

April 2006



Number 2

Ensuring Protection in Darfur: The U.N. Mandate

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Summary

The international response to the systematic killing, rape, displacement, and looting that have characterized the armed conflict in Darfur over the last three years has been consistently too little, too late.

The U.N. Security Council has passed several resolutions raising concerns about war crimes and crimes against humanity committed in Darfur by the Sudanese government, its security forces and government-backed “Janjaweed” militias against civilians from the same ethnic groups as the rebels in the Sudan Liberation Army/Movement (SLA/M) and the Justice and Equality Movement (JEM). The Security Council has repeatedly demanded that the Sudanese government disarm its militia forces and prosecute individuals responsible for the crimes. But the Security Council has failed to take the necessary action to ensure that any of these demands are implemented. Meanwhile, the government of Sudan has resisted providing protection for Darfur’s civilian population or seriously prosecuting the numerous international crimes committed against them, and has been consolidating “ethnic cleansing” in Darfur.

The U.N. Security Council must take urgent and decisive action to ensure that Sudanese civilians are protected. It must act on its responsibility to protect civilians and immediately secure the consent of the Sudanese government to the prompt and robust deployment of a U.N. force in Darfur. The Council must ensure that the U.N. force has a Chapter VII mandate and has sufficient resources to enable it to restore security to the region by protecting civilians throughout Darfur, securing the population’s access to humanitarian assistance, monitoring the Security Council’s arms embargo on Darfur, supporting accountability and undertaking additional peace support tasks as the situation in Darfur stabilizes.

Securing the protection of the civilian population in Darfur will have a significant impact on broader regional security. The ethnic cleansing that has taken place must be reversed and consultations commenced with a wide range of communities in Darfur to assure that abuses do not recur.

An international civilian protection force in Darfur will require real political support and commitment. States members of the U.N. Security Council are particularly important, but support from key regional organizations such as the European Union, the African Union, and the Arab League is also essential.

To date, the Sudanese government has succeeded in dividing and manipulating the international community to the detriment of more than 1.7 million displaced people in Darfur—as it did in Southern Sudan to the detriment of four million displaced persons during its twenty-one year war there. Without greater international pressure on the parties to the Darfur conflict, it is unlikely that there will be significant progress on civilian protection and humanitarian assistance in Darfur.

Context

Since early 2003, the crisis in Sudan's western Darfur region has become one of the world's worst human rights crises.¹ In coordination with ethnic militias known as the "Janjaweed," the Sudanese government has systematically targeted civilians sharing the ethnicity of Darfur's main rebel movements. Almost two million people have been forcibly displaced by the attacks and lost their property, livestock, and other assets. Tens of thousands of civilians have been killed, raped, or arbitrarily detained by the Sudanese government forces and their militias.

The African Union Mission in Sudan (AMIS) entered Darfur in July 2004 to monitor an African Union (A.U.)-brokered ceasefire agreement between the two rebel groups and the Sudanese government. In the face of continuing attacks on civilians, the African Union mission's mandate expanded to limited civilian protection in October 2004 and in April 2005 the A.U. Peace and Security Council authorized an increase of personnel to 7,731.²

¹ See "Darfur in Flames: Atrocities in Western Sudan," *A Human Rights Watch Report*, vol. 16, no. 5(A), April 2004, [online] <http://hrw.org/reports/2004/sudan0404>; "Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan," *A Human Rights Watch Report*, vol. 16, no. 6(A), May 2004, [online] <http://hrw.org/reports/2004/sudan0504>; "Darfur Documents Confirm Government Policy of Militia Support," *A Human Rights Watch Briefing Paper*, July 19, 2004, [online] <http://hrw.org/english/docs/2004/07/19/darfur9096.htm>; "Empty Promises? Continuing Abuses in Darfur, Sudan," *A Human Rights Watch Briefing Paper*, August 11, 2004, [online] <http://hrw.org/backgrounders/africa/sudan/2004>; "If We Return We Will Be Killed," *A Human Rights Watch Briefing Paper*, November 15, 2004, [online] <http://hrw.org/backgrounders/africa/darfur1104>; "Targeting the Fur: Mass Killings in Darfur," *A Human Rights Watch Briefing Paper*, January 24, 2005; "Sexual Violence and its Consequences Among Displaced Persons in Darfur and Chad," *A Human Rights Watch Briefing Paper*, April 12, 2005, [online] <http://hrw.org/backgrounders/africa/darfur0505>; "Entrenching Impunity: Government Responsibility for International Crimes in Darfur," *A Human Rights Watch Report*, vol. 17, no. 17(A), December 2005, [online] <http://hrw.org/reports/2005/darfur1205>; "Sudan : Imperatives for Immediate Change," *A Human Rights Watch Report*, January 2006, vol. 18, no. 1(A), [online] <http://hrw.org/reports/2006/sudan0106>; and "Darfur Bleeds: Recent Cross-Border Violence in Chad," *A Human Rights Watch Briefing Paper*, no. 2, February 2006, [online] <http://www.hrw.org/backgrounders/africa/chad0206/>.

² African Union Peace and Security Council, "Communiqué," paragraph 6, October 20, 2004, [online] <http://www.genocideinterventionfund.org/educate/reports/au/17comm.pdf>. The authorized numbers of personnel were increased to 7,731 in April 2005 as of September 2005, although those numbers have not yet been reached as of the writing of this report. For instance, African Union Peace and Security Council, "Communiqué," April 25, 2005, [online] <http://news9.asmarino.com/content/view/58/88/>.

As of March 2006, the 6,898-strong AMIS includes 4,760 protection forces (military), 1,385 unarmed civilian police, 715 unarmed military observers and additional personnel. The force has succeeded in bringing limited stability to some areas where it is deployed, but it lacks sufficient numbers, equipment, and funding to tamp down the increasing violence against civilians in Darfur.

The majority of Darfur's population continues to suffer from ongoing attacks by government and rebel forces and bandits, or indirectly from insecurity and the collapse of the local economy. A resurgence of fighting since late 2005, continuing attacks on civilians and the spillover of fighting into neighboring Chad highlight the gap between AMIS' capacity to protect civilians and the massive protection needs on the ground.

The U.N. Secretary-General said in his April 2006 report to the Security Council on Darfur that the recent escalation of fighting between the parties, together with deliberate attacks on towns, villages, and displaced persons' settlements and acts of banditry, has forced thousands more civilians to flee their homes and exposed them to a wide range of abuses.³

A proposal to replace or "blue hat" AMIS with a U.N. force gathered momentum in January 2006 as AMIS funding problems increased. The proposal for a U.N. force has met stiff resistance from the Sudanese government. It consistently tries to prevent any initiatives that could protect civilians in Darfur. It has refused to investigate or prosecute war crimes, including murders and rapes, by government and military personnel and by its Janjaweed militias.

The African Union mediators of Darfur peace talks between the Sudanese government and the Darfur rebels in Abuja, Nigeria, have imposed a deadline on the parties to sign a peace agreement and an "enhanced" ceasefire agreement by April 30. A peace agreement or a new ceasefire agreement will not guarantee an end to attacks on civilians, however. The April 2004 ceasefire agreement has scarcely been respected: armed groups have multiplied, arms and ammunition are readily available, ethnic polarization is greatly increased and those engaged in banditry know they enjoy total immunity from prosecution by the Sudanese authorities as long as they participate in the Sudan government's counterinsurgency campaign. Finally, as discussed below, the African Union force has lost credibility as a deterrent to attacks on civilians and humanitarian

³ He added, "In particular, I am alarmed by the reports of widespread human rights violations committed in Gereida, Mershing and Shearia in Southern Darfur, among other locations, which have led to the displacement of tens of thousands of people United Nations Security Council." Monthly report of the Secretary-General on Darfur," S/2006/218, April 5, 2006, [online] <http://daccessdds.un.org/doc/UNDOC/GEN/N06/294/93/PDF/N0629493.pdf?OpenElement>.

convoys, and as a result hundreds of thousands of internally displaced persons have been cut off from the humanitarian assistance they need.

The recent events in Chad, where Khartoum-backed Chadian rebels based in Darfur almost captured the Chadian capital, N'Djamena, on April 13, provide new and added urgency to the need to protect civilians in the region. In addition to a serious risk of conflict engulfing Chad, the safety of some 208,000 Sudanese refugees in eastern Chad is also threatened.

Protection of Civilians: Lessons Learned from AMIS

Despite AMIS's efforts to proactively interpret its mandate for protection of civilians "whom it encounters under imminent threat and in the immediate vicinity, within resources and capability,"⁴ it has been severely hampered in these efforts. Internal constraints include a lack of institutional expertise and technical capacity in deploying multi-sectoral field missions. External constraints include the continuing obstruction of the Sudanese government, inadequate funding from international donor governments and insufficient military equipment and logistics.

As a result, AMIS' deterrent effect has diminished as its own forces have succumbed to deadly attacks. Attacks on humanitarian aid convoys by rebel groups, Janjaweed forces and bandits and continuing Janjaweed and government attacks on civilians, including those living in camps, have become widespread in the past several months. The primary responsibility for the deterioration in the security situation belongs to the warring parties, who continue to attack civilians and civilian objects in violation of international humanitarian law, and the government, which has created a climate of lawlessness by permitting Janjaweed forces to commit crimes with impunity. But it is also clear that AMIS' ability to counter such attacks is limited by its low numbers and other constraints.

The African Union Peace and Security Council on March 10 extended the mandate of AMIS in Darfur through September 30, 2006. U.N. plans call for AMIS troops to be a mainstay of the future U.N. force in Darfur by retraining the AMIS soldiers and then "re-hatting" them and incorporating them into a larger U.N. force with improved logistical support and arms. This would expedite the introduction of the U.N. force and

⁴ The revised AMIS mandate of October 2004 included "[p]rotecting civilians whom it encounters under imminent threat and in the immediate vicinity, within resources and capability." African Union Peace and Security Council, "Communiqué," paragraph 6, October 20, 2004. The mandate is discussed in detail in Human Rights Watch, "Sudan: Imperatives for Immediate Change."

ensure that vital institutional knowledge and experience is retained within the future U.N. mission. The introduction of a U.N. force will also provide an opportunity to strengthen AMIS regarding size, funding, mandate, and capacity — and, in particular, mobility.

Requirements for the Proposed U.N. force

The Mandate

Any U.N. operation in Darfur must have a clear mandate to proactively protect civilians whether or not a peace agreement is in place. Given the scale and gravity of the abuses that have taken place and continue to occur in the region, protection of civilians remains the highest priority. Past experience in Darfur and lessons learned from U.N. operations in other countries have repeatedly demonstrated the importance of providing international forces with unambiguous guidance on this task. The Security Council must immediately secure the consent of the Sudanese government to the prompt and robust intervention of a U.N. force in Darfur no later than October 1, 2006 (when the A.U. mandate ends). The following elements should be included in any U.N. mandate:

- **The U.N. force should be authorized under Chapter VII of the U.N. Charter and permitted to use “all necessary means to protect civilians, including humanitarian personnel.”** This formulation will allow U.N. forces to use deadly force to protect civilians under attack or threat of violence. It would provide U.N. forces with flexibility to use a range of approaches to deter attacks. For instance, forces must have the mandate to quickly deploy forces in volatile areas to prevent attacks against civilians. The use of force to protect civilians must also be clearly articulated within the rules of engagement.
- **The U.N. mandate must include the promotion and protection of human rights, cooperation with efforts to end impunity, including the International Criminal Court, and public reporting on human rights developments.** The U.N. operation in Darfur should have adequate numbers of human rights monitors and resources to allow them to widely monitor the situation in Darfur, including abuses by all the warring parties. Human rights specialists should be routinely included in military and police patrols, and forensics experts and others should be included in the mission to assist in securing evidence (including mass grave sites) and in protecting witnesses. Given the prevalence of rape and sexual violence in Darfur and the scale of attacks in

and around displaced persons camps, the U.N. mission should include sufficient numbers of civilian police. Female police and civilian personnel with expertise in the investigation of sexual and gender based crimes and child protection should be recruited.

- **The U.N. mandate should include monitoring of the arms embargo imposed by the U.N. Security Council on Darfur under Resolution 1556 and elaborated upon under Resolution 1591.** As described in the report of the U.N. Panel of Experts,⁵ the warring parties and probably neighboring countries continue to violate the arms embargo imposed on Darfur by the U.N. Security Council in July 2004 and March 2005. In addition, the Sudanese government continues to use aircraft in offensive military operations, despite promising in January 2005 to refrain from doing so. U.N. forces should be authorized to inspect, as they deem necessary and without notice, all aircraft and vehicles anywhere in Darfur, including those in the airports, airfields, military bases and border crossings. U.N. forces should be authorized to seize or collect arms and related material which violates the arms embargo and dispose of such material as appropriate.
- **The U.N. mandate should support efforts to demobilize and disarm abusive militia forces and to reform the security sector, including screening of military, militia, police, and internal security forces.** Given the pervasive involvement of members of the Sudanese military, political, police, internal security services and government-backed militias in war crimes, crimes against humanity and other abuses, concrete steps must be taken to screen all personnel, identify such individuals and remove them from participation, formal or informal, in government institutions.

Adequate Capacity and Resources

In addition to a clear and robust mandate to protect civilians, the U.N. force in Darfur must have adequate resources to implement its mandate. This means not only sufficient quantity and quality of military and civilian personnel — 20,000 has been suggested by U.N. Special Representative of the Secretary-General Jan Pronk as the minimum necessary to be effective — but the requisite technical and military capacity to deploy

⁵ United Nations Security Council, "Report of the Panel of Experts established pursuant to paragraph 3 of resolution 1591 (2005) concerning the Sudan," S/2006/65, January 30, 2006, [online] <http://daccessdds.un.org/doc/UNDOC/GEN/N05/632/74/PDF/N0563274.pdf?OpenElement>.

rapidly and in far greater numbers not only in key urban areas but also in Darfur's violent rural zones.

Much of the AMIS force of 6,898 personnel has been concentrated in the larger towns and around the sprawling camps for internally displaced persons. The dearth of international presence and security in the rural areas has had several negative results. One is that abusive militia and bandit groups continue to attack civilians scattered in rural areas, causing them to flee into towns and camps. As a result they are cut off from farming and economic independence and become dependent on international humanitarian relief.

A second consequence of minimal AMIS presence in rural areas is that travel between towns or to rural areas remains highly insecure, not only for civilians, but also for international humanitarian agencies. Civilians, aid workers, humanitarian convoys, and commercial vehicles have come under increasing attack in the past year, not only by the warring parties but also by armed bandits.

Securing Darfur's main roads for civilian and humanitarian traffic and proactively patrolling the rural areas is therefore an important task for the U.N. force, and one which will require substantial human, logistical and technical capacity. Mobility and the ability to rapidly react to ambushes and reports of impending attacks are key to such protection.

Instead of continuing to place Sudanese government interests above the survival of more than 1.7 million displaced Sudanese, U.N. Security Council members and regional institutions must prioritize the well-being of Sudanese citizens and fully support the urgent deployment of a robust, adequately equipped U.N. force to protect the civilians of Darfur.