million people from their homes and killed more than 50,000 people. Thousands have been raped and homes and property destroyed and looted. A government has the right and duty to act against those who take up arms against it, but in Darfur a whole region has been devastated and the victims are civilians who should have been protected, not targeted by the government.

Talking to judges and prosecutors, Amnesty International saw in al-Jeneina, West Darfur State, the dramatic evidence of the government's failure to uphold justice and effective remedy. Since April 2003 village after village was destroyed, men, women and children were killed or fled and suspects were not arrested. Police, prosecutors and judges failed to act against murderers.

Those who are displaced are still afraid to return to their homes as the government still fails to protect them. The attacks are still continuing. On 7 April 2005 there was, what a joint African Union and UN statement described as a "senseless and pre-meditated savage attack" on the people of Khor Abeche.

Impunity is just one of the reasons why there is still insecurity in Darfur, but it is an important factor. The government of Sudan still fails to bring the Janjawid to justice. One man whose brother had been killed by the Janjawid visited the police, the national security office, the army and the Prosecutor's office in different centres of Darfur begging for justice. He ended up by being himself detained for 12 days. There have been cases of women who fell pregnant because of rape and who have been charged with *zina*, illegal sexual intercourse, a criminal offence under the Sudan Penal Code.

Reconciliation between the different ethnic groups in Darfur is important. Darfur is the home of nomads and farmers, and they will have to reconcile and continue to share this area in the future. But this reconciliation must be accompanied by justice. Those who are suspected of having committed crimes

under international law must be held accountable for their actions. The trials must be fair and public and without recourse to the death penalty.

For the victims and their relatives ending impunity is essential to obtain redress for their loss and come to terms with it. Experience shows that lasting reconciliation cannot happen in an atmosphere of injustice.

The referral by the Security Council of the situation in Darfur to the Prosecutor of the International Criminal Court (ICC) has been an important step to end impunity. But only a few of the perpetrators will be brought to the ICC. Security Council Resolution 1590, adopted in March 2005, calls for "the protection of human rights of all people of Sudan through a comprehensive and coordinated strategy with the aim of combating impunity and contributing to long-term peace". This comprehensive plan to end impunity must be put in motion, to take action on the crimes under international law committed not only in Darfur but also, by all sides, in the south and elsewhere in Sudan.

The African Commission can play an important part in ensuring that experience of the failures and successes of post-conflict justice in Africa is shared with the people of Sudan, including Sudanese lawyers and judges.

Amnesty International urges the African Commission to:

- keep the situation in Darfur under review and investigate and make public recommendations to end impunity for all human rights abuses in Sudan that come to its attention;
- use its broad promotional mandate and work together with the African Union as well as national and international civil society organizations to ensure that its recommendations to fight impunity in Sudan are implemented;
- strongly and publicly condemn the continuing human rights violations in Darfur, and to ask all parties to the conflict to strictly comply with international humanitarian and human rights law;
- make public the report of its July 2004 mission to Sudan. The African Commission cannot continue to wait for the government of Sudan to respond to its report, especially since the government has previously failed to cooperate with the Commission in this regard and in the face of the continuing human rights violations in Darfur.