



Ten Steps for Darfur

Indicators for Evaluating Progress in the HRC Group of Experts Process

September 24, 2007

On September 24, 2007, the Human Rights Council will consider an interim report by the Group of Experts (GOE) appointed on Darfur. The GOE compiled existing recommendations on Darfur in its June report, and has been working with the government of Sudan to foster their implementation. The GOE's report contains some 70 detailed recommendations, many of which require extensive and long-term reforms within Sudan. Yet, the Human Rights Council will take up the GOE's final report in December, at which time it will be called upon to evaluate the impact of the HRC's work on this urgent situation.

Given that time-frame, and the pressing need for improvement in the human rights situation in Darfur, Human Rights Watch urges that the Council look at a small number of concrete actions which could contribute to immediate changes on the ground in Darfur. Many of these steps are actions the government of Sudan has said it is already taking or is committed to take. The Human Rights Council should hold Sudan to those commitments, and should specifically call on Sudan, in the context of its work with the GOE, to take the following ten steps before the HRC's December session.

Of course, the GOE report contains numerous additional recommendations which are absolutely fundamental, and these ten steps in no way imply that those actions are not equally urgent. The government of Sudan should be urged to implement fully all the recommendations in the GOE report, as soon as possible. The following ten steps are simply one tool that the HRC can use to assess the effectiveness of its work on Darfur, and the extent to which Sudan has cooperated with this process.

1. Publish and disseminate orders prohibiting the targeting of civilians and civilian property and indiscriminate attacks

The government of Sudan has replied to the GOE report (Annex 2, 1.1.1) noting that authorities responsible for the armed forces have issued orders and instructions to both government forces and government-sponsored and supplied militias prohibiting the targeting of civilians or civilian property by government forces. Yet, the government offensive against the National Redemption Front in late August included indiscriminate bombings and attacks in which twenty civilians were killed. The

government also launched indiscriminate air and ground attacks on Birmaza in November and Abu Sakin in December 2006, with reports of dozens of fatalities. As incidents involving such abuses continue to occur, Sudan should demonstrate its commitment to ending these attacks by making such orders public (or reissuing them) and broadly distributing them.

2. Enforce orders prohibiting targeting of civilians and civilian property and indiscriminate attacks

To demonstrate its commitment to ending indiscriminate attacks and targeting of civilians or civilian property, the government of Sudan should report publicly (and provide the Council with its report) on investigations into cases of alleged unlawful attacks by military forces or militia, including those mentioned above. The Council should request the GOE to assess the success of Sudan's efforts to end such attacks by reporting whether further unlawful attacks occur prior to its report in December.

3. Vet all appointments to public office on human rights grounds, and remove Ahmed Haroun, who has been indicted by the International Criminal Court, from all posts

Sudan's response to the GOE report did not address the recommendation that members of security institutions should be vetted to exclude those who have committed serious human rights violations (Annexes 1 and 2, 1.1.2.). Sudan's willingness to ensure that persons responsible for human rights abuses are not in positions of authority within its security forces or government is a crucial indicator of its commitment to improving Darfur's human rights situation. Unfortunately, the recent nomination of Ahmed Haroun—one of two suspects facing arrest warrants from the International Criminal Court (ICC)—to chair a committee charged with investigating human rights complaints in Darfur sends the opposite signal. He should be immediately removed from that post, as well as from his post as state Minister of Humanitarian Affairs, and surrendered to the ICC.

4. Publicize and enforce a policy of zero tolerance for violence against women

In its response to the GOE report, the government of Sudan committed to making a public announcement "affirming its commitment to continuing the policy of combating and condemning violence against women, of prosecuting the perpetrators of such violence and of compensating victims" (Annex 2, 1.2.2.1). Despite that pledge, the government has sent very mixed signals on this crucial topic, including a March 19, 2007 interview in which President Bashir implied that rapes were not occurring in Darfur ("It is not in Sudanese culture or in the culture of the people of Darfur to rape. It doesn't exist."). Sudan should take immediate steps to implement its commitment to send an unambiguous message of zero tolerance for violence against women, and should report to the

Council on its enforcement of that policy by providing details on the cases investigated and their results.

5. Provide an up-to-date list of detainees and where they are held, and ensure that UN agencies and humanitarian organizations have confidential access to all detainees

The government of Sudan has responded to the recommendation that accessible, complete and fully up-to-date lists of detainees and their place of detention are kept by noting that such lists are maintained by the security enquiries office (Annex 2, 1.4.2.2). Such lists should be compiled and furnished to the Office of the High Commissioner for Human Rights (OHCHR) and United Nations Mission in Sudan (UNMIS) Human Rights offices on a regular basis. Sudan has also stated that all requests for interviews with detainees have been “freely granted on the basis of objective criteria, such as prior notification from the UN Office in order to schedule a time for the interview and identify the visitor” (Annex 2, 4.3). However, the government has prevented African Union Mission in Sudan (AMIS) police from visiting people in detention facilities, even though this is a provision of the Darfur Peace Agreement. Human rights monitors have also been routinely denied access to National Security and Military Intelligence detention facilities. Following a directive in early 2006 that the Ministry of Interior must authorize detainee visits by any international monitors, UN human rights monitors have been routinely denied access to facilities under the jurisdiction of the Ministry of Interior. Sudan should issue clear instructions that unimpeded confidential access by international monitors must be given to all detainees, and ensure that those instructions are implemented. These instructions should expressly provide that they apply to all persons held in formal or other detention facilities under the jurisdiction of the Ministry of Interior, National Intelligence and Security Services, and the Sudanese military, including Military Intelligence.

6. Cease any use in Darfur of military airplanes, helicopters, or vehicles painted white or otherwise mimicking UN or humanitarian organizations

Sudan has responded that it uses white aircraft for transport and medical evacuations, and they do not bear the symbols of the UN or any nongovernmental organization (NGO) (Annex 2, 2.1.3). However, there are numerous reports of military aircraft (planes and helicopters) painted white—the color used by UN and AMIS forces—being used for reconnaissance, supply operations, and attacks. Use of these white aircraft and the unlawful use of UN markings for military purposes is a violation of international humanitarian law, and puts genuine UN, humanitarian, and AMIS flights at risk because rebels might mistake them for military targets. People in need of aid may flee from humanitarian flights if they cannot distinguish them from government military aircraft. Sudan should

immediately cease the use of white military aircraft and helicopters and should report on the steps it has taken to the GOE.

7. Issue a blanket waiver of legal immunities for war crimes and serious violations of human rights

Sudan concedes that immunities currently exist that could protect state agents from prosecution for human rights violations committed in the course of official duty, but notes that immunities have been and can be waived (Annex 2, 3.2). Recommendations contained in the GOE report require abolition of existing legal immunities for armed state agents, including repeal of Article 33 of the National Security Forces Act and Article 46 of the 1999 Police Forces Act (Annex 1, 3.2). As Sudan has indicated its willingness to waive immunities for abusive acts, it should have no objection to issuing a blanket waiver for such crimes. Sudan should immediately issue a blanket waiver of immunities for war crimes and crimes involving torture, violence against women, arbitrary detention, enforced disappearances, and extrajudicial killings (Annex 1, 3.2).

8. Fully cooperate with the International Criminal Court, and surrender two suspects now subject to arrest warrants

Sudan argues that it is not required to cooperate with the International Criminal Court, despite the referral of the situation in Darfur by the Security Council (Annex 2, 3.3). In fact, Sudan's failure to cooperate with the ICC is a breach of its legal obligations. Security Council resolution 1593 requires that the government of Sudan "cooperate fully with and provide any necessary assistance to the Court and the Prosecutor." The Human Rights Council must uphold the authority of both the Security Council and the ICC by insisting that Sudan reverse its position and cooperate fully with all ICC requests for assistance with its investigations, including by providing access to all documents and interviews with all persons as requested. In particular, Sudan should immediately hand over to the ICC Ahmed Haroun and Ali Kosheib in accordance with the arrest warrants issued by the ICC Pre-Trial Chamber.

9. Fully cooperate with the African Union mission and deployment of the new UN-AU force, including issuance of expedited visas and clearance for vehicles and equipment

Sudan has pledged to cooperate fully with AMIS and the UN-AU hybrid force (UNAMID). In the past, Sudan has delayed the deployment of peacekeeping forces by, for example, preventing the delivery of 105 armored personnel carriers and delaying entry of six attack helicopters for AMIS. Sudan

should act promptly to approve visas and clearances for personnel and equipment for both AMIS and UNAMID.

10. Issue a standing invitation to all UN human rights mechanisms and give these mechanisms full and unimpeded access

Sudan states that it has never refused to cooperate with any permanent or special human rights mechanism (Annex 2, 4.4). The HRC has noted with regret, however, that the High-Level Mission it appointed was unable to visit Darfur, a failure that resulted from Sudan's refusal to grant visas. Other visits by special procedures have been delayed. As Sudan has said it is fully committed to allowing human rights mechanisms to address the situation in Darfur, it should demonstrate that commitment by issuing a standing invitation to all human rights mechanisms (whether standing or ad hoc) of the United Nations and the African Union, and give these mechanisms full and unimpeded access to Darfur.