



Empty Promises? Continuing Abuses in Darfur, Sudan

A Human Rights Watch Briefing Paper
August 11, 2004

Summary	1
Recommendations	2
To the United Nations:	2
To the U.N. Security Council:	2
To the Special Representative of the Secretary-General:	3
To the Office of the High Commissioner of Human Rights:	3
To the United Nations High Commissioner for Refugees:	3
To the African Union:	3
To the government of Sudan:	4
To the Sudanese Liberation Army/Movement (SLA/M) and the Justice and Equality Movement (JEM):	5
To the government of Chad:	5
To the European Union:	5
To the Arab League:	6
Background	6
Overlapping agendas in Darfur: national and local stakeholders	8
Ethnic fluidity and polarization in Darfur	10
Who are the “Janjaweed”?	11
No Improvements in Security: continuing attacks on civilians	13
Killings of civilians in July	14
Rape and sexual violence against women and girls	15
Fear and insecurity	17
Cattle raiding and looting	19
Other ceasefire violations by government forces and rebel groups	20
Incidents of aerial bombardment by government forces	20
Cross-border incursions into Chad and the militarization of the border	22
Incursions into north- and south-eastern Chad	23
Abuses by rebel forces	25
Sudanese government pledges: empty promises?	26
A climate of total impunity	26
Disarmament questions	28
Forced return and resettlement	29
Relevant International Law in Darfur	31
International Responses to the Darfur crisis	33

Summary

The initial phase of the conflict in Sudan's Darfur region, from February 2003 to March 2004, was characterized by a government crackdown on a rebel insurgency in which the government's use of ethnic militias and indiscriminate bombing resulted in crimes against humanity, war crimes and acts of ethnic cleansing committed against civilians of the same ethnicity as the members of the two rebel groups, the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM). These abuses forcibly displaced more than one million civilians from their homes and villages into neighboring Chad, towns in government-controlled areas and some rural areas under rebel control.

Although the patterns of conflict have altered since the government of Sudan and the rebel groups signed a ceasefire agreement on April 8, 2004, conflict in South Darfur and other areas is ongoing as are continuing patterns of violence against civilians, including attacks by government forces and the government-backed militias known internationally as the "Janjaweed."

Growing media attention and international pressure on the government of Sudan led to the signing of a Joint Communiqué with the United Nations on July 3, 2004, in which the Sudanese government committed itself to improvements in the areas of humanitarian access, human rights, security and political resolution of the conflict. Pressure increased with the adoption on July 30 of U.N. Security Council resolution 1556 that reiterated the steps outlined in the Joint Communiqué, called for restrictions on arms transfers to all "non-governmental entities, including the Janjaweed," and imposed a 30-day deadline on the Sudanese government to disarm the Janjaweed militias. However, an August 6th agreement between the U.N. Special Representative for Sudan, Jan Pronk, and the government of Sudan appears to backtrack on this deadline.

As of early August 2004, aside from humanitarian access, there has been little improvement in the humanitarian and human rights conditions for the more than one million displaced persons in Darfur. Incidents of rape and sexual violence, looting, and other attacks on civilians continued to occur on a daily basis. Government plans to relocate many of the displaced communities to resettlement camps, "safe areas" or to force them to return to their villages despite continuing insecurity raise new concerns of possible forced displacement. Pledges by the Sudanese government to end impunity for abuses and to disarm the Janjaweed militias remain doubtful.

Peace talks have stalled with the continuing conflict and increased rebel pre-conditions for negotiations with the government of Sudan. The continuing conflict also threatens regional stability due to the presence of numerous armed groups along the Darfur-Chad border with varying political and economic interests, and the total collapse of law and order in Darfur itself.

Efforts by the African Union to increase its presence and expand its mandate present one of the few grounds for optimism in a region that is increasingly unstable and where patterns of violence against civilians persist unabated.

The government of Sudan is hardly a credible actor when it comes to protecting its citizens given its record of human rights abuses against Sudanese civilians in other areas of Sudan and its responsibility for the campaign of terror in Darfur. Khartoum seeks to have it both ways—it claims it cannot control or disarm the Janjaweed militias but at the same time refuses to permit international forces to be deployed to protect civilians and bring the situation under control. If the Sudanese government were serious about protecting civilians, it would welcome an increased international presence to help it stop the violence and put in place the conditions necessary for the voluntary and safe return of civilians to their home villages.

This report documents and analyzes the ongoing violence and the government's claims of progress to address the human rights crisis in Darfur in more detail based on recent Human Rights Watch research in Chad and Darfur. In some cases, the precise locations of incidents and other identifying details have been withheld to protect the security of the victims and witnesses.

Recommendations

To the United Nations:

To the U.N. Security Council:

- Call on the African Union to: protect civilians consistent with the proposal in the A.U. Peace and Security Council's July 27, 2004 Communiqué; support the proposed increase in the numbers of ceasefire observers and forces to provide civilian protection; urge that such forces are deployed in small towns in rural areas and that they proactively patrol, investigate and document ceasefire violations, attacks on civilians, and protect civilians in these areas.
- Pressure the government of Sudan to ensure that no forced displacement, including forced returns or forced resettlement of displaced populations in violation of international humanitarian law occurs in Darfur.
- Establish an independent international commission of inquiry into the abuses committed in Darfur by all parties to the conflict with the aim of investigating serious violations of international human rights and humanitarian law, including allegations of genocide, and making recommendations for accountability.
- Require that sufficient numbers of human rights monitors are rapidly deployed to both rural areas and large towns in Darfur by the Office of the High Commissioner of Human Rights; that they monitor, investigate and publicly report on abuses against civilians by all sides, and that they regularly provide the Council with human rights information.

- Request a briefing from the U.N. Office of the High Commissioner for Human Rights at the time of the presentation of the U.N. Secretary-General's report on August 30.
- Prepare contingency plans to adopt a stronger resolution and measures in the event that the U.N. Secretary-General's report finds that the government of Sudan has not complied with its commitments.
- Call on the government of Sudan to provide immediate, unfettered access to Darfur and other parts of Sudan to independent international human rights organizations.

To the Special Representative of the Secretary-General:

- Ensure that the protection of civilians remains central to the U.N.'s efforts, including in the diplomatic, humanitarian, developmental and human rights sectors in Darfur.
- Deploy U.N. personnel to monitor the trial procedures of alleged Janjaweed militia members and others accused of committing abuses in the Darfur conflict.

To the Office of the High Commissioner of Human Rights:

- Pro-actively monitor, investigate and publicly report on allegations of abuses by all sides in the conflict.
- Ensure that human rights monitors are deployed in adequate numbers, not just in Darfur's capital cities but also in smaller towns in the rural areas.

To the United Nations High Commissioner for Refugees:

- Increase the number of experienced UNHCR protection officers in Chad and work with the government of Chad to ensure that refugee camps maintain their civilian character.

To the African Union:

- Consistent with the proposal in the African Union Peace and Security Council's July 27, 2004 Communiqué, rapidly increase the numbers of ceasefire observers and forces to provide civilian protection and ensure that such forces are deployed in small towns in rural areas and that they proactively patrol, investigate and document ceasefire violations, attacks on civilians, and provide protection to civilians in these areas.

- Promptly, publicly report on ceasefire violations, including attacks on civilians.

To the government of Sudan:

- Issue clear public orders to government forces and government-sponsored and -supplied paramilitary and militia forces including Popular Defense Forces, “fursan,” “knights” or “mujahedeen” internationally known as the Janjaweed, to immediately cease attacks on civilians and civilian property in Darfur.
- Immediately and fully implement the commitments made in the Joint Communiqué signed July 3, 2004 and the provisions of UNSC resolution 1556 of July 30, 2004.
- Suspend Sudanese government and military officials alleged to be involved in the planning, recruitment and command of Janjaweed militia forces from official duties pending investigation of their role in the commission of crimes against humanity, war crimes, and other violations of international humanitarian law in Darfur in 2003-2004.
- Cease any forced return or resettlement of displaced civilians and ensure that civilians only return voluntarily to their places of origin in safety and dignity.
- Facilitate the full, safe, and unimpeded access of humanitarian personnel and the urgent delivery of humanitarian assistance to all populations in need in Darfur.
- Desist from absorbing Janjaweed militia members into the Popular Defense Forces or any other paramilitary or security forces until individuals have been registered and screened for alleged responsibility for abuses against civilians.
- Provide fair compensation and reparations to all victims of the conflict for lost grain, livestock and other assets.

To the Sudanese Liberation Army/Movement (SLA/M) and the Justice and Equality Movement (JEM):

- Facilitate the full, safe and unimpeded access of humanitarian personnel and the urgent delivery of humanitarian assistance to all populations in need in rebel-controlled areas of Darfur.

To the government of Chad:

- Desist from arming civilian militias along the Sudanese border.
- Work with the UNHCR to ensure that refugee camps in Chad maintain their civilian character; and that refugees are protected from armed incursions and other violence.

To the European Union:

- Consistent with the proposal in the A.U. Peace and Security Council's July 27, 2004 Communiqué, support the proposed increase in the numbers of ceasefire observers and forces to provide civilian protection through logistical and financial support and expertise; urge that such forces are deployed in small towns in rural areas and that they proactively patrol, investigate and document ceasefire violations including attacks on civilians, and provide protection to civilians in these areas.
- Increase pressure on the Government of Sudan for immediate implementation of the Joint Communiqué and the provisions of the UNSC resolution 1556.
- Consistent with the General Affairs Council's conclusion of July 26 on the need for the establishment of an international independent commission of inquiry into the abuses committed in Darfur, E.U. Foreign Ministers should decide on concrete E.U. action to ensure its ultimate establishment by a Security Council resolution or directly by the UN Secretary General, during the upcoming 'Gymnich meeting' September 3-4.
- Consistent with the General Affairs Council conclusions of July 26, make public the names on the E.U. list of Janjaweed militia leaders and individuals guiding and supporting them alleged to be responsible for abuses, demand their arrest and suspension from office pending good faith investigations and prosecutions consistent with international standards.

- Impose E.U. measures, such as travel sanctions and freezing of assets against those on the E.U. list for whom there is evidence of implication in the policy of militia support.
- Ensure strict implementation of the existing E.U. arms embargo on Sudan.

To the Arab League:

- Support efforts of the African Union and United Nations to increase the international monitoring and protection presence in Darfur.
- Make public the report of the Arab League fact-finding mission to Darfur in April-May 2004.

Background

Since February 2003, Sudanese government forces and allied, government-backed militias known internationally as the “Janjaweed”¹ have committed war crimes, crimes against humanity and acts of “ethnic cleansing” in Darfur in the context of a military counter-insurgency campaign against rebel groups known as the Sudan Liberation Army (SLA) and Justice and Equality Movement (JEM).²

In addition to attacking rebel targets, the Sudanese government’s campaign has routinely targeted civilians of the Fur, Masalit, Zaghawa and other tribes who share the ethnicity of members of the SLA and JEM. Despite public denials of links with the militias, hundreds of eyewitness testimonies highlight the Sudanese government’s policy of arming and supporting ethnic militias. Government documents obtained by Human Rights Watch irrefutably demonstrate the role and responsibility of government officials in ordering the recruitment, arming and deployment of the Janjaweed militias.³

¹ While the term “Janjaweed” is increasingly misleading given divergent understandings of its meaning (see section below, Who are the Janjaweed?), in this document the capitalized form “Janjaweed” is explicitly used to refer to the government-backed ethnic militias recruited, armed and otherwise supported by the Sudanese government in Darfur.

² See Human Rights Watch: *Darfur in Flames: Atrocities in Western Sudan*, Vol.16, No.5 (A), April 2004 and *Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan*, Vol.16, No. 6(A), May 2004. See also *Report of the High Commissioner on the Situation of Human Rights in the Darfur region of the Sudan*, E/CN.4/2005/3, U.N. Office of the High Commissioner of Human Rights, May 3, 2004; *Darfur: Too Many People Killed for No Reason*, Amnesty International, February 3, 2004; and *Darfur: Rape as a Weapon of War: Sexual Violence and its Consequences*, Amnesty International, July 19, 2004.

³ See Human Rights Watch briefing paper, “*Darfur Documents Confirm Government Policy of Militia Support*,” July 20, 2004. See also, the report of the ad hoc delegation of the European Parliament, March 15, 2004, in which the Sudanese Minister of Justice, Ali Mohammed Osman Yassin reportedly told E.P delegation members that “the Government made a sort of relationship with the Janjaweed. Now the Janjaweed abuse it. I am sure the Government is regretting very much any sort of commitments between them and the Government. We now treat them as outlaws. The devastation they are doing cannot be tolerated at all.” The report then noted that “although there may still be doubts as to the scale, form and duration of government support for the Janjaweed, it is now clear that such support does exist.” p. 4, *Report of the ad hoc delegation of the Committee on Development and Cooperation on its mission to Sudan from 19 to 24 February, 2004*, CR1528901EN.doc.

An April 8, 2004 ceasefire agreement signed by the government of Sudan and the two rebel groups has done little to ease the plight of the more than one million civilians displaced by the conflict in Darfur.

Following months of shameful neglect, international media and political attention to the crisis has belatedly increased over the past four months as awareness of the extent of the human rights violations and their dire humanitarian consequences has grown. The United Nations estimates that 30,000 – 50,000 people have died, approximately 200,000 people have fled to neighboring Chad, and that the bulk of the displaced community—numbering approximately 1.2 million people—remains in Darfur.⁴

The majority of displaced people remain in small and large towns under government control, where they are sometimes concentrated and confined in appalling conditions, preyed upon by the Janjaweed militias, who operate in near-total impunity. An unknown number of people remain in rural areas under rebel control, some of them displaced from their original villages and hiding in the hills and other areas where they continue to be attacked by government forces and Janjaweed militia members.⁵

Under growing international pressure, including the threat of U.N. Security Council and European Union (E.U.) sanctions, the Sudanese government and the United Nations Secretary-General, Kofi Annan, signed a Joint Communiqué on July 3, 2004 in which the government committed to improve the situation in four areas: humanitarian access, human rights, security, and political resolution of the conflict.⁶

On July 30, the U.N. Security Council passed resolution 1556 calling for the Sudanese government to “fulfill immediately all the commitments it made in the 3 July 2004 Communiqué” including: facilitation of humanitarian relief; bringing to justice “Janjaweed leaders and their associates who have incited and carried out human rights and international humanitarian law violations and other atrocities;” disarmament of the Janjaweed militias and “establishing credible security conditions for the protection of the civilian population and humanitarian actors;” and resumption of political talks. The resolution also calls for “measures to prevent the sale or supply to all non-governmental entities and individuals, including the Janjaweed, of arms and related materiel,” and requires the Secretary General to report back to the Council in 30 days on the government’s progress in disarming the Janjaweed militias.⁷

⁴ Agence France Presse, “30,000-50,000 dead in Darfur: UN,” July 23, 2004.

⁵ While international agencies operating in Darfur are beginning to enter rebel-held areas and assess the conditions of civilians, the total number of civilians in these areas remains unknown. See “U.N. Humanitarian Situation Report: Darfur Crisis,” July 15, 2004. In Sudan, the displacement of civilians into larger towns under government control often reflects the fact that these towns often offer the only potential access to food, health care and other humanitarian assistance, economic opportunities, the perception of relative safety in numbers, and sometimes, a “protective” presence of international agencies and actors that are all largely unavailable in the rural areas.

⁶ Joint Communiqué between the Government of Sudan and the United Nations on the occasion of the visit of the UNSG to Sudan, July 3, 2004.

⁷ UNSC Resolution 1556, SC/8160, July 30, 2004.

As of August 9, 2004, the African Union's ceasefire monitoring mission had deployed more than 100 military observers, with plans to deploy up to three battalions of 800 troops each in the coming weeks, a proposal that the Sudanese government rejected.⁸ The current limited A.U. presence on the ground has failed to deter or address the ongoing attacks on civilians over the past few months. Instead the situation has become increasingly insecure as the conflict continues in a new phase, with local stakeholders consolidating power and control over economic gains, and a proliferation of armed actors. As U.N. envoy Jan Egeland noted, "There is a false impression now that things are improving in Darfur."⁹

With mounting reports of ceasefire violations on all sides, political negotiations between the government and the two main rebel groups have stalled. Rebel groups, perhaps emboldened by the heightened international pressure on the Sudanese government, increasingly claim to embrace a national, rather than a regional agenda¹⁰ and have set pre-conditions for entering political negotiations.¹¹ Insecurity on the ground has also increased, not only due to the continuing conflict but also because of a proliferation of armed groups with agendas varying from looting and banditry to various political interests, particularly along the border with Chad.

Overlapping agendas in Darfur: national and local stakeholders

The Sudanese government has often portrayed the current conflict in Darfur as "tribal clashes" exacerbated by competition for resources due to desertification, the proliferation of arms in the region and the insurgency that intensified in February 2003.¹² Although there is an element of truth in this portrayal, the conflict in Darfur in 2003-2004 and the humanitarian crisis it has produced is of an entirely different scale, gravity and nature than the clashes of previous years. This is largely due to the overlap of national security interests—combating the rebel insurgency—and local interests in claiming land and other resources.

⁸ "Sudan rejects AU force," BBC, August 9, 2004.

⁹ BBC, "Darfur Pressure Mounts on Sudan," July 26, 2004.

¹⁰ Aymeric Vincenot, Agence France Presse, "Darfur's Ragtag Rebels Vow to Fight for All 'Marginalized People,'" August 5, 2004.

¹¹ In July, the rebel movements posed a six-point set of pre-conditions for African Union-mediated political talks with the Sudanese government in Addis Ababa, Ethiopia. These included disarmament of the Janjaweed militias, an inquiry into allegations of genocide, prosecution of individuals responsible for genocide or ethnic cleansing, unimpeded humanitarian access, the release of "prisoners of war," and a change of venue for the peace talks. Tsegaye Tadesse, "Darfur Peace Moves in Disarray as Rebels Quit," Reuters, July 17, 2004.

¹² For many years, Darfur has been the site of intermittent inter-communal conflict between groups of nomadic camel and cattle-herders and sedentary agriculturalists due to desertification and increasing competition for access to land and water resources. Clashes between various groups in the 1980s and 1990s resulted in the displacement of hundreds—and sometimes thousands of people, hundreds of deaths and the theft of many head of livestock. The region's remote location, proximity to successive conflicts in neighboring Chad and late annexation to the Sudanese polity has also contributed to the fact that in the enormous, sparsely populated country of Sudan, where most of the country is underdeveloped outside the capital, Khartoum, Darfur remains one of the least developed regions. Darfur's size, ethnic diversity and poor or non-existent infrastructure have also contributed to governance problems that stretch back decades. Efforts by the central government in Khartoum to govern the region have sometimes conflicted and sometimes colluded with local tribal administrative systems.

In an effort to quell increasing insecurity in the region, by 2002 the Sudanese government extended a state of emergency to North and South Darfur, sent additional troops into the region and increased the severity of laws aimed at penalizing the illegal possession of weapons and acts of robbery and banditry. Despite these steps, clashes between the Fur, one of the predominant ethnic groups in the region, and Arab nomadic groups increased. Some in the Fur, Zaghawa and Masalit communities—the predominant ethnic groups comprising the SLA—have long alleged a Sudanese government policy of alliance and support to Arab nomadic groups based on a national agenda of Arabization and local interests of creating an “Arab belt” that would claim the lands of “non-Arab” ethnic groups in the region.¹³ This perception was partly fostered by more than a decade of central government policies aimed at asserting control over the region through the restructuring of local administrative systems in Darfur and alleged “selective disarmament” of some tribes, and not others, between 2001 and 2003.¹⁴

The emergence of the main Darfur rebel movement, the SLA, in February 2003, and its surprising military successes, sharpened fears in the central government, which was then engaged in longstanding political talks in Naivasha, Kenya with the southern rebels, the Sudan People’s Liberation Army/ Movement (SPLA/M) in an effort to end the long-running war in the south. The timing of the SLA’s emergence in the midst of the Naivasha talks, its surprising military success in the first months, and fears that it did or could forge a coalition with other real or potential insurgencies seeking power-sharing in Sudan, resulted in the Sudanese government’s decision to crush the rebellion militarily. It did this by looking beyond the national army, which had always been manned by ill-trained and ill-motivated conscripts and many troops from Darfur.¹⁵ As one observer noted, “President Bashir did not want to rely on his 90,000-strong regular army. It consists to a large extent of Darfuri foot soldiers whom he does not trust. So the Janjaweed was created.”¹⁶

The Sudanese government chose to recruit, arm and use ethnic militias, formed and in some cases led by local Darfur tribal leaders, drawn principally from a few Arab nomadic tribes present in both Sudan and Chad, as its main ground force in the conflict. This same tactic and strategy has long been used in the 21-year war against southern-based

¹³ The Arab “alliance” or “gathering” was apparently composed of some 27 different ethnic groups, some indigenous to Darfur and others, such as the Salamat, who originated from Chad, who felt marginalized by the political dominance of the Fur in the regional government administration. In 1989, a peace conference was organized which aimed to end the conflict between Fur and Arab tribes between 1987 – 1989. A longstanding complaint of tribal leaders has been that the central government has never supported the objective implementation of the recommendations of the 1989 conference. Karin Willemse, *‘One Foot in Heaven’: Narratives on Gender and Islam in Darfur, West-Sudan*, doctoral dissertation, University of Leiden, July 2001. pp. 74, 312. See also International Crisis Group, *Darfur Rising: Sudan’s New Crisis*, March 25, 2004.

¹⁴ A credible source who traveled extensively in Darfur in early 2003 told Human Rights Watch that in one of the attacks by Arab groups on a Fur village in late-2002 or early 2003, the weapons used were allegedly from the army stocks in Nyala. There was also a widespread perception among the Fur that the government was selectively disarming the Fur and other tribes and not the Arab nomadic tribes. Human Rights Watch interview, July 27, 2004. Many individuals have been arrested and detained for illegal weapons possession in Darfur over the past four or five years, but it is difficult to verify whether the patterns of arrests actually targeted some ethnic groups over others.

¹⁵ Some observers have estimated that up to 50% of the Sudanese army is originally from Darfur.

¹⁶ Koert Lindijer, “Analysis: reining in the militia,” BBC, August 5, 2004.

rebel movements in southern Sudan.¹⁷ For their part, some of the Arab tribal leadership and groups involved in this military campaign were involved in clashes with non-Arab groups over land and resources, and some have felt marginalized in the political and administrative system restructuring in the region, particularly because many of the Arab nomadic tribes have no traditional claim to land.¹⁸ The opportunity to take part in the government's military campaign would have therefore appealed to the economic as well as the political interests of many individuals.

The government's policy of using ethnic militias to counter the rebel insurgency, and the manner of its implementation by civil and security officials from the national government in Khartoum, the local regional administration in Darfur, and government-allied tribal leadership in Darfur, has had devastating results for the civilian population.

Ethnic fluidity and polarization in Darfur

Despite increasing media portrayals of the conflict in Darfur as one of "Arabs" against "Africans," these terms have historically had little relevance in the Darfur context. Virtually all the people of Darfur are Muslim and ethnic identity has traditionally been fluid, with much intermarriage between ethnic groups and key distinctions between ethnicities based more on language (those for whom Arabic was the main language and those whose mother tongues are other languages such as Fur, Zaghawa etc.) or profession (nomadic herders or sedentary agriculturalists or town-dwelling merchants).¹⁹ Even within these categories, there has been significant overlap and movement over the decades.

Many Arab nomadic groups in Darfur have not been involved in communal clashes in the past, and are not involved in the current ethnic-based campaign of violence by the government. There are also nuances on the rebel side—while there are three main groups that have formed the backbone of the rebel insurgency—Fur, Zaghawa and Masalit—there are also a number of smaller ethnic groups that have been victims and participants in the conflict on one side or another, such as the Tama, Gimr and Dorok, either drawn into the conflict because of livestock raids or because the activities of the government-backed militias have broadened beyond military purposes into asset-stripping. The rebel groups have also sought to widen their alliance with others groups, including certain Arab tribes in neighboring Kordofan state.²⁰

The government's use of certain ethnic militias as a counter-insurgency partner has highlighted a new ethnic and racial element to the dynamic of conflict in the region and also polarized ethnic and racial identity in some communities in a way that is new for many Darfurians. In many of the attacks racial and ethnic insults have been routinely

¹⁷ A long-time Sudan observer has noted that while Darfur has been described as "Rwanda in slow motion" it is in fact "southern Sudan speeded up." John Ryle, "Disaster in Darfur," *The New York Review of Books*, Volume 51, Number 13, August 12, 2004.

¹⁸ Alex de Waal, "Counter-Insurgency on the Cheap," *London Review of Books*, Vo. 26, No. 15, August 5, 2004.

¹⁹ Rex Sean O'Fahey, *State and Society in DarFur*, London, C.Hurst & Co., 1980.

²⁰ Human Rights Watch interview, July 30, 2004.

voiced, not only by members of government-backed militias but also sometimes by members of local or Chadian Arab communities linked to the militias.

Ethnic polarization raises the potential that what has been, up to now, mainly a counter-insurgency campaign with a clear ethnic dimension that has resulted in acts of ethnic cleansing, could broaden into communally-based ethnic violence in some areas if steps are not taken to end the violence, create conditions for reconciliation, and rein in the government-backed militias known as the Janjaweed. This potential is particularly worrying in areas of “transition” where Arab nomadic or semi-nomadic communities and Fur or Masalit communities live in close proximity, such as parts of West and South Darfur.²¹

Who are the “Janjaweed”?

Although known and used in international English-language media to refer to the Sudanese government-backed ethnic militias operating in Darfur, the term “Janjaweed” is subject to different interpretations. Sudanese government officials have exploited this ambiguity to distance themselves from the government-backed militias they have recruited and armed.

Historically, the term “Janjaweed” referred to criminals, bandits or outlaws in Darfur.²² Over the past year or more, the term has been repeatedly used by victims of attacks to describe the camel-and horse-backed marauders who have attacked their villages, regularly in the company of Sudanese government troops and aerial support.²³ Yet it is increasingly clear that the term “Janjaweed,” while used by victims to describe any armed attacker, is in fact a misnomer, and that there are at least two types of forces encompassed by the description: 1) the government-backed militias used as proxy forces in the government’s military campaign;²⁴ and 2) opportunistic armed elements taking advantage of the total collapse of law and order to settle scores, loot and raid cattle and livestock.

Most important of these two in terms of responsibility for massive abuses in Darfur, are the government-backed militias or proxy forces: the groups recruited, trained, armed and supplied by the government from various Arab nomadic groups and variously known by the Sudanese government as “fursan”—meaning cavalry or knights, mujahedeen,

²¹ In past clashes in the 1980s and 1990s, some of the worst violence took place in locations such as Kebkabiya, Kass, and parts of West Darfur where Arab and Fur communities lived together in close proximity—some of this violence also had political roots due to divergent voting patterns. Human Rights Watch telephone interview, August 5, 2004.

²² A Darfuri scholar remarked that “Janjaweed” was the term used during his youth to describe outlaws. Dr. Ali Dinar, lecture, Washington D.C., February 2004.

²³ Occasionally victims of attacks have also used the terms “fursan” and “beshmarga” (as in the Kurdish peshmarga) to describe their attackers.

²⁴ See Human Rights Watch reports “*Darfur in Flames: Atrocities in Western Sudan*,” “*Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan*,” and Human Rights Watch briefing paper “*Darfur Documents Confirm Government Policy of Militia Support*,” at footnote 2.

horsemen, or Popular Defense Forces (PDF).²⁵ The term “Janjaweed” is used in this report to describe these government-backed militias.

While much remains unclear about their training, structure and chain of command, the Janjaweed militias draw on alliances with certain local tribal leaders from Arab ethnic groups such as the Beni Halba, certain sub-clans of the Rizeigat, Ma’aliya, Irayqat and others who have long been involved in clashes with the farming communities. Several of these Arab nomadic tribal leaders have historical relationships with local government officials, and have played a key role in recruiting and organizing militia members and liaising with government officials. In some cases they have played a direct role in the command responsibility during attacks—eyewitnesses place known tribal leaders such as Musa Hilal in a command role at the site of some attacks in which atrocities against civilians have been carried out.²⁶

A second element in these government militias are members of Chadian Arab ethnic groups such as the Awlad Rashid, Awlad Zaid, and Salamat, some of whom have migrated to Darfur over the past decade for various political and economic reasons, and others who have been recently drawn into the government-backed militias from Chad and other parts of the region by the prospect of loot and land, and sometimes Arabist ideology.²⁷

The members of these government-backed militias are therefore often local stakeholders with enormous interests to maintain the gains they have made—especially regarding land and livestock, both of which represent key economic and political assets in Darfur. Land ownership traditionally provides political and administrative authority over those who live on it and use it.

For instance, one example of such an alliance between government officials and a local tribal leader is Mohammed Yacoub al Omda, the leader or “nazir” of the Turjum tribe in South Darfur. The Turjum, a relatively small Arab tribe, have apparently been given land and entitlements by the local government administration in South Darfur—particularly the office of the governor or wali—over a number of years and have actively participated in the government-backed militias, exacerbating ethnic tensions. Resolving

²⁵ The Popular Defense Forces are Islamist militias under the jurisdiction of the army that have frequently been used in the conflict in southern Sudan. A November 1989 law called the Popular Defense Forces Act incorporated existing tribal militias such as the *muraheleen*, the armed Baggara horsemen of Kordofan and South Darfur, the *fursan* (cavalry) militia of the Rizeigat of South Darfur and others into the army under a PDF commander appointed—and responsible to the general commander of the army. See Human Rights Watch, *Behind the Red Line: Political Repression in Sudan*, May 1996, pp. 273-280. The PDF forces have often been known as “mujahedeen.” In December 2003, President el-Bashir himself stated “Our priority from now on is to eliminate the rebellion, and any outlaw element is our target...We will use the army, the police, the mujahedeen, the horsemen to get rid of the rebellion.” “Sudanese president says war against outlaws is the government’s priority,” Associated Press, December 31, 2003, as noted in ICG, *Darfur Rising* at footnote 10.

²⁶ Jeevan Vasagar, “Militia chief scorns slaughter charge,” *The Guardian*, July 16, 2004.

²⁷ Some Chadian Arabs are apparently motivated also by ideology. Alex de Waal, a long-time observer of Sudan has noted, “‘Arabism’ in Darfur is a political ideology, recently imported, after Colonel Gadaffi nurtured dreams of an ‘Arab belt’ across Africa, and recruited Chadian Arabs, Darfurians and west African Tuaregs to spearhead his invasion of Chad in the 1980s. He failed, but the legacy of arms, militia organization and Arab supremacist ideology lives on. Many Janjaweed hail from the Chadian Arab groups mobilised during those days.” “Darfur’s deep grievances defy all hopes for an easy solution,” *The Observer*, July 25, 2004.

these tensions will likely require replacing the local officials who have been implicated in these practices as well as creating a forum for negotiation and compensation for land and other looted resources.

Other armed elements benefiting from the conflict in an opportunistic way are also currently committing abuses by raiding livestock and attacking and looting villages, but are not necessarily directly supported and directed by the Sudanese government. Despite the contribution of these criminal elements to the general insecurity in the region, the principal perpetrators of violence and abuses against civilians remain the Janjaweed militias supported by government forces.

No Improvements in Security: continuing attacks on civilians

The Sudanese government and the United Nations signed a Joint Communiqué on July 3, 2004 in which the government committed to carry out specific actions in four areas: humanitarian access, human rights, security, and political resolution of the conflict, elements that were reiterated in the UNSC's resolution 1556 of July 30.

To date, while humanitarian access has improved significantly since April 2004, progress in the areas of human rights, security and political resolution remains minimal to non-existent. Despite Sudanese government pledges to improve protection of civilians, its good faith and credibility in this regard is seriously undermined by its past and ongoing record of systematically targeting civilians in violation of international human rights and humanitarian law, not only in Darfur, but in other parts of Sudan.

Insecurity continues to be rife throughout Darfur despite the April 8, 2004 ceasefire between the Sudanese government and the two rebel groups. Civilians continue to be attacked by Sudanese government forces and the Janjaweed militias, sometimes with aerial support from government aircraft. Hostilities between rebel and government forces have continued and there have been several incidents in which the rebels temporarily held aid workers hostage and are alleged to have attacked aid convoys.

Rebel forces are also alleged to be failing to respect the civilian nature of camps for the displaced and refugees in some instances, a situation that has been complicated by the presence of armed "self-defense groups" among many of the Fur and Masalit villagers.²⁸ While self-defense group members have fought with Janjaweed militias in attacks, they do not appear to be organized as part of the SLA, although it is likely there are links between individuals.²⁹

Patterns of violence differ in the three states of Darfur (North, South and West), as has the form of the government's military campaign. These differences appear to be partly

²⁸ Many of these groups have existed for over a decade, formed in response to continuing attacks and cattle raids by Arab nomadic groups, and were generally composed of a few lightly-armed men, generally less than a dozen, who rarely possessed more than five or six automatic rifles per village. See also Human Rights Watch, *Darfur in Flames*, at pp. 28-29.

²⁹ Human Rights Watch interviews, Chad, June 2004.

based on the differences in attitudes of tribal leaders and local government officials; some have been more willing than others to participate in the campaign against the rebel movement, as well as different levels of SLA presence. Although military offensives and large-scale displacement of civilians in North and West Darfur have diminished in the past few months probably largely due to the fact that large swathes of the rural areas under government control have been “cleansed” of their rural inhabitants, violence there has not ceased.

In government-controlled areas, particularly in rural areas of West Darfur, displaced civilians have remained largely at the mercy of the Janjaweed militias even after they fled their homes into locations where official government forces and civilian administration are in place. Displaced civilians living under government control in these areas remain virtual hostages—confined to camps and settlements with inadequate food, shelter and humanitarian assistance, at constant risk of further attacks, rape and looting of their remaining possessions. Even if incidents are reported to police or government officials, little or no action is taken to arrest perpetrators. Displaced communities therefore find what little security they can by remaining in large groups in small and large towns. Freedom of movement is almost non-existent as a result, which further exacerbates the precarious humanitarian situation.

There have also been numerous reports of continuing attacks by groups of Janjaweed militia, often aimed at raiding camels, cattle and other livestock, although the precise identity of the attackers in some of these incidents is not always clear. Government-backed Janjaweed militia raids on new areas in South Darfur have also been reported, and there have been continuing militia incursions along the border and into Chad, often with the apparent aim of raiding cattle and other livestock (see below).

An unknown number of displaced civilians and residents continue to live in areas under rebel control, such as in northern parts of North Darfur and in the Jebel Marra area. Despite their flight from their homes, these displaced and resident civilians continue to face regular attacks and cattle raids by Janjaweed militias working together with government forces as well as by other armed groups taking advantage of the conflict to opportunistically loot, raid and rape.

Killings of civilians in July

Civilians continue to be attacked and killed in joint government and Janjaweed militia raids, particularly in South Darfur. In certain incidents, civilians appear to be deliberately targeted, such as in the July 3 attack in the Suleya area, which was investigated by African Union ceasefire monitors. They concluded that the attack was committed “by militia elements believed to be Janjaweed. The attackers looted the market and killed civilians, in some cases, by chaining them and burning them alive.” Separate reports noted that amongst the victims burned alive were eight schoolgirls who had been shackled together.³⁰

³⁰ Marc Lacey, “Despite Appeals, Chaos still stalks the Sudanese,” *New York Times*, July 18, 2004.

In other incidents, attacks appear to indiscriminately target civilians when the government forces and Janjaweed militias attack civilian locations with suspected rebel presence.³¹ For instance in late-July four people were reportedly killed when Janjaweed militia and government forces attacked Abu Dilake “where they believed...rebels were present.”³² The Abu Dilake attack apparently targeted a “crowded market place” and “Janjaweed and government soldiers ...were shooting at people from all sides.” These descriptions of the attack are telling and reflect numerous reports collected by Human Rights Watch in which government forces and Janjaweed militias indiscriminately attacked civilian locations. For instance, Human Rights Watch has documented at least four such attacks on crowded markets by government forces and Janjaweed militias since May 2004. These attacks are apparently instigated by the suspicion that rebel forces are present among the crowd. In some cases documented by Human Rights Watch, attacks have been launched simply because of reports that a rebel combatant was seen in a market place.

Rape and sexual violence against women and girls

Rape and other forms of sexual violence against Fur, Masalit and Zaghawa women and girls from the displaced communities is taking place on a daily basis in Darfur.³³ Reports from numerous small and medium-sized towns in North, South and West Darfur consistently describe a near-total climate of intimidation, violence and fear. Incidents of daily assaults on displaced women and girls—often committed by members of the Janjaweed militia, but also sometimes by government troops and civilians from nomadic Arab communities—are taking place in all three Darfur states.³⁴

Among the cases of rape documented by Human Rights Watch was the experience of a forty-five-year old Zaghawa woman who described how she and three others, a woman and two girls, were attacked by five government soldiers near Am Barou (Umbarou) on their way back from collecting water in the river-bed:

When we left the well, the soldiers circled around in front of us on foot by another way and stopped us. They were wearing khaki camouflage and hats. They stopped our donkey and went to Muna, she is sixteen. She ran over to me and the soldier came and said “Leave the girl” but I said “No.” They spoke in broken Arabic, they were not from Darfur. They shot at [me], then he caught Elham to go with them but she was fighting so the soldiers took her stick and beat her on the leg and she fell

³¹ All parties in the conflict in Darfur are obliged to respect fundamental principles of international humanitarian law. These include that all parties to the conflict distinguish at all times between civilians and combatants and between civilian property and military objectives.

³² Gethin Chamberlain, “Sudanese forces ‘directly involved in slaughter of civilians,’” *The Scotsman*, August 4, 2004.

³³ See also *Darfur: Rape as a Weapon of War: Sexual Violence and its Consequences*, Amnesty International, July 19, 2004.

³⁴ Names and other potentially identifying details of the locations of these attacks has been withheld in order to protect the security of the victims and witnesses.

down. I was twenty-five meters away and I could see what was happening. When the soldiers attacked her, Muna sat down and closed her legs, she fought with them, but when she got tired that's when they started.³⁵

Even when displaced women and girls remain in or around the government-controlled towns, they continue to be regularly raped and often brutally beaten. In some small towns in the rural areas government-backed Janjaweed militia and in some cases, members of Arab nomadic communities, commit daily assaults and sexual violence on women and girls of all ages.³⁶ Of necessity, displaced women and girls sometimes walk considerable distances to collect firewood, wild foods and water, and are therefore especially vulnerable to attacks when they are alone or in small groups a few kilometers from the towns.

Witnesses in one such location in West Darfur—a town of about ten thousand residents before the conflict doubled its size due to the influx of displaced told Human Rights Watch that at least five women and girls suffered serious life-threatening abuses each day, often including severe beatings and rape due to such attacks.³⁷

Among scores of recent examples of this type of violence was a fairly typical incident on July 7, 2004 in West Darfur in which two women in their fifties and a twenty-three-year old woman who was six months pregnant were among a group of eight women collecting firewood approximately two kilometers from the town. Two nomadic tribesmen of Arab ethnic origin riding on camels tried to abduct the pregnant woman. When her mother and another older woman intervened, all three women were brutally beaten all over their faces, heads and bodies. The assault ended only when the young woman's mother was beaten so badly that the attackers believed she was dead and left the women.

Human Rights Watch documented incidents of rape by Janjaweed militia members in numerous areas of Darfur. In a Sudanese village near the Chadian border, south of Adré, a seventeen-year-old Masalit girl was raped multiple times by one of three men who captured her and her father.

The Janjaweed took me alone from my father. They untied one of my hands and left the other, the right hand, tied with the rope. The other end of the rope was tied to the tree....He forced me down by my forearm. Then he raped me and said: "Come with me to the place of your father". When we got to where my father was they untied us, me and the other two girls and told us that we were free to leave: "Go and tell the people that we lost two camels. Tell them to bring us two camels and we will give you back your father". Then we began walking back but I was suffering a lot with great pain because I was bleeding. I was crying,

³⁵ Human Rights Watch interview, Chad, June 11, 2004.

³⁶ Human Rights Watch telephone interview, June 23, 2004.

³⁷ Human Rights Watch interview, July 23, 2004.

weeping. The two young girls helped me back to the village. When we got close to the village near the border then people from the village came and helped me.³⁸

A displaced Fur woman from Mukjar, in the Wadi Salih province of West Darfur, who fled the town due to the lack of security, told Human Rights Watch, “I did not feel safe in Mukjar. I was very scared of the soldiers. They take the children for training and we did not see them back anymore. They kidnap the young girls for the night. I have daughters and I tried always to keep them at home, not let them out.”³⁹

Even when women and girls are not raped, attacks appear to be aimed at intentionally humiliating and degrading them. A twenty-five year-old Fur woman displaced from her village in South Darfur said “I have been stripped of my clothes at least four times over the last two months when I was getting firewood. The last time was ten days ago. The men on horses lash us with whips, take all our clothes and leave us naked on the road. They even take the clothes from our babies.”⁴⁰

Attacks are often accompanied by racial insults. A group of women and girls who were stopped at a government-backed militia checkpoint near Habila, in West Darfur were told by Janjaweed militia members “the country belonged to the Arabs now and as they were there without permission, they would be punished.”⁴¹ All the women were beaten and then older ones were dismissed. Six girls aged thirteen to sixteen were then raped.

Fear and insecurity

Men who remain in government-controlled towns or who are caught by members of the Janjaweed militias in the rural areas are constantly at risk of beatings or worse. In one such incident in early June a forty-six-year-old Masalit farmer was caught and beaten by Janjaweed militia near Wadi Kaja, which marks the border south of Adré. He managed to escape after being severely beaten:

The Janjaweed hit me with a camel whip [*he showed numerous whipping marks across his back*] and with the handle of a gun [*showed wounds on arms*]. They whipped me many times but I can't remember how many times, across my back. And they hit me also several times on the right hand side of my ribcage. They also hit me on the upper part of my arm. The men pressed their fingers into my throat, below and behind my ear. I was flat on the ground and they dragged me. Two men dragged me, they pulled on the rope. There was a total of three Janjaweed and also there were two young girls with them, about 15 – 16 years old, with the

³⁸ Human Rights Watch interview, Chad, June 17, 2004.

³⁹ Human Rights Watch interview, July 2004.

⁴⁰ Communication to Human Rights Watch, July 2004.

⁴¹ Human Rights Watch interview, July 23, 2004.

Janjaweed. The girls hit me, too, and said “You are a slave”. This was at about 8 p.m. at night when the moon had risen.⁴²

Displaced men in towns under government control are constantly at risk of being arbitrarily detained and seriously assaulted by Janjaweed militia members who accuse them of “being rebels.” Sometimes, if family members possess sufficient resources they can “buy these men free.”⁴³ One man described the situation “the main security issue inside town is false accusations. The soldiers and Janjaweed take people for investigation and keep them in jail. The day before yesterday they took six sheiks to jail for investigation....”⁴⁴ In some locations, local town commissioners apparently keep lists of individuals they suspect, particularly tribal leaders.⁴⁵

Displaced civilians in some areas of Darfur are under constant threat of attacks outside the towns because the government-backed Janjaweed militias often control circulation along the roads and between villages in the rural areas through a combination of violence, intimidation and taxation. At some of these checkpoints, in addition to the Sudanese national flag, the Janjaweed militia have erected their own special flags—a white horseman upon a blue background.⁴⁶ In some places, taxation consists of weekly “protection” money that must be paid by residents of certain villages or towns.⁴⁷ In other instances, men in particular are forced to pay sums of money such as 1000 Sudanese Dinar [approximately U.S. \$ 2.00] to leave a village or town and travel to another location.

Even women who want to travel to the market are sometimes required to pay sums of money. A twenty-seven-year-old woman from South Darfur said, “we have to pay 1000 Sudanese dinars every week. If we have no money, we can try to give them sorghum, wheat or anything you have in your house.”⁴⁸ Another woman from Wadi Salih province in West Darfur said “we don’t have to pay anything to stay inside the [the town] and security is good inside town. But to go outside, we do. To go to the market for instance. The other villages around [the town] have to pay a monthly fee.”⁴⁹

This absolute lack of security clearly exacerbates the humanitarian situation since it restricts people’s movement and their ability to gather wild foods, plant and cultivate crops or vegetable gardens, collect firewood or other items for sale in local markets or develop other coping mechanisms. Instead they face increased dependence on relief aid.

⁴² Human Rights Watch interview, Chad, June 17, 2004.

⁴³ Human Rights Watch interview, July 23, 2004.

⁴⁴ Communication to Human Rights Watch, June 2004.

⁴⁵ Human Rights Watch interview, Chad, June 2004.

⁴⁶ Human Rights Watch interview, July 23, 2004.

⁴⁷ Confidential communication to Human Rights Watch, July 24, 2004.

⁴⁸ Human Rights Watch interview, July 23, 2004.

⁴⁹ Human Rights Watch interview, July 23, 2004.

Cattle raiding and looting

Livestock remain a key resource in a poor region, and a prime economic incentive for continuing attacks by government-backed Janjaweed militias, independent groups of armed men, and common criminals. Knowing who are the attackers in incidents of cattle or other livestock raids is not easy given that victims now tend to describe all attackers as “Janjaweed.” However, there seem to be key distinctions between the way that the Janjaweed militia raid cattle and the kinds of random robbery taking place. For instance, several displaced men from the Kulbous area of West Darfur, located along the border with Chad, noted “the Janjaweed militia always come in the day, in big numbers, and they take lots of cattle.”⁵⁰ A twenty-seven-year-old farmer from Sileya, West Darfur, added, “bandits tend to be maybe four, five or six men, but when they come in big numbers—eighty or so—then it’s Janjaweed.”⁵¹

In some areas of Darfur in recent months, the government-backed Janjaweed militia activity appears to have shifted from repeated attacks on villages and communities to mainly targeting livestock resources. This is likely because many of the villages of the targeted ethnic groups have now been emptied of their inhabitants. Janjaweed militia members appear to be intent on raiding and stealing the remaining livestock and other possessions of displaced civilians.

In several instances documented by Human Rights Watch, Janjaweed militias have stolen livestock and then been supported by government forces in their theft. On July 7, a group of 80-90 Janjaweed militia raided hundreds of sheep and killed a thirty-five-year old displaced man near the village of Berri, North Darfur. Twenty men from the village gathered to track the stolen flock but after a short distance, the men saw four army pickup trucks carrying up to 70 soldiers following in the same direction as the Janjaweed militia. The army troops began firing upon the villagers using heavy guns with a range of about one kilometer, dispersing the villagers.⁵²

On July 15, a sixty-year old man from Berri, North Darfur, was beaten by a group of eighty to one hundred Janjaweed militia members who stole 400 sheep. Some armed villagers, possibly members of an organized self-defense group, then went in search of the militia group and the stolen sheep and tracked them for three kilometers. They began shooting at the Janjaweed militia group, but shortly after the shooting began, seven vehicles from the Sudanese army appeared and opened fire on the villagers, who withdrew. The militia also left, with the stolen sheep.⁵³

These continued raids of livestock, one of the only remaining assets for many resident and displaced civilians, deprive the civilian population of those elements that are indispensable to their survival, such as foodstuffs, crops and drinking water installations. Under principles of international humanitarian law these objects are entitled to

⁵⁰ Human Rights Watch interviews, Chad, June 2004.

⁵¹ Human Rights Watch interview, Chad, June 9, 2004.

⁵² Human Rights Watch interview, July 24, 2004.

⁵³ Human Rights Watch interview, July 24, 2004.

protection and they must be preserved whenever they constitute the means of subsistence of civilians trapped in an armed conflict situation.⁵⁴

Other ceasefire violations by government forces and rebel groups

The ceasefire appears to have had only a temporary effect in reducing fighting between government and rebel forces in North and West Darfur. The past few months have seen increased fighting between government and rebel forces in South Darfur, and recent clashes in North Darfur.⁵⁵ Attacks on civilians by government forces and Janjaweed militias continued in numerous parts of Darfur as well as in Chad. SLA attacks also took place in some locations, and Human Rights Watch documented an increasing proliferation of armed groups operating along the border, an alarming indicator of potential further instability.

Ceasefire violations by government forces and militias included incidents of bombing by Antonov aircraft, joint attacks with Janjaweed militia forces in Darfur and Chad, and continued attacks by Janjaweed militias operating alone. The rebel forces have also launched attacks on alleged military targets and responded to attacks by government-backed militias. Civilian self-defense groups have also occasionally participated in these engagements.

Incidents of aerial bombardment by government forces

Indiscriminate aerial bombardment has been a prominent feature of the Sudanese government's military strategy in Darfur. Human Rights Watch has documented extensive examples of indiscriminate aerial bombardment by Sudanese government Antonovs, helicopter gunships, and MiG fighter planes in Darfur in 2003 and 2004.⁵⁶ In early April 2004, the Sudanese government arrested and detained a group of Sudanese air force officers on grounds of treason and "plotting against the state" because they reportedly refused to continue the bombing raids.⁵⁷

⁵⁴ The rationale behind this provision is that it is prohibited to deliberately starve civilians as a method of combat. Article 14, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977. Article 14 lists the most usual ways in which starvation is brought about. Specific protection is extended to "objects indispensable to the survival of the civilian population," and a non-exhaustive list of such objects follows: "foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works."

⁵⁵ The U.N. reported clashes between SLA and government forces in Tne, Karnoi and Am Barou (Umbarou) in late July. U.N. Weekly Humanitarian Roundup, 18 -25 July, 2004, at <http://www.unsudanig.org/Emergencies/Darfur/roundups/data/18-25-July.doc>

⁵⁶ Human Rights Watch documented the use of MiG aircraft in numerous bombing attacks on both military and civilian targets in North Darfur in December 2003 and January 2004.⁵⁶ However, the use of MiGs appears to have diminished in recent months. The Sudanese government received the first two of an order of 12 Russian-made MiG-29 planes (10 MiG 29SE and 2 MiG-29UB jets) in December 2003. A second pair of MiGs was delivered to Sudan in January 2004. See Periscope Daily Defense News Capsules, "Sudan: Air Force Finally Takes Delivery of Russian Fighters," March 31, 2004, and Lyuba Pronina, "MiG Under Fire for Arming Sudan," The Moscow Times, July 21, 2004.

⁵⁷ Nina Elbagir, "Sudan says arrested officers reluctant over orders," Reuters, April 6, 2004.

The Sudanese government continued to use its aircraft to bomb both civilian and suspected SLA targets after the ceasefire agreement was signed on April 8, 2004. The incidents below, all of which took place following the coming into effect of the ceasefire agreement of April 11, 2004, represent only a partial and inconclusive list of incidents, and in some cases it is unclear whether targets were civilian or were in fact rebel military targets.

- Late-April, 2004: Diisa reportedly bombed. Eyewitnesses saw four fresh graves from that period.⁵⁸
- May 28, 2004: Tabit, a market town 20 km south of el Fashir, North Darfur. At approximately 2 p.m, one Antonov airplane accompanied by two helicopter gunships dropped three bombs on the market area and killed at least 12 people.⁵⁹
- May 2004: Shangil Toubai, south-east of el Fashir, North Darfur. The exact circumstances of this incident remain unclear though people were injured in the attack.⁶⁰
- June 3, 2004: Funu, south-east of Karnoi, reportedly bombed, injuring six people, following an encounter between SLA and Janjaweed militia over cattle.⁶¹

Despite the use of MiG jets in earlier bombing incidents in 2004, the only aircraft described by witnesses in bombing incidents over the past four months were Antonov aircraft and helicopter gunships.

The Sudanese government continues to use barrel bombs in its aerial attacks by Antonov planes. These bombs are generally filled with shrapnel and dropped from the aircraft, which fly at high altitude. A Zaghawa woman who survived such an attack in Omda Dabo, a village in Furawiya said “there were two aeroplanes, two Antonovs. They were high and destroyed parts of the village with fire. The school was destroyed and the market.”⁶² The woman told Human Rights Watch that the bombs used were barrel bombs. She said:

There were about six or seven “birmil” [barrels]. There was more metal inside the barrel which could cut anything. There was a strong fire which destroyed many things. The barrels fell in the middle of the village and many buildings were on fire. There were big holes, like wells, but the color of the soil in the holes had become white from the fire and the heat.⁶³

⁵⁸ Human Rights Watch interview, Chad, June 10, 2004.

⁵⁹ Human Rights Watch telephone interview, May 28, 2004 and Reuters, “Witnesses say aircraft bomb village in W. Sudan,” May 28, 2004.

⁶⁰ One source reported that this bombing was aimed at an SLA camp which was located close to a civilian settlement.

⁶¹ Human Rights Watch interview, Chad, June 10, 2004.

⁶² Human Rights Watch interview, Chad, June 25 2004

⁶³ Human Rights Watch interview, Chad, June 25 2004

Human Rights Watch also received numerous reports of Sudanese government aircraft being used in support of continuing ground operations. For instance, in several documented attacks on SLA targets and possible self-defense militia sites along the border, Sudanese helicopters were reported to have been used for reconnaissance purposes.

Cross-border incursions into Chad and the militarization of the border

As a result of the spillover of the Darfur conflict into Chad and the presence of large numbers of refugees along the border, the Chadian-Sudanese border has become increasingly militarized over the past few months, with a proliferation of armed groups operating on both sides of the border, with a variety of interests. This is partly related to the presence of both the Zaghawa and Masalit tribes on both sides of the border—many of the refugees have congregated in communities and villages of kin.

The large numbers of livestock among the displaced and refugees along the border have also created a magnet for these attacks. In turn, the primary focus of recent incursions by Janjaweed militia and government forces into Chad appears to be the acquisition of livestock as well as possibly pursuing rebel or self-defense forces along the border; killing of civilians does not appear to be the main objective but occurs where victims protest or react to livestock theft. The increasing incursions are sometimes coordinated attacks with government aerial support apparently providing reconnaissance information to government troops and militias on the ground.

The spiral of violence created by these incursions have contributed to a proliferation of civilian militias along the border, some formed to defend against the Sudanese incursions, and while armed fighters have been killed on both sides, there are also incidents in which civilians have been seriously injured or killed by the incursions.

Militia groups from within Chad as well as militias composed of refugees are also both apparent along the border. Human Rights Watch documented the presence of at least ten armed groups along the border, an alarming growth in armed activity that threatens the stability not only of the area, but potentially, Chad itself.

For instance in north-eastern Chad the following groups (amongst others) can be identified around the Sinet area:⁶⁴

- The Chadian national army based in the larger towns of Gereida, Koulbus (Chad) and Birak but without significant presence in the rural areas;
- The Chadian National Nomadic Gendarmerie (Gendarmerie National Nomadique de Tchad) who liaise with the national army;

⁶⁴ Human Rights Watch interview, Chad, June 20, 2004

- Chadian village civilian self-defense militia, who liaise with the army and GNNT; their role is to defend the villages;
- Mixed Sudanese - Chadian militia, reportedly led by Chief Abdullahi Dubulai, a Chadian from Bessa village, east of Birak
- Zaghawa militia: well armed on camels or horses; the dominant group on the Sinet plains and reputedly responsible directly back to members of the Chadian government.

In addition, the following groups also have a presence in the vicinity:

- Sudanese rebels (either JEM or SLA);
- “Janjaweed” government-backed militias based in Sudan;
- Sudanese national army based in Sudan;
- Gimr militias based in Sudan, sometimes working with the government-backed Janjaweed militia;
- Tama rebel militia based in Sudan, allegedly led by Mohamid Nuur and believed to be working in opposition to President Deby and possibly receiving assistance from some of the Janjaweed militia.
- Masalit self-defense groups in the Adré area in south-eastern Chad or militia composed of men from Sudan and Chad, which may have links to the SLA.

Incursions into north- and south-eastern Chad

Numerous cross-border incursions by government-backed militias and other armed groups took place along the border between Sudan and Chad in the Sinet and Korok areas, near Birak in north-eastern Chad, in recent months. Human Rights Watch documented at least a dozen incidents in June 2004 alone.

A member of one of the village self-defense groups who witnessed an incursion into Farida in late-June, 2004 said that Janjaweed militias and government forces “entered the village at about 4:00 a.m. They had vehicles but the vehicles stayed on the border whilst about 150 Janjaweed came across, about 7 km into Chad....All the Janjaweed wore khaki uniforms and forage caps.”⁶⁵ The militias killed three villagers and reportedly stole 200 camels before returning to Sudan.

Human Rights Watch researchers visited Tomasalaat village, located on the border, two days after it was attacked. In the village were three fresh graves, those of the dead. A member of the one of the deceased’s family described what happened in the village:

The Janjaweed came into the village, from the south, at about 8 o’clock in the morning. There were about 150 Janjaweed...wearing khaki camouflage uniforms. Each was riding a horse but four were on camels.

⁶⁵ Human Rights Watch interview, Chad, June 18, 2004.

There were four officers, one was 'abu salah' [shaven headed or bald]. There were no GoS soldiers with them – I didn't see any soldiers.⁶⁶

The Janjaweed stole livestock. The livestock were all around the village, in eight enclosures...The dead men were all together. They did not have guns. One, he heard the sound of the Janjaweed coming, came out of his hut and started running and was shot, at close range. 'Sit down, sit down' said the Janjaweed, and they killed the man.⁶⁷

Incursions have also taken place south of Adré along the south-eastern border between Darfur and Chad. Typical of the incursions in this area was an incident which occurred on June 14, 2004, just a day before Human Rights Watch visited the area. A string of villages are located to the west of, and slightly above, Wadi Kaja, the river-bed that traces the border between Chad and Sudan. Four villages were attacked in succession, in a concerted operation on June 14, 2004. One witness said, "they were Janjaweed – I know, I've seen them many times!...They worked together with the army, moving from village to village in a single operation, taking in three or four settlements. They were all mixed up, but there were more Janjaweed."⁶⁸

The operation began from the north at about 9 a.m. with the incursion moving southwards from Jerkariya, Andabirtu, Abuartar and then Bir Bira.⁶⁹ Initially, "two helicopters came from Sudan, across the border. They were low.....and circled probably twice, looking at the people."⁷⁰ The helicopters were followed by ground attacks:

After this the camels and horses came. They came into Chad. This was at Jerikariya. The Janjaweed don't have planes but they came after [the helicopter], so we know they were working together [with GoS]. There were many of them, about 100. There were Sudanese, 'tashmil' [combined] or 'mulakhbat' [mixed], they were mixed, working together. The people riding the camels were wearing trousers and shirts, khaki, just like the army. The Sudanese army came with the Janjaweed. They came with cars...Land cruisers, army Landcruisers, army-colored, with 'dushka' on the roof. There were two vehicles but many camels.⁷¹

One witness claimed that a presumably Sudanese 'three star' officer was present, who was also wearing yellow epaulettes.⁷² Four men died in the attack, at least one of whom was reportedly armed and a member of a self-defense militia. A man who was injured in

⁶⁶ Human Rights Watch interview, Chad, June 19, 2004.

⁶⁷ Human Rights Watch interview, Chad, June 19, 2004.

⁶⁸ Human Rights Watch interview, Chad, June 15, 2004.

⁶⁹ Human Rights Watch interview, Chad, June 15, 2004.

⁷⁰ Human Rights Watch interview, Chad, June 15, 2004.

⁷¹ Human Rights Watch interview, Chad, June 15, 2004.

⁷² Human Rights Watch interview, Chad, June 15, 2004.

the attack said, “the Janjaweed only shot at men. There were maybe about 200 Janjaweed. The shepherds ran away from the livestock and the Janjaweed took the livestock.”⁷³

Abuses by rebel forces

Human Rights Watch has attempted to document violations of international humanitarian law by rebel groups operating in Darfur, however this information is incomplete due to lack of access into government-controlled areas of Sudan, where most alleged victims and witnesses of rebel abuses would be present. Human Rights Watch researchers have submitted applications for visas to the government of Sudan but to date have not received authorization to travel to government-controlled areas of Darfur.

Certain abuses and ceasefire violations by rebel forces have been reported. The Sudanese government has apparently reported over 100 alleged ceasefire violations by rebel forces to the African Union. In June 2004, SLA forces temporarily detained 16 humanitarian workers while they were conducting an assessment in North Darfur, but released them unharmed after U.N. intervention.⁷⁴

Human Rights Watch also raised the issue of the need to distinguish rebel forces from civilian refugee and displaced camps in a meeting with representatives of the two rebel movements in June 2004, and urged them to take every measure to ensure that rebel forces remain separate from civilian locations. Yet clearly there is rebel presence among, for instance some populations of refugees in Chad. In March 2004, a Human Rights Watch researcher witnessed the presence of combatants among the refugee population in Bahai, Chad, although it was unclear whether these individuals were armed.

On a more recent visit to the refugee camps and settlements in Chad in June, it was clear that the refugee population in Bahai is also a source of recruitment for the rebel forces.⁷⁵ Allegations of contacts with the rebel movement and the presence of arms within the refugee camps have also been made with regard to the recent violence in Farchana and Bredjing camps, in which two refugees were killed by Chadian troops.⁷⁶ While Human Rights Watch believes that there are contacts between the refugee population and the rebel movements, it remains unclear whether there are active armed elements within the camps.

This situation should be closely monitored by the UNHCR and the Chadian authorities, however, to ensure that the civilian character of the refugee camps is maintained.

⁷³Human Rights Watch interview, Chad, June 15, 2004.

⁷⁴ “UN OCHA Statement on detention and release of humanitarian workers in Darfur,” UN Office for the Coordination of Humanitarian Affairs, June 6, 2004, at <http://www.reliefweb.int/w/rwb.nsf/3a81e21068ec1871c1256633003c1c6f/a5cbd9d8ea2101a349256eac000a46ca?OpenDocument>

⁷⁵ Human Rights Watch interview, Chad, June 2004.

⁷⁶ Agence France Presse, “Two Darfur refugees killed in Chad amid tensions with aid groups: UN,” July 25, 2004.

Sudanese government pledges: empty promises?

The Sudanese government—hardly a credible actor regarding protection of its citizens given its record of human rights abuses in other areas of Sudan and its responsibility for the campaign of terror in Darfur—now acknowledges that it cannot rein in the Janjaweed militias while continuing to deny its role in their creation and instrumentalization. At the same time it refuses to permit international forces to be deployed to protect civilians. If the government of Sudan is serious about protecting civilians, it would welcome an increased international presence to help it get the violence under control and put in place the conditions necessary for the voluntary safe return of civilians to their home villages. It would permit international monitoring of its claims of progress in Darfur.

A climate of total impunity

As one observer who visited a number of different sites in Darfur as recently as late-July noted, “the level of impunity is unbearable.”⁷⁷ Patterns of violence, including regular attacks on women and girls, take place in a climate of total impunity. Even when reported to local police or government officials, victims of attacks consistently report that no effort is made to detain, investigate or prosecute the perpetrators of the attacks. In a rare case documented by Human Rights Watch in which a woman who was raped by four men reported the case to the police of a small town in West Darfur, they identified the perpetrators, took them into custody, and removed their weapons. However after intervention from the local militia leadership and a senior local government official, the men were released and their weapons returned to them. The woman was told that no further cases of rape would be pursued by the local justice system.⁷⁸

The July 3 Joint Communiqué includes Sudanese government commitments to “undertake concrete measures to end impunity,” “undertake immediate investigation of all cases of violations, including those brought to its attention by the UN, AU, and other sources,” and “ensure that all individuals and groups accused of human rights violations are brought to justice without delay.” As of August 1, while the government has announced several steps to reduce impunity, on closer examination, all appear to be token gestures aimed at showing the international community it is taking action, with little real substance.

1) In May, 2004, the Sudanese government stated that under Presidential Decree No 97, it would set up a Commission of Inquiry to investigate “alleged human rights violations by armed groups in the Darfur states.” The commission of inquiry has, however, not declared any intention to investigate abuses by government forces, which seriously limits its credibility. As of early August, 2004, this commission has yet to visit Darfur and has apparently received little or no budget.

⁷⁷ Human Rights Watch interview, July 23, 2004.

⁷⁸ Human Rights Watch interview, July 23, 2004.

2) In mid-July, in response to the many cases of rape being reported by women and girls in the displaced and refugee camps, the Sudanese government asserted that it would create committees of women judges, police officers and legal consultants investigate rape accusations and help victims through criminal cases.⁷⁹ To date, these committees have yet to take any serious steps to address abuses.

3) On July 19, 2004, the government of Sudan announced that it had sentenced the first ten “Janjaweed” militia members for crimes including armed attacks, robbery and illegal possession of arms. The sentences included six years in prison and cross-amputation—amputation of the right hand and left foot.⁸⁰ The process of these trials raises a number of concerns.

One, the use of limb amputation is considered to be cruel, inhuman and degrading punishment that violates Sudan’s international law obligations under the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁸¹

Two, since the creation of special courts in Darfur in May 2001, which have jurisdiction over offences such as armed robbery, weapons smuggling, crimes against the State, murder, as well as crimes relating to drugs and public nuisance,⁸² trial procedures in Darfur have regularly failed to conform to fair trial standards under international human rights law.⁸³ Key failings of these courts include violations of due process such as lack of legal counsel and lack of appeals to a higher tribunal.⁸⁴

Three, the identities of the convicted men and their precise connection to the government-backed Janjaweed militias remains unclear and it appears that the majority of the individuals who have been presented as militia members and leaders are in fact common criminals, many of whom have been charged with crimes such as the illegal possession of weapons. Witnesses who visited the prison and Nyala in July 2004 and were presented to detainees alleged to be the convicted militia men told Human Rights Watch that the prisoners were often petty thieves and some individuals convicted of serious crimes, but that none had been convicted of rape, for instance, and that the vast majority of the individuals presented were convicted of crimes unrelated to the attacks by government-backed Janjaweed militias, long before July 2004.⁸⁵

⁷⁹ Associated Press, “Sudan’s government forms committees to investigate rape in Darfur,” July 17, 2004.

⁸⁰ Associated Press, “Court jails 10 Sudanese Arab militiamen for armed attacks, robbery,” July 19, 2004.

⁸¹ Sudan acceded to the ICCPR on March 18, 1986.

⁸² Report of the U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, E/CN.4/2005/7/Add.2, August 6, 2004.

⁸³ See also Amnesty International, *Sudan: Darfur: Incommunicado detention, torture and special courts: Memorandum to the government of Sudan and the Sudanese Commission of Inquiry*, AFR/54/058/2004.

⁸⁴ *Ibid.* See also, Human Rights Watch report, *Behind the Red Line: Political Repression in Sudan*, May 1996.

⁸⁵ Communications to Human Rights Watch, July 22 and July 29, 2004. See also Marc Lacey, “Sudanese Suffer as Militias Hide in Plain Sight,” *New York Times*, August 6, 2004.

The questions raised by the Nyala trials highlights anew the need for international monitoring of these trials, both to ensure that judicial processes conform to international fair trial standards, and that the individuals standing trial are actually those alleged to be responsible for the abuses.

Disarmament questions

Under increasing international pressure to disarm the Janjaweed militia, particularly due to U.N. Security Council threats to impose sanctions, senior Sudanese government officials pledged on July 3, 2004 to disarm the Janjaweed militias while at the same time continuing to deny their responsibility for actively supporting the groups and tolerating their abuses. The July 3 U.N.-Government of Sudan Joint Communiqué committed the government to, “immediately start to disarm the Janjaweed and other armed outlaw groups.” The UNSC resolution of July 30 reiterated this obligation.

Following the adoption of UNSC resolution 1556, the Sudanese government vacillated several times, first rejecting the document, then agreeing to abide by its terms, and finally stating that it was impossible to implement the demand to disarm the Janjaweed within thirty days, and that it would instead implement a 90-day period allegedly specified in the Joint Communiqué.⁸⁶

On August 6, the government agreed with the U.N. Secretary-General’s Special Representative Jan Pronk on a “Plan of Action for Darfur” in which the Sudanese government would apparently set up “safe areas” for displaced civilians, work to disarm the Janjaweed militias, and curb military operations in the vicinity of the “safe areas.”⁸⁷

To date, instead of good faith efforts to control, regulate or disarm the Janjaweed militias it has supported and continues to support, the government of Sudan continues to exploit differences in language and terminology to evade its responsibility, such as using the term “Janjaweed” in its traditional sense: to refer to criminals and outlaws, rather than acknowledging that the Janjaweed militias have been key auxiliaries to their military effort. In public Arabic statements and in government correspondence, the terms “knights,” “mujahedeen” or “horsemen” are used by Sudanese officials to refer to members of the government-backed militias rather than the term “Janjaweed,” which is considered to be a pejorative.⁸⁸

Government reluctance to disarm the militias it has recruited and supported is likely based on two main concerns. First, the government claims that if the pro-government militias are disarmed, the rebel movement may make substantial gains militarily given that the militias, by whatever name they are called, are the mainstay of the government’s ground forces in Darfur. There are reports that both government and rebel forces have been using the past few months to regroup forces and fighting is clearly continuing.

⁸⁶ BBC, “Darfur abuses continue, UN says,” August 3, 2004. The Joint Communiqué actually does not specify a specific timeframe for the disarmament process.

⁸⁷ “Text: UN Darfur Agreement,” BBC as reported by Reuters, August 7, 2004.

⁸⁸ “Sudan Arabs Reject Marauding ‘Janjaweed’ Image,” Reuters, July 12, 2004.

While there is no question of the Sudanese government's right to protect national security interests and combat insurgencies, the government is also obliged to respect fundamental principles of international law in the conflict. The use of indiscriminate aerial bombardment and the policy of recruiting and using the Janjaweed militias have instead resulted in crimes against humanity and war crimes.

A second reason for the government's reluctance to disarm the militias is that clearly disarmament of the militias is neither an easy nor clear-cut task in a region where access to arms is a given rather than an exception to the rule, and where members of the government-backed militias are not only an instrument of military policy, but also local stakeholders in the conflict who have acquired land, livestock and other forms of wealth and power as a result of their alliance with the government. Some Arab nomadic communities could also no doubt fear reprisals if only one side were to be disarmed. For the government, any attempted forced disarmament of their militia allies presents the unsettling possibility that their former allies could turn against them.

Nonetheless, disarmament—or some form of regulation of the government-backed Janjaweed militias—remains the key priority to improve protection of civilians in Darfur and stop the violence. There are increasing reports that the Sudanese government's commitment to deploy a 6,000 member "strong credible and respected police force in all IDP areas" has been a thinly-veiled reorganization of militia members into these forces.⁸⁹ Human Rights Watch has received reports that for instance, members of the militia led by Musa Hilal in North Darfur, based in Mistriya, north of Kepkabiya, are being photographed and registered as part of a new "Special Operations" mobile police force.⁹⁰

Instead of incorporating militia members who may have been responsible for crimes against humanity into these forces, which would then be deployed to "protect" the very civilians they violently and forcibly displaced over the past sixteen months, members of government-backed militias should be registered, identified and screened, and those suspected of abuses against civilians should be detained pending investigation and trial.

Forced return and resettlement

On July 2, 2004, the Sudanese Minister for the Interior, Major General Abdel Rahim Mohammed Hussein stated the government's intention to create 18 "settlements" to host more than one million displaced persons, a plan which would "facilitate offering services and protection of the villagers who were previously living in numerous scattered villages."⁹¹ This statement appears to match descriptions of the "safe areas" described in

⁸⁹ Confidential communications to Human Rights Watch. See also, Marc Lacey, "Despite Appeals, Chaos still stalks the Sudanese," *New York Times*, July 18, 2004, Koert Lindijer, "Analysis: Reining in the Militia," BBC, August 5, 2004.

⁹⁰ Human Rights Watch telephone interview, July 2004.

⁹¹ Agence France Presse, "Sudan to set up 18 "settlements" for million Darfur refugees: report," July 2, 2004.

the recent “Plan of Action” signed by the U.N. Special Representative and the Sudanese government.⁹²

The prospect of this resettlement plan and the notion of “safe areas” raises the concern that rather than being enabled to return to their homes and lands in safety and dignity, displaced civilians will be forced to remain in camps or permanently resettled in new locations, confined in their movement and unable to access their lands, effectively consolidating the ethnic cleansing that has taken place and further destroying their livelihoods. The prospect of “safe areas” secured by Sudanese government or security forces is even more troubling given the human rights record of these groups.

The government’s plan to address the displaced civilians seems to involve two elements: the forced return of small numbers of communities to their original villages, and the forced resettlement of a much larger population of displaced civilians to new locations. Efforts to force the return or resettlement of displaced civilians include bribing local displaced leaders, through both offers of money as well as threats of physical violence and intimidation, to take their communities back to certain villages or new locations. Human Rights Watch received several communications from different locations in West Darfur, for example, where tribal leaders have been harassed and intimidated in just this manner.⁹³ A displaced woman from Wadi Saleh, West Darfur told Human Rights Watch “the men are currently under a lot of pressure from the authorities, the Janjaweed, and the chiefs. They started pushing us twenty days ago. Actually the authorities have changed their strategy. A month ago they were threatening to send us to jail if we did not return....Now they try another strategy, they offer money to the tribal chiefs.”⁹⁴

A U.N. report also noted the same pattern in South Darfur, stating that “on 29 July four [displaced] leaders were reportedly beaten to the point of requiring hospital treatment in Kass, allegedly for not moving the [displaced persons] back to their villages of origin.”⁹⁵ In North Darfur, the U.N. reported “intimidation of [displaced persons] has increased in various settlement sites including in Fata Borno, Tawilla and Zam Zam.”⁹⁶

Displaced civilians have legitimate concerns for their safety if they are forced to return to rural areas under the control of the Janjaweed militias. There are numerous reports of violent attacks on displaced men, women and children who attempt to move around Janjaweed-controlled areas (see above) whether voluntarily or by force. U.N. sources on the ground reported several incidents of displaced persons being killed when they attempted to return to their villages in July.⁹⁷

⁹² “Text: UN Darfur Agreement,” BBC as reported by Reuters, August 7, 2004.

⁹³ Human Rights Watch interview and telephone interview, July 23, 2004.

⁹⁴ Human Rights Watch interview, July 2004.

⁹⁵ U.N. Weekly Humanitarian Roundup, 25 July – August 1, 2004, at <http://www.undug.org/Emergencies/Darfur/roundups/data/01August.doc>

⁹⁶ *Ibid.*

⁹⁷ Five people were apparently killed in South Darfur when they left Kalma camp to return to their villages—three were killed in Masarana and two in another location. *U.N. Humanitarian Situation Report: Darfur Crisis, Sudan*, July 15, 2004.

In addition to concerns over any potential use of force in this resettlement process, there are concerns about the underlying aims and nature of such resettlement camps. The description of “safe areas” in the Plan of Action bears striking similarities to the “peace villages” created by the government of Sudan to house displaced civilians in the past in many other areas of Sudan, including around Khartoum, in the Nuba Mountains, and around government garrison towns such as Wau, in southern Sudan.

These “peace villages” tended to concentrate and put under government control in camps those civilians belonging to ethnicities from which the rebel insurgencies were drawn. They were often located in insecure areas, usually some kilometers from the periphery of government-controlled towns. Security conditions routinely constrained the ability of the residents to leave the camps and cultivate crops or access markets, education or secondary medical care, all of which are usually located in the larger towns, rendering them totally dependent on humanitarian relief.

When creating these displaced camps or “peace villages” in the past, the government has routinely forcibly displaced or evicted thousands of civilians to inhospitable locations with totally inadequate conditions, such as non-existent or minimal access to shelter, water, health care and other objects essential to the survival of the civilian population. Humanitarian access has often been provided only under unacceptable government conditions, in which food and other humanitarian assistance has been diverted to military forces and rape and other forms of violence have been prevalent within the camps.

Relevant International Law in Darfur

The conflict in Darfur is governed by the laws of armed conflict applicable to non-international (internal) conflicts even though it may have international ramifications and a significant number of the displaced have crossed the border into Chad. The main provision regulating the conduct of all parties (government, government-backed militias and the rebel movements) is Article 3 common to the Geneva Conventions and the relevant norms of customary international law.⁹⁸ The 1977 Protocol II to the Geneva Conventions may also provide authoritative guidance on the conduct of hostilities by the parties to the conflict.

Common Article 3 prohibits attacks on those taking no part in hostilities including civilians. Among the acts prohibited are (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

⁹⁸ Common Article 3 establishes the obligation of all parties to ensure humane treatment for civilians and other persons who for whatever reason are no longer taking an active role in the hostilities. The obligations that follow from article 3 are absolute and do not depend on the reciprocal application of the provision by the other party. At the same time the implementation of these obligations for government forces or forces associated to the government has no implications in terms of recognition of a specific legal status to the rebels.

Among the acts that are absolutely prohibited and are described in this report are: a) murder, b) inflicting humiliating or degrading treatment on civilians or combatants who are captured, have surrendered, or have fallen hors de combat, c) rape and all forms of sexual abuse, and d) pillage and destruction of civilian property.

Rape and sexual abuse have become widespread in Darfur as documented by this report and others. Through its prohibition of “outrages upon personal dignity, in particular humiliating and degrading treatment,” Common Article 3 implicitly condemns sexual violence. Rape and sexual abuse constitute war crimes whether or not they take place or not on a massive scale. Acts of rape also constitute acts of torture or cruel and inhuman treatment. When these abuses take place in a systematic or as a matter of policy, this added dimension of the crime turns it into a crime against humanity.

Starvation of civilians is illegal both in Protocol II and under norms of customary law, and the repeated raiding and looting of civilians appears to be an attempt to starve and render them entirely destitute. Article 14 states: “Starvation of civilians as a method of combat is prohibited. It is prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.” This prohibition is aimed at preventing the use of starvation as a means to annihilate or weaken civilians. There are no exceptions to this rule. The protection against the destruction and stealing of “foodstuffs” and “livestock” has become particularly relevant in the context of the conflict in Darfur.

Involuntary or forced displacement violates principles of international humanitarian law and other standards found in the U.N. Guiding Principles on Internal Displacement.⁹⁹ Article 17 of Protocol II to the Geneva Conventions provides that “the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand.”¹⁰⁰ “Imperative military reasons” generally refers to movement of civilians as a result of imminent military operations. The displacement of the civilian population for the sole purpose of denying a social base to the enemy is considered to be a politically motivated displacement and is therefore neither permissible nor legal.

In addition, Article 17 also notes “should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.”

In the prevailing security conditions in most of the rural areas of Darfur, the forced return of civilians to their villages, which in many instances remain under the control of

⁹⁹ The Guiding Principles on Internal Displacement, adopted in September 1998 by the U.N. General Assembly, reflect humanitarian law as well as human rights law, and provide a consolidated set of international standards governing the treatment of the internally displaced.

¹⁰⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977.

the Janjaweed militias who attacked them, cannot be justified by either concern for their safety in their current locations or by “imperative military reasons.” With regard to the potential forced resettlement of civilians into “safe areas,” the government of Sudan bears the burden of proving that any such displacement is justified by real, and not simply pledges of improved security or military imperative. The U.N. and humanitarian agencies proposing to help facilitate any such resettlement should remain vigilant to the potential risks of manipulation of humanitarian aid in this context.

International Responses to the Darfur crisis

Over the past few months, international media response to the crisis in Darfur has grown considerably following a total dearth of attention during the first fifteen months of the conflict. In turn, this has provoked belated but far greater international political attention to the situation.

Under multilateral pressure from the U.S., the U.N., and the European Union, the Sudanese government opened up access to Darfur for humanitarian agencies, easing the rigid restrictions on visas and travel permits for humanitarian workers, and permitting an increased number of agencies to operate in the zone. For instance, the International Committee of the Red Cross (ICRC), which in March 2004 had stated that it was “not in a position to carry out a meaningful humanitarian operation”¹⁰¹ in Darfur, had approximately 90 expatriate staff and over 300 national staff working in Darfur by mid-July,¹⁰² a testament to both the improvement in humanitarian access as well as to the scale and gravity of the needs.

Pressure on the government of Sudan from certain quarters, such as the United States and European Union members grew throughout June and July amid increasing popular awareness of the situation in Darfur, calls to describe the violence as genocide, and appeals for international intervention to address the crisis. Khartoum and Darfur saw a steady stream of visits from prominent political figures, including U.S. Secretary of State Colin Powell and U.N. Secretary-General Kofi Annan, who paid simultaneous visits to Darfur at the end of June and beginning of July. Despite the high profile given to the crisis and the improvements in humanitarian access, however, protection of civilians remained minimal, with continuing attacks on civilians reported by numerous aid agencies and visiting delegations of diplomats, U.N. staff and others.

By mid-July, both the U.S. Senate and the U.S. House of Representatives passed resolutions condemning the violence in Darfur as genocide.¹⁰³ The U.S. also began circulating a draft UN Security Council resolution invoking Chapter VII and proposing arms and travel sanctions on the Janjaweed militias in early July. The threat of the UNSC resolution stirred considerable international debate in late-July; with some of Sudan’s allies on the Security Council—Pakistan, China, and Russia in particular—insisting on a

¹⁰¹ “ICRC president ends visit,” International Committee of the Red Cross, Geneva, March 6, 2004.

¹⁰² “Sudan Bulletin No. 6, 6 August, 2004,” ICRC, at <http://www.icrc.org/Web/Eng/siteeng0.nsf/iwplList578/85F92E7D9ADBE042C1256EE80034192F>

¹⁰³ Associated Press, “Congress declares Sudan atrocities are ‘genocide,’ July 23, 2004.

more moderate approach. Under the threat of U.N. sanctions, the Sudanese government ratcheted up its anti-American rhetoric both domestically and internationally, invoking the potential for a unilateral U.S. intervention as in Iraq and a supposed Western conspiracy to invade Sudan and topple the Sudanese government.¹⁰⁴ A slightly toned-down version of the UNSC resolution was voted upon on July 30, 2004.

France, increasingly concerned by the militarization of the border and the potentially destabilizing impact of the Darfur conflict on region, particularly Chadian political stability, deployed French troops to the Chadian-Sudanese border in early August to patrol the fraying border zone.¹⁰⁵

In May 2004, the Arab League took the unusual step of publishing a report of a commission of inquiry sent by the organization to assess the situation in Darfur. The report apparently condemned the “massive violations of human rights” taking place in Darfur and specifically named the “pro-government militias” as responsible for the abuses.¹⁰⁶ Following the Sudanese government’s protest at the Arab League summit in Tunis on May 22 and 23, however, the report was quickly withdrawn from the public domain. Human Rights Watch was told that the public version was still being finalized when a researcher requested a copy from an Arab League representative in June, but to date the report is still publicly unavailable.

Since these events, however, the Arab League has publicly maintained a fairly consistent stance towards the Sudanese government’s actions in Darfur, refusing to condemn the atrocities taking place—in which Muslims are the victims—or to place Sudan under serious international sanctions, and preferring to maintain a policy of constructive dialogue. The Sudanese government’s rhetoric invoking the specter of a non-consensual, unilateral U.S. military intervention, despite being an unrealistic prospect, has clearly found a receptive audience among both public and government circles in the Arab world that are increasingly suspicious of U.S. motives post-Iraq.

This manipulation of the conflict for political purposes obscures the very real tragedy of more than a million people—Muslims—who have suffered massive atrocities due to the Sudanese government’s policies in Darfur. For instance, the Egyptian Foreign Minister Ahmed Aboul Gheit downplayed the situation in early August, “To talk about...grave violations of human rights or massacres or other such accusations, I don’t think it is that way.”¹⁰⁷ Arab-League Secretary-General Amr Moussa also stated that it was unacceptable for Sudan to become a “playground to accept troops from tens of thousands of miles from a country which is hostile to the Arabs.”¹⁰⁸

¹⁰⁴ Tsegaye Tadesse, “Sudan says US using Darfur to topple Government,” Reuters, July 27, 2004.

¹⁰⁵ Agence France Presse, “France mobilizes troops in Chad for Darfur humanitarian work,” July 30, 2004.

¹⁰⁶ Agence France Presse, “Darfour: le Soudan proteste après un rapport arabe sur des violations,” May 26, 2004.

¹⁰⁷ Nima Elbagir, “Sudan rejects Darfur deadline,” Reuters, August 1, 2004.

¹⁰⁸ *Ibid.*

Initially quiet on the events in Darfur, the African Union has become an increasingly important actor, particularly given the Sudanese government's refusal to permit significant Western involvement in the crisis. African Union officials helped mediate the ceasefire agreement of April 8, 2004 and took leadership of the ceasefire monitoring framework. For African Union member states, success in Darfur was an important step to establishing the credibility of the new regional body¹⁰⁹ and also claiming responsibility for dealing with crises on the continent.

The African Union ceasefire monitoring mission got off to a slow start, however, and by the end of July, four months after the ceasefire agreement was signed, they had only established three of six planned sectoral bases in the region.¹¹⁰ Despite this, the organization proposed in a July 27 African Union summit to significantly increase its presence and turn the ceasefire monitor monitoring force into a full-fledged peacekeeping force with an increased size that would include within its mandate the protection of civilians, disarmament and neutralization of the Janjaweed militias, and facilitation of the delivery of humanitarian assistance.¹¹¹

As of early August, the Sudanese government continued to pledge improvements and make commitments to improve the situation that it is highly unlikely to fulfill. In the wake of international concern and offers of assistance to improve protection of civilians, the government continues to deny any need for assistance to protect civilians and ensure security. As this report went to press, Nigeria and Rwanda were among the troop-providing countries offering three battalions of troops to help protect civilians in Darfur. The onus remains on the Sudanese government to prove that it is genuinely concerned about the fate of Sudanese civilians and accept a greatly increased international presence in Darfur.

¹⁰⁹ The African Union (A.U.) replaced the Organization of African Union (OAU) which had been heavily criticized for inaction on a number of levels.

¹¹⁰ The three sites are Nyala, Kebkabiya, and Abéché, Chad. See African Union, "Talking Points for the Deputy Chairperson," 13th Meeting of the Peace and Security Council, Addis Ababa, July 27, 2004.

¹¹¹ Communiqué, Peace and Security Council, African Union, July 27, 2004.