

## Summary

Five years into the armed conflict in Sudan's Darfur region, women and girls living in displaced persons camps, towns, and rural areas remain extremely vulnerable to sexual violence.<sup>1</sup> Sexual violence continues to occur throughout the region, both in the context of continuing attacks on civilians, and during periods of relative calm. Those responsible are usually men from the Sudanese security forces, militias,<sup>2</sup> rebel groups, and former rebel groups, who target women and girls predominantly (but not exclusively) from Fur, Zaghawa, Masalit, Berti, Tunjur, and other non-Arab ethnicities.

Survivors<sup>3</sup> of sexual violence in Darfur have no meaningful access to redress. They fear the consequences of reporting their cases to the authorities and lack the resources needed to prosecute their attackers. Police are physically present only in principal towns and government outposts, and they lack the basic tools and political will for responding to sexual violence crimes and conducting investigations. Police frequently fail to register complaints or conduct proper investigations. While some police seem genuinely committed to service, many exhibit an antagonistic and dismissive attitude toward women and girls. These difficulties are exacerbated by the reluctance—and limited ability—of police to investigate crimes committed by soldiers or militia, who often gain effective immunity under laws that protect them from civilian prosecution.

The Sudanese government has said it is committed to combating sexual violence in Darfur. In November 2005 it launched a National Action Plan on Combating Violence against Women and in December 2005 the Ministry of Justice created a special Unit to

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<sup>1</sup> "Sexual violence" is defined as: "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work." World Health Organization (WHO), *World Report on Violence and Health* (Geneva: WHO, 2002), p.149. Throughout this report, the term "sexual violence" refers to rape, attempted rape, sexual assault, and threats of rape. It does not refer to other forms of gender-based violence experienced by women and girls.

<sup>2</sup> The terms "militia" and "Janjaweed" are used interchangeably throughout this report. They refer to men who were armed by the government and continue to fight with government support either informally or formally as members of auxiliary units (such as the Border Intelligence unit or the Popular Defense Forces) within the Sudanese military. These terms do not refer to regular security services such as police, Sudanese Armed Forces or the National Intelligence and Security Service.

<sup>3</sup> Throughout this report, the term "survivor" is used interchangeably with the term "victim."

## Recommendations

### To the Government of Sudan

- Immediately cease all attacks by government forces and government-backed militia against civilians, including women and girls.
- Provide an open and accessible mechanism for individuals to report on and bring complaints against any member of the armed forces for commission of, complicity in, or ordering rape or other forms of sexual violence. Ensure that all such complaints are fully investigated, and that any member of the armed forces implicated in such allegations be immediately suspended pending outcome of the investigation. Ensure that a complete and accurate record is kept of all such complaints and outcomes of investigations, and that these records are made available to UNAMID civilian police and to UNAMID human rights monitors.
- Issue clear, public instructions in the form of a presidential decree to all members of the armed forces and government-sponsored militia that rape and other forms of sexual violence will be promptly investigated and prosecuted. Hold those who commit such acts criminally responsible.
- Seek international assistance and expertise to strengthen Darfur's law enforcement system by implementing professional training for police and prosecutors and other measures to ensure that (1) victims of criminal offenses, especially victims of sexual violence, have access to justice through open and accessible reporting and complaints mechanisms, and (2) law enforcement officials implicated in abuses are disciplined or prosecuted in accordance with international legal standards.
- Ensure that sufficient numbers of police are adequately deployed to combat crime in rural areas and have sufficient means to respond promptly to criminal offenses. Ensure female police, including investigators, are deployed

in every station and are trained and tasked to assist victims of sexual violence.

- Ensure police and medical professionals are trained on and fully understand the amended procedure outlined in government Criminal Circular 2 for collecting medical evidence for use in legal proceedings. Ensure the correct forms are widely available to all police and authorized medical professionals and that they are provided to victims without charge. Monitor police performance in response to cases of sexual violence and promptly discipline law enforcement officers who do not comply with the procedures.
- Ensure health professions implement WHO-UNHCR clinical protocols for handling sexual violence cases.
- Issue clear public instructions to police and prosecutors to diligently investigate abuses in sexual violence cases in all reported cases, regardless of whether committed by members of armed forces, police, militia, rebels, or any other perpetrator.
- Issue clear public instructions to military commanders to comply promptly and transparently to requests from prosecutors in cases of sexual violence perpetrated by members of the armed forces.
- Revise laws that provide effective immunity in civilian courts for security personnel who commit serious crimes against civilians, including crimes of sexual violence, in particular the National Security Forces Act, the Police Forces Act, and the People's Armed Forces Act.
- Revise articles 145 and 149 of the criminal code to preclude victims of rape from being prosecuted for adultery, and include provisions for attempted rape.
- Instruct police to cooperate fully with UNAMID Police including permitting the UNAMID Police to monitor investigations.

- Support and improve effectiveness of the three Darfur State Committees to Combat Violence Against Women in line with the government's own Joint Task Force recommendations.
- Ratify the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

### **To the “non-signatory” rebel groups and former rebel groups**

- Cease all attacks on civilians, including on women and children.
- Give clear, public orders to group members that rape and other forms of sexual violence will be investigated and prosecuted, and that perpetrators will be held fully accountable.
- Provide an open and accessible mechanism for individuals to report on and bring complaints against any group member for commission of, complicity in, or ordering rape or other forms of sexual violence. Ensure that all such complaints are fully investigated, and that any group member implicated in such allegations be immediately suspended pending outcome of the investigation. Ensure that a complete and accurate record is kept of all such complaints and outcomes of investigations, and that these records are made available to UNAMID police and to UNAMID human rights monitors.
- Cooperate fully with UNAMID to allow it to effectively protect civilians and reduce instances of sexual violence, including by issuing orders to group members to provide UNAMID with full freedom of movement in their areas of operation, and full access to any investigations of incidents of sexual violence.

## To UNAMID

- Deploy forces throughout Darfur in such manner as to ensure rapid access to the civilian population, especially in volatile areas where UNAMID should have a visible presence. Peacekeepers should be equipped and authorized to construct and deploy to temporary bases for short and medium length stays while permanent bases are being constructed. These should include areas under control of non-signatories to the Darfur Peace Agreement.
- Ensure UNAMID police are well-trained in the laws of Sudan and international policing standards, especially as they relate to human rights; in working with international humanitarian and human rights agencies; in reporting on police misconduct; and on their own police powers and mandate.
- Ensure UNAMID police are well-equipped to investigate human rights abuses, in particular sexual violence cases. A sufficient number of qualified and experienced female officers and interpreters should be deployed widely to all UNAMID bases.
- UNAMID should carry out, in coordination with the local community and humanitarian agencies, regular “firewood” patrols, market patrols, foot patrols inside camps, as well as other day and night patrols inside and outside camps and towns, especially in volatile areas.
- In handling cases of sexual violence, UNAMID personnel should always defer to the survivor’s wishes about treatment and next steps. If the survivor wishes to proceed with legal action, UNAMID should provide assistance strictly in line with the referral pathway agreed among all humanitarian actors. This assistance should include transportation to medical facilities as needed.
- UNAMID personnel should observe confidentiality guidelines in all cases. In particular, UN personnel should never provide the name of a victim to authorities without the victim’s informed consent.

- In accordance with Security Council Resolution 1325 (2000), ensure that UNAMID has a strong gender component at all levels, and that peacekeepers are held accountable for any acts of sexual harassment, exploitation, or violence.

### **To the United Nations Security Council**

- Convene a meeting to discuss the prevalence of sexual and gender-based violence in Darfur and the justice mechanisms available to the victims of such violence.
- Following that meeting, issue a resolution outlining the specific measures that the Sudanese government should take, within a specified period, to address those concerns. Ensure that the resolution also specifies ways in which UNAMID can support Sudanese government efforts to address sexual violence in Darfur, and any actions that the government should take (such as the issuing of further orders to military and official personnel) to enable UNAMID to do so.
- If the government of Sudan fails to take or obstructs any such measures within the time specified as set out in the resolution, impose targeted sanctions on those individuals responsible.

### **To UN and AU states contributing to UNAMID**

- In accordance with General Assembly resolution A/RES/62/63 (2008), take all appropriate measures to ensure that crimes, including sexual and gender-based violence crimes, committed by United Nations officials and experts on mission do not go unpunished; ensure the perpetrators of such crimes are brought to justice; and report to the UN secretariat the status of efforts to investigate and, as appropriate, prosecute crimes of a serious nature.

Combat Violence Against Women and Children to oversee the National Action Plan and coordinate activities. The governors of the three Darfur states have each established state-level committees—composed of a cross-section of local authorities—to address violence against women. More recently, the government has deployed more police investigators and prosecutors to Darfur, and has worked with UNICEF to set up Protection Units in police stations to handle cases involving children and women.

But these measures have so far failed to address root causes of sexual violence, prevent pervasive and persistent incidents of sexual violence throughout Darfur, or reverse the climate of impunity that perpetuates it. The government has not yet made serious efforts to deter or stop soldiers or militia forces from committing sexual violence or ensuring accountability for those who do, and it has done too little to address debilitating weaknesses in the police and justice sectors. Women and girls continue to be brutally beaten and raped. Social stigma and obstacles to justice continue to discourage women and girls from seeking redress, while members of the armed forces remain shielded from prosecution.

Since 2004 the African Union peacekeeping mission, known as AMIS, made efforts to protect women and girls victimized by sexual violence. But a lack of resources and various logistical and security challenges undermined these efforts. On January 1, 2008, an expanded United Nations-African Union mission (UNAMID) took over the mandate of the African Union mission and has been tasked to ensure security for humanitarian agencies, protect civilian populations, and monitor peace agreements, among other things.

It is imperative that the Sudanese government and UNAMID, still in the process of deployment, give high priority to meeting the challenges associated with addressing sexual violence. The government should demonstrate its resolve to address these serious human rights violations by state security forces and government-backed militias through concrete actions addressing the causes of sexual violence. Human Rights Watch believes that the government can show it's committed to addressing sexual violence by taking a number of immediate steps. First, the government must bring to an end all attacks on civilians, including women and children, by government forces and government-backed militia. It should issue clear, public instructions in the form of a presidential decree to all members of the armed forces and government-sponsored militia, that rape and other

forms of sexual violence will be promptly investigated and prosecuted. The government should hold those responsible for acts of sexual violence, including those in positions of authority, accountable as a matter of command responsibility.

The government also needs to bolster the justice sector's capacity to respond to sexually violent crimes. It should ensure police and prosecutors are trained in victim-sensitive approaches to handling criminal investigations, and that properly trained female police investigators are deployed to police stations in Darfur, especially to internally displaced persons (IDP) camps. The government should also revise criminal laws on sexual violence to provide for attempted rape and ensure rape victims are not exposed to prosecution for adultery, as is possible—and has happened in the past—under Sudanese law. Finally, the government should clearly and publicly instruct military authorities to comply promptly and transparently to requests from police and prosecutors regarding criminal investigations of members of the armed forces. It should repeal immunity laws that provide members of the security forces effective immunity from prosecution in civilian courts for human rights violations, including acts of sexual violence.

Rebel forces, former rebel groups, and other non-state armed groups should likewise cease attacks on civilians, including women and children, and issue, clear public instructions to group members that rape and other forms of sexual violence will be fully investigated and prosecuted, and perpetrators held accountable. Former rebels, to the extent they administer justice in areas under their control, should also seek assistance to bolster the capability of police and prosecutors to bring perpetrators of sexual violence crimes to justice.

As a general matter, UNAMID, for its part, should urgently deploy to areas where civilians need the most protection. UNAMID, in consultation with the population at risk and relevant humanitarian actors, should continue and increase preventative “firewood patrols” to protect women and girls who venture outside IDP camps and in rural areas. The mission should also ensure it deploys a sufficient number of experienced and high-ranking female police officers. Finally, UNAMID personnel should observe confidentiality guidelines and established referral pathways with the relevant humanitarian workers on the ground.