



SUDAN

Five Years On

No Justice for Sexual Violence in Darfur

HUMAN
RIGHTS
WATCH



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Human Rights Watch
350 Fifth Avenue, 34th floor
New York, NY 10118-3299 USA
Tel: +1 212 290 4700, Fax: +1 212 736 1300
hrwnyc@hrw.org

Poststraße 4-5
10178 Berlin, Germany
Tel: +49 30 2593 06-10, Fax: +49 30 2593 0629
berlin@hrw.org

Avenue des Gaulois, 7
1040 Brussels, Belgium
Tel: + 32 (2) 732 2009, Fax: + 32 (2) 732 0471
hrwbe@hrw.org

64-66 Rue de Lausanne
1202 Geneva, Switzerland
Tel: +41 22 738 0481, Fax: +41 22 738 1791
hrwgva@hrw.org

2-12 Pentonville Road, 2nd Floor
London N1 9HF, UK
Tel: +44 20 7713 1995, Fax: +44 20 7713 1800
hrwuk@hrw.org

6 rue des Graviers
92200 Neuilly sur Seine, France
Tel: +33 (0) 1 41 92 07 34, Fax: +33 (0) 1 47 22 08 61
paris@hrw.org

1630 Connecticut Avenue, N.W., Suite 500
Washington, DC 20009 USA
Tel: +1 202 612 4321, Fax: +1 202 612 4333
hrwdc@hrw.org

Web Site Address: <http://www.hrw.org>



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Summary

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

Survivors³ of sexual violence in Darfur have no meaningful access to redress. They fear the consequences of reporting their cases to the authorities and lack the resources needed to prosecute their attackers. Police are physically present only in principal towns and government outposts, and they lack the basic tools and political will for responding to sexual violence crimes and conducting investigations. Police frequently fail to register complaints or conduct proper investigations. While some police seem genuinely committed to service, many exhibit an antagonistic and dismissive attitude toward women and girls. These difficulties are exacerbated by the reluctance—and limited ability—of police to investigate crimes committed by soldiers or militia, who often gain effective immunity under laws that protect them from civilian prosecution.

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

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

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

³ Throughout this report, the term "survivor" is used interchangeably with the term "victim."

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

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

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

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

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

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

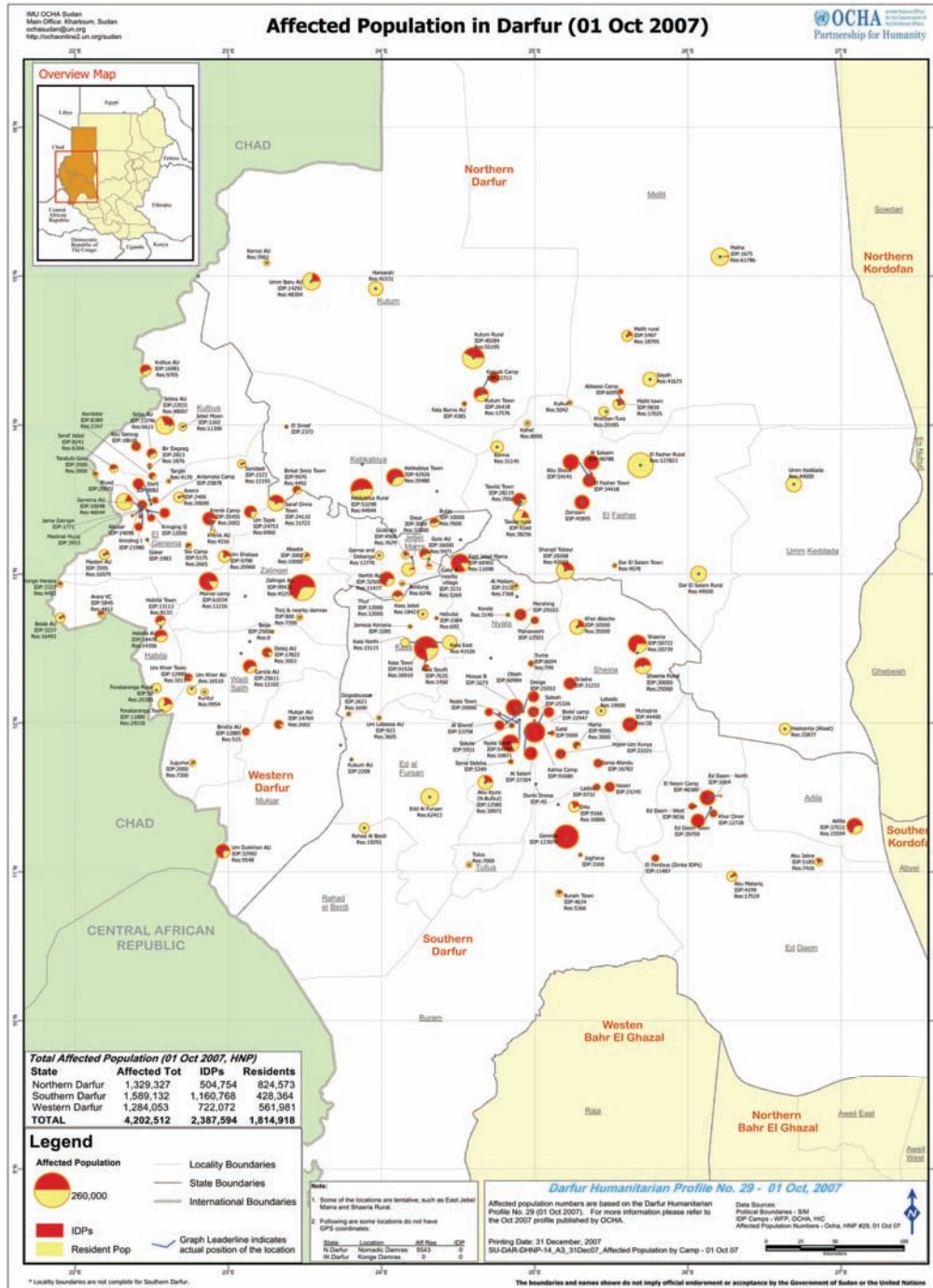
Rebel forces, former rebel groups, and other non-state armed groups should likewise cease attacks on civilians, including women and children, and issue, clear public instructions to group members that rape and other forms of sexual violence will be fully investigated and prosecuted, and perpetrators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

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

Methodology

This report draws on more than 50 interviews of survivors of sexual violence in Darfur, and dozens of interviews with government officials, law enforcement personnel, lawyers, rebels, international and local humanitarian aid workers, and UN officials working in Sudan. The report synthesizes information Human Rights Watch obtained from various credible sources from November 2007 to February 2008. Among published documents, the report draws heavily from the final report of the UN Human Rights Council-appointed Group of Experts and other UN agency publications. For reasons of security and confidentiality, the sources of some information have been withheld in this report.

Map



Attribution: Map provided courtesy of the OCHA Office in Sudan, UN Office for the Coordination of Humanitarian Affairs.

Disclaimer: The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Background

During 2003-2004, the Sudanese government and government-backed Janjaweed militia unleashed a violent campaign of “ethnic cleansing” and crimes against humanity, targeting Fur, Zaghawa, Massalit, and other ethnic groups perceived to be associated with the two main rebel groups: the Sudan Liberation Army/Movement (SLA/M) and the Justice and Equality Movement (JEM).⁴ Civilians suffered deliberate and indiscriminate attacks by land and air, and suffered a range of human rights violations including extrajudicial executions, rape, torture, and pillage.

Sexual violence featured prominently in the government and militia attacks on civilians.⁵ The UN International Commission of Inquiry in January 2005 concluded that rape and sexual violence were used by government forces and Janjaweed militias as a “deliberate strategy with the aim of terrorizing the population, ensuring control of the movement of the IDP population and perpetuating its displacement.”⁶ Even after the forced displacement of hundreds of thousands of civilians to IDP settlements in Darfur and to refugee camps in Chad, soldiers and militia stationed in nearby bases continued to taunt, harass, assault, and rape the women and girls who ventured outside to pursue livelihood activities.⁷

In 2005, the pervasive pattern of government and militia attacks on villages subsided in relation to previous years, but an increasing number of armed actors added to the complexity—and danger—of the situation. By late 2005, Darfurians were subject to at least four different patterns of violence: military operations by

⁴ For background on the human rights situation in Darfur, see Human Rights Watch reports and briefing papers: *Entrenching Impunity: Government Responsibility for International Crimes in Darfur*, December 2005; *Targeting the Fur: Mass Killings in Darfur*, January 21, 2005; *If We Return We Will Be Killed: Consolidation of Ethnic Cleansing in Darfur, Sudan*, November 2004; *Empty Promises: Continuing Abuses in Darfur, Sudan*, August 11, 2004; *Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan*, Vol. 16, No. 6 (A), May 2004; and *Darfur in Flames: Atrocities in Western Sudan*, Vol. 16, No. 5 (A), April 2004.

⁵ United Nations, Report of the International Commission of Inquiry on Darfur to the United Nations Secretary General (hereinafter “International Commission of Inquiry Report”), January 25, 2005, paras. 333-353, http://www.un.org/News/dh/sudan/com_inq_darfur.pdf (accessed February 26, 2008); Human Rights Watch, *Sexual Violence and its Consequences among Displaced Persons in Darfur and Chad*, April 12, 2005.

⁶ International Commission of Inquiry Report, para. 353, http://www.icc-cpi.int/library/cases/Report_to_UN_on_Darfur.pdf (accessed February 28, 2008).

⁷ Human Rights Watch, *Sexual Violence and its Consequences among Displaced Persons in Darfur and Chad*, pp. 5-7.

government forces and rebel groups; ethnic clashes linked to traditional tensions over resources, such as land and water; banditry and opportunistic crime; and cross-border tensions linked to Chadian internal politics.⁸

In the period leading up to and following the Darfur Peace Agreement (DPA), signed on May 5, 2006, a pattern of fighting among various rebel factions also emerged.⁹ This dynamic grew out of the pre-existing split between the two main SLA factions, one, the SLA/MM, led by Minni Arkoi Minawi, a Zaghawa leader who signed the agreement, and the other, the SLA/AW, led by Abdel Wahid Mohamed el-Nur, a Fur leader who did not sign.

As of March 2008, five years into the conflict, multiple patterns of violence persist.¹⁰ The government and government-backed militias continue to attack civilian populations ethnically associated with rebel movements.¹¹ Rather than disarm the militias, as the Sudanese government promised to do in an April 2004 humanitarian agreement and in subsequent agreements, the Sudanese government has continued to deploy Janjaweed during attacks.¹² The government has integrated most Janjaweed members into various official security organs such as the Border Guards, Popular Defence Forces, and the nomadic police (“*shorta zaina*,” a unit of national police). Meanwhile, rebel movements have further fragmented and proliferated, with over two dozen factions now vying for power.¹³ There have been credible allegations that rebel

⁸ Human Rights Watch, *Entrenching Impunity: Government Responsibility for International Crimes in Darfur*, December 2005, p. 8.

⁹ UN Office of the High Commissioner for Human Rights (OHCHR), “Fourth Periodic Report of the United Nations High Commissioner on the human rights situation in the Sudan: Deepening Crisis in Darfur Two Months After the Darfur Peace Agreement: An Assessment,” Geneva, May 2006, paras. 19-21.

¹⁰ For a description of these patterns, see Human Rights Watch, *Darfur 2007: Chaos by Design. Peacekeeping Challenges for AMIS and UNAMID*, Vol. 19, No. 15(A), September 2007.

¹¹ On February 8, 2008, the government used air and ground forces to attack three towns in northern West Darfur, resulting in approximately 150 civilian deaths. Approximately 300 armed militia men on horses assisted in the attack, burning homes and looting property in the days that followed. The attack displaced tens of thousands of civilians and drove 10,000 to seek safety across the border in Chad. See, e.g., Human Rights Watch, *Government must end attacks on civilians*, February 11, 2008; UNHCR, “Thousands of refugees flee Darfur and seek shelter in Chad,” February 11, 2008. <http://www.alertnet.org/thenews/newsdesk/UNHCR/17478285co6bd9b78874b4bfded15ba36.htm> (accessed March 7, 2008).

¹² These attacks have been consistently documented by the OHCHR’s periodic reports.

¹³ Victor Tanner and Jerome Tubiana, “Divided They Fall: the Fragmentation of Darfur’s Rebel Groups,” *Small Arms Survey*, HSBA Working Paper July 6, 2007, http://www.smallarmssurvey.org/files/portal/spotlight/sudan/Sudan_pdf/SWP%206%20Darfur%20rebels.pdf (accessed February 26, 2008); “Darfur rebels may unite but talks still tough,” Reuters, November 12, 2007; <http://www.reuters.com/article/latestCrisis/idUSMCD247639> (accessed February 26, 2008), noting over a dozen splits since the DPA was signed on May 5, 2006.

forces have committed sexual violence against women and girls traveling outside of IDP camps and in rural areas.

The conflict has caused a general break-down of law and order and led to an upsurge in looting and banditry by rebels and opportunists alike. Weapons continue to flow into Darfur in violation of the UN arms embargo.¹⁴ The IDP camps have become more insecure.¹⁵ Armed groups have targeted UN agencies, the African Union peacekeepers, and international and local humanitarian workers. In January 2008 alone, largely unknown assailants hijacked 36 humanitarian vehicles, including 23 World Food Program vehicles, and assaulted and kidnapped staffers and drivers.¹⁶ The insecurity has prevented humanitarian and UN human rights monitors from accessing certain areas by vehicle. In West Darfur the consequence was that humanitarian agencies could not reach an estimated 160,000 civilians in January and February 2008 because of ongoing insecurity.¹⁷

The African Union Mission in Sudan (AMIS), the peacekeeping force deployed in Darfur from 2004 through 2007, focused some of its protection activities on responding to sexual violence, and may have helped reduced sexual violence.¹⁸ But the mission as a whole was severely hamstrung by a lack of resources, poor organization, a loss of credibility, and security threats. On December 31, 2007, it

¹⁴ UN Security Council, Report of the Panel of Experts established pursuant to resolution 1591 (2005) concerning the Sudan prepared in accordance with paragraph 2 of resolution 1713 (2006), S/2007/584, 3 October 2007, para. 73. A report by the Small Arms Survey estimates 1.9-3.2 million small arms are in circulation in Sudan, two-thirds of which are held by civilians. "Militarization of Sudan," Small Arms Survey, Issue Brief, April, 2007, p.8. http://www.smallarmssurvey.org/files/portal/spotlight/sudan/Sudan_pdf/SIB%206%20militarization.pdf (accessed February 29, 2008).

¹⁵ Amnesty International, "Displaced in Darfur: A Generation of Anger," January 22, 2008, pp. 12-14, <http://www.amnesty.org/en/news-and-updates/report/darfur-camps-flooded-weapons-20080122> (accessed February 26, 2008).

¹⁶ UNOCHA, Sudan Humanitarian Overview, Vol. 4, Issue 1, January, 2008, <http://www.unsudanig.org/docs/Sudan%20Humanitarian%20Overview%20Vol4%20Iss01%20final.pdf> (accessed February 26, 2008). Bandits and thieves targeted AMIS peacekeepers even in their homes. In May 2007 an Egyptian soldier among the first UN peacekeepers sent in preparation for the AMIS transition to UNAMID was shot dead by unknown men in the course of an armed robbery; "First UN Peacekeeper Killed in Darfur," AP, May 27, 2007, <http://www.sudantribune.com/spip.php?article22062> (accessed February 26, 2008).

¹⁷ "Government must end attacks on civilians," Human Rights Watch news release, February 10, 2008, <http://hrw.org/english/docs/2008/02/09/sudan18026.htm> (accessed February 26, 2008).

¹⁸ Human Rights Watch, "Chaos by Design," p. 62; African Union, "Report of the Chairperson of the Commission on the Situation in Darfur," Peace and Security Council, PSC/PR/2(CXII), para.34 (stating that more violations occurred in areas AMIS could not patrol).

transferred its peacekeeping mandate to the “hybrid” United Nations African Mission in Darfur (UNAMID). The first such hybrid and the largest-ever peacekeeping mission, UNAMID will consist of up to 26,000 military and civilian personnel, more than triple the size of AMIS, when fully deployed. To date, the Sudanese government’s obstructive tactics and the failure of troop contributing countries to supply necessary helicopters and logistical support have stalled deployment of staff and equipment significantly.¹⁹ As of January 31, 2008, the mission had only 9,126 uniformed personnel out of its designated complement of 26,000 deployed throughout Darfur.²⁰

¹⁹ Human Rights Watch joint NGO report, UNAMID Deployment on the Brink: the road to security in Darfur blocked by government obstructions, December 2007, <http://hrw.org/pub/2007/africa/unamid1207web.pdf>.

²⁰ Report of the Secretary-General on the deployment of the African Union-United Nations Hybrid Operation in Darfur, S/2008/98, 14 February, 2008.

Sexual Violence in Darfur in 2007-2008

Rape and other forms of sexual violence remain endemic to the Darfur conflict. As documented extensively, it featured prominently in the government's "ethnic cleansing" campaign, both during and following displacement.²¹ To date, sexual violence continues to threaten the safety of women and girls across Darfur in patterns that reflect current conflict dynamics and the breakdown of law and order.²²

In the mostly Muslim province of Darfur, sexual violence is an extremely sensitive topic. Women and girls often do not admit to being sexually abused because they fear social stigmatization and do not trust the authorities to take action. Many authorities refuse to acknowledge the problem and some accuse victims of lying to international aid workers to exaggerate their plight for political ends.²³ Some local Sudanese authorities have also sought to stifle humanitarian agencies working on the issue.²⁴ Agencies running women's health clinics in Darfur's largest IDP camps have been subjected to harassment and obstruction by government officials and generally do not publicize their work.²⁵

Given the secrecy surrounding the issue, it is almost impossible to accurately quantify the prevalence of sexual violence in Darfur. The humanitarian organization, Médecins sans Frontières, reported it treated almost 500 women and girls between October 2004 and February 2005 in South Darfur, and that these represented a fraction of the total

²¹ See, e.g. Human Rights Watch, *Sexual Violence and its Consequences among Displaced Persons in Darfur and Chad*, p.2; Médecins sans Frontières, "The Crushing Burden of Rape: Sexual Violence in Darfur," March 8, 2005; "Report on the International Commission of Inquiry on Darfur to the United Nations Secretary-General," January 25, 2005, http://www.iccnw.org/documents/UN%20commission_inquiry_report_darfur.pdf (accessed March 7, 2008).

²² See OHCHR's Periodic Reports for consistent reporting on the sexual violence occurring in Darfur. http://www.ohchr.org/english/countries/sd/periodic_report.htm. The UN Panel of Experts Report found "a significant number of reported cases of sexual and gender based violence ... arising both directly from the conflict and as a result of the pervasive insecure environment, the lack of enforcement of accountability upon those who commit such acts and the attendant sense of impunity." UN Panel of Experts Report, S/2007/584, para. 344.

²³ Telephone conversations with UN human rights observers working in North Darfur, December, 2007.

²⁴ See, e.g. "Sudan: too scared to tell – sexual violence in Darfur," PlusNews, February 12, 2008, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/SKAI-7BRPCR?OpenDocument&rc=1&cc=sdn> (accessed February 27, 2008).

²⁵ Human Rights Watch, *Chaos by Design*, p. 52; "Sudan: too scared to tell—sexual violence in Darfur," PlusNews, February 12, 2008.

given the chronic under-reporting of rape.²⁶ Another humanitarian agency reported that 200 women were sexually assaulted in a five-week period in August 2006 around Kalma camp, South Darfur.²⁷ Kalma camp still endures high levels of sexual violence. Elsewhere in Darfur, reported numbers tend to be lower. In 2007, UN human rights monitors documented approximately 10 cases per month in locations they visited.²⁸ UN officials have also observed that rapes and other forms of sexual violence are increasingly against younger victims.²⁹

Patterns of abuse

As the Darfur conflict involves increasing numbers of armed entities, so too have the perpetrators of sexual violence increased. They now include military, militia, police, rebels, former rebels, and criminal gangs. They commit crimes of sexual violence in the context of attacks on civilians, in the vicinity of IDP camps, in towns with large IDP populations, and in rural areas near military bases or in areas under rebel control.

Large-scale attacks on civilians

Government and government-backed militia continue to perpetrate crimes of sexual violence in the context of attacks on civilians, carried out in the name of its counter-insurgency.

In February 2008, large-scale air and ground attacks by government and government-supported militia on the towns of Sirba, Silea, and Abu Suruj, in northern West Darfur, led to more than 100 civilian deaths, destruction of property, and massive displacements. In a visit to Sirba, witnesses told UN human rights monitors that up to 10 women and girls were either raped or sexually assaulted.³⁰

²⁶ Human Rights Watch, *Sexual Violence and its Consequences*, p.7.

²⁷ "Sexual Violence Spikes Around South Darfur Camp," IRIN, August 24, 2006, <http://www.irinnews.org/report.aspx?reportid=60452> (accessed March 7, 2008).

²⁸ Human Rights Council Report, p. 44; Report of the Secretary-General on Darfur, S/2007/462, 27 July 2007, para. 21.

²⁹ Report of the Secretary-General on children and armed conflict in the Sudan, S/2007/520, 29 August 2007, para. 25.

³⁰ Ninth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan Attacks on civilians in Saraf Jidad, Sirba, Silea, and Abu Suruj in January and February 2008," March 20, 2008, <http://www.ohchr.org/Documents/Press/WestDarfurreport2003.pdf> (accessed March 23, 2008).

At least 15 land and air attacks against civilians were carried out by government, allied militia, and SLA/MM forces from June through November 2007 and many of these attacks are believed to have included incidents of sexual violence that were not reported or documented.³¹ For example, in spring 2007, displaced persons living in camps in the Tawila area reported rapes that had occurred in attacks by government-allied SLA/MM forces on their villages, prompting some to refer to SLA/MM soldiers as “African Janjaweed.”

Sexual violence was used during a series of government-supported militia attacks on civilians in the Abu Sakin region of North Darfur from October to December 2006. In the course of a large-scale attack, government soldiers and Janjaweed from the neighboring town of Um Sayalah, which hosts a military base, abducted eight women and girls, brutally raped at least three, and forced them to walk back to their village naked.³² To date, the military has refused to hand over identified suspects to the prosecutor in El Fasher.

Rape also featured in a large-scale government attack on Deribat, in eastern Jebel Mara, in December 2006. Large numbers of militia and government forces killed civilians and abducted and raped dozens of women and girls. One witness told UN human rights officers, “they were raped by any man who wanted. Whenever any man came to them, the women were supposed to comply, otherwise they were badly beaten.”³³

In and around IDP camps

Most reported cases occur around the peripheries of IDP camps, where armed men harass and attack women and girls who are in the process of collecting firewood or grass or those who are farming. A common pattern is small groups of armed men, often in military uniforms, intercept the women and girls in isolated areas, insult them by calling them “slaves” or “*Torabora*” (a derogatory term that means “rebel”), and beat them with whips, sticks, gun butts, or their hands, and then rape them.³⁴

³¹ Human Rights Council Report, pp. 26-30.

³² Human Rights Council Report, pp. 26-30; Panel of Experts report, October 3, 2007, para. 261.

³³ OHCHR, Eighth Periodic Report, “Women abducted, raped, and kept as sex slaves following the December 2006 attack on Deribat,” Geneva April 6, 2007.

³⁴ Human Rights Watch, *Chaos by Design*, pp. 51-52.

This pattern was repeated in scores of cases documented by UN human rights monitors between June and October 2007.³⁵ For example, in one of these cases in Kalma IDP camp in South Darfur, a Janjaweed militiaman intercepted two Fur women returning to the camp, and asked them what tribe they belonged to and where they were going. When the women said they were from the Fur tribe, the man insulted them, calling them “*Torabora*.” He then grabbed one of the women, ordered the other two to leave at gunpoint, and raped her.³⁶

In an example from Fataborno IDP camp in North Darfur, a 20-year-old woman described being sexually assaulted by an armed man while she was farming at the outskirts of the camp in August 2007:

We were with a group of people about one kilometer from the camp when we saw some armed Arab men and started to run away. One man came to me and asked where I lived. He had a weapon. When I told him where I live, he swore at me and called me a *Torabora*. He threw me on the ground and kicked me and beat me, then twisted my *taub* [traditional wrap] around my neck. He wore civilian clothes and looked Arab.

Her father said he found her being strangled and intervened.

In an example from West Darfur, a 12-year-old Erenga girl described how in December 2007, an armed Arab man in uniform lured her and her younger sister into a secluded area by pretending to help them find their lost donkey. “He said if we went with him he would show us. He grabbed me and took off my clothes to do bad things to me. My younger sister ran back to the camp.”

In some cases, the perpetrators of sexual violence wear civilian clothes and may not be armed. In North Darfur, a Fur woman living in the Zamzam IDP camp reported that in March 2007, while she was collecting firewood with five other women and girls,

³⁵ Human Rights Council Report, pp. 44-46.

³⁶ *Ibid.*, p.45.

three Arab men wearing civilian clothes riding donkeys intercepted them and asked what they were doing. One of the men slapped her and said, “you black people are not allowed to take wood from here,” and wrested away her axe. The men proceeded to beat the women, take away their axes, and threatened to rape them by saying, “we’ll circumcise you again now.”

The identity of the perpetrators varies depending on the location of the camp. In camps located very near military and militia bases, residents tend to report abuses by soldiers and militia, whereas in camps located in territories held by the former rebel faction of the SLA led by Minni Minawi, residents tend to report attacks by armed men from that group against ethnic populations affiliated with opposing rebel groups. SLA/MM soldiers have perpetrated sexual violence in areas under their control, especially in the Tawila area of North Darfur and Gereida area of South Darfur.³⁷

Tawila, a once-thriving town, is now mostly empty but hosts several IDP camps, including the sprawling “Rwanda” camp (named after the Rwandan contingent of AMIS troops who deployed there in 2005). Most cases of sexual violence reported are committed by Zaghawa gunmen who support the Minni Minawi faction, targeting women and girls of Fur and Tunjur ethnicities as they collect firewood or hay or return to their home villages periodically to farm and collect food. Men have also been attacked, beaten, and robbed by the same perpetrators while traveling to and from the camp.

As noted above, the violence surged in villages near Tawila beginning in March 2007. In May 2007, eight armed men wearing camouflaged uniforms and headscarves attacked a group of six Fur women as they were returning to the camp after collecting grass in the bush. According to a 20-year-old woman who was among them, the men asked, “Where are your husbands” and accused the women of carrying food to the Abdel Wahid faction of the SLA. Then the men proceeded to rape three of the women. “They took us into the bush. One raped me, then beat me with sticks and whips. I was unable to walk afterwards. People came and carried us back to the camp.”

³⁷ Human Rights Council Report p. 43; see also statement of UN Special Rapporteur on Human Rights in Sudan following a visit in July 2007, referring to sexual violence in areas under SLA/MM control, “UN Human Rights Expert Concludes Visit to Sudan,” UN press release, August 6, 2007.

In an especially brutal case, an 11-year-old girl who left the Rwanda camp to collect grass one morning in August 2007 with her seven-year-old sister, was reportedly raped by three armed men whom she identified as Zaghawa. “I went to [the mountain] with my sister to collect grass. Three Zaghawa men in civilian clothes with guns in their hands appeared. One of them grabbed my sister and two of them raped me.” The attack caused her to bleed profusely and she required a medical evacuation by AMIS helicopter to El Fasher for treatment.

Aid workers have also observed an increase in cases inside the IDP camps, which have become increasingly politicized with the infiltration of armed men and weapons.³⁸ In many of the camps, soldiers visit make-shift taverns where women distill homebrew alcohol to generate income. The combination of alcohol and guns has contributed to incidents of sexual violence inside the camps.³⁹ There also appears to be an increase in domestic violence in camps,⁴⁰ although the extent of the problem is not known. “It is even less acceptable for these women to report cases of domestic violence, but we know it is happening,” a staff member of an agency coordinating responses to sexual violence told Human Rights Watch.⁴¹

Towns, villages, and rural areas

Many of Darfur’s largest towns are also garrison towns hosting military and militia bases, and much of the sexual violence reported in those areas is perpetrated by soldiers and militia members. In Kabkabiya, a town in North Darfur, residents from the Fur and Zaghawa ethnicities consistently report to humanitarian agencies and UN human rights monitors cases of sexual violence carried out by soldiers and militia. The town hosts a large military garrison and numerous militia camps, and has been the headquarters for infamous Janjaweed leader Musa Hilal.⁴² The area is host to thousands of soldiers, militia, and armed Arab nomads, some of whom were

³⁸ “Displaced in Darfur: a generation of anger,” Amnesty International, AFR 54/001/2008, January 2008; “Report of the Chairperson of the Commission on the Situation in Darfur,” African Union Peace and Security Council, PSC/PR/2(CXII), February 28, 2008, para. 34; International Crisis Group, “Darfur’s New Security Reality,” p. 6.

³⁹ Telephone conversation with UN staff, December 2007.

⁴⁰ “UNDP SGBV Programme in Darfur: Progress Report,” United Nations Development Programme, July 2007, p. 5.

⁴¹ Conversation with UNFPA staff, February 17, 2008. See also, Refugees International, “Laws Without Justice,” June 2007, p. 3, <http://www.refugeesinternational.org/content/publication/detail/10070/> (accessed March 24, 2008).

⁴² Human Rights Watch, *Entrenching Impunity*, p.4.

displaced to the area by conflict. It is also home to some 50,000 mostly Fur villagers who were displaced to Kabkabiya in 2004.⁴³ Dressed in a variety of khaki uniforms, armed men regularly harass and abuse the Fur and Zaghawa women and girls. Community leaders in Kabkabiya reported to UN staff 10 cases of rape and sexual assault in September 2007 alone.

In one example, a Tunjur woman described how a group of women and girls went to collect wood in a valley and were intercepted by two Arab men with knives. The men called the women “Torabora” and beat them with sticks and stones. In another example, a 15-year-old Fur girl reported she was raped on the outskirts of town by two militia men she identified as ethnically Gimir (an ethnic group allied with Arab ethnicities) as she and three women were returning home from collecting wood. “They stopped us and told us to get off our donkeys. We tried to run away but they shot bullets in the air. They managed to catch me. Two of them beat me and raped me. When they finished, they took the donkeys and the firewood and left me.”

In the rural areas, where power dynamics tend to be more fluid, sexual violence is perpetrated by a wider variety of actors. Rebels, Janjaweed militia, and armed nomads have been accused by local communities of committing acts of sexual violence against women and girls as part of efforts to gain control over certain territories. Many of the documented cases illustrate underlying tensions over land. In one case from West Darfur, an Arab man armed with an AK-47 assault rifle, whip, and a stick, attacked a Massalit woman and her seven-year-old daughter on a hillside. The girl escaped but he caught the mother and beat her severely. She said during the beating he shouted, “We stopped all the Massalit from coming to this area. How come you dared to venture out this way?”

In an example from North Darfur, three armed Arab men reportedly raped a Berti woman and her daughter who were out collecting wood. According to the survivors, the men approached on camels and asked what tribe the women belonged to and whether they had seen any other camels roaming the area. The men pointed their

⁴³ The population of Kabkabiya increased dramatically in 2003 when the conflict caused thousands of villagers, mostly from Fur and Zaghawa communities, to move to Kabkabiya town. Displaced persons now constitute 70% of the town's 64,000 inhabitants. See, e.g., “Sudan: Living a Restricted Life in Darfur,” February 22, 2006, <http://www.irinnews.org/report.aspx?reportid=58224> (accessed March 23, 2008).

weapons at the women and ordered them to follow them to a nearby village, where they took the mother and daughter into an abandoned hut and proceeded to rape them in turns. During the rape, one said, “You Bertis are slaves. Go and tell your men to come meet us.”

Obstacles to Justice for Sexual Violence Survivors

In Darfur, the search for justice is an arduous, victim-driven process. In general, victims of crimes must go to great lengths to report cases to authorities, ensure the cases are properly registered and investigated, and take steps so that prosecutors will move the process forward. This requires persistence, money, social connections, and support from family, community members, and lawyers. It is an especially arduous process for displaced Fur women and girls, who tend to be the least educated members of their communities and may not even speak Arabic, Darfur’s *lingua franca*.

For victims in rural locations, the social and financial costs of seeking justice are compounded by the distance they may have to travel, often over harsh terrain, to reach the authorities. In Sisi, West Darfur, for example, people have to travel 10 kilometers to report cases. In Fataborno, North Darfur, they must travel 20 kilometers to Kutum town police.

This lack of physical access is even more pronounced in former rebel and rebel-held territories, where government institutions do not function. The former rebel faction of the SLA led by Minni Minawi, and the rebel faction led by Abdel Wahid, both purport to run parallel legal systems in areas they control. The system administered by the former rebel SLA/MM authority, comprising a hierarchy of legal advisers and at least 20 detention centers, is deeply flawed. For example, SLA legal advisers who are often untrained in law act as prosecutors and judges, and conduct “trials” without basic protections for accused or for victims. The ability of these judicial mechanisms to provide meaningful redress to victims of sexual violence is especially dubious, particularly as members of the group continue to perpetrate sexual violence crimes against women and girls living in their territories.

Fear of reporting

It is widely accepted that the vast majority of victims of sexual violence in Darfur do not report to the police.⁴⁴ This reflects a general mistrust of police authority, particularly among IDP populations. Continuing abuses by government security forces such as Central Reserve Police contribute to this mistrust.⁴⁵ For example, in a case from Sisi West Darfur in September 2007, a member of Central Reserve Police shot and killed a woman when she tried to protect her daughter from being sexually assaulted inside her home.⁴⁶ In South Darfur, two 18-year-old girls reported they were returning to their IDP camp when two armed Central Reserve policemen intercepted them and tried to force the women to a secluded area to rape them. In the words of a survivor of attempted rape from Al Salaam IDP camp, North Darfur, she did not report the sexual violence committed against her because “police are part of the problem.”

Victims and their families fear the consequences of reporting cases to the authorities. One reason is Sudan’s adultery law. If a victim is unmarried and pregnant and fails to convince the police that she did not consent to sex, the police may charge her with adultery, or *zina*.⁴⁷ Under *shari’a* (Islamic) law, pregnancy of an unmarried woman is prima facie evidence of guilt.⁴⁸ Cases continue to be documented in Darfur in which girls under 18-years-old are convicted of adultery because they are pregnant, even though the adultery provision only applies to consenting adults.

The UN did not report any cases of police charging victims of sexual violence with adultery in 2007, but such cases have been reported to human rights and humanitarian

⁴⁴ The chronic under-reporting of rape is a global phenomenon—see, for example, Human Rights Watch, *The Second Assault: Obstructing Access to Legal Abortion After Rape in Mexico*, Vol. 18, No.1 (B), March, 2006, <http://hrw.org/reports/2006/mexico0306/mexico0306web.pdf>— but also depends on a combination of factors. See also Refugees International, “Laws Without Justice: An Assessment of Sudanese Laws Affecting Survivors of Rape,” June 2007, p. 5.

⁴⁵ Central Reserve Police are an auxiliary police unit that has incorporated former Janjaweed. Many victims of sexual violence are not able to distinguish between different government or government-linked forces and instead use the term “Janjaweed” to refer to all armed men they associate with government.

⁴⁶ Human Rights Council Report, p.46.

⁴⁷ OHCHR, “Access to Justice for Victims of Sexual Violence,” July 29, 2005, para. 39, <http://www.ohchr.org/Documents/Countries/darfur29july05.pdf> (accessed March 23, 2008).

⁴⁸ Adultery is a shari’a law crime defined in Article 145 of the Criminal Act 1991 as consensual sexual intercourse between a man and woman who are not married. It is punishable by 100 lashes if the offender is not married, or by death if the offender is married. Art. 146. To prove this crime, Article 63 of the Evidence Act 1993 requires a confession; four male eyewitnesses; pregnancy if the woman is unmarried; or oath of the husband that his wife committed adultery if the accused woman also refuses to take an oath to the contrary.

workers in the past.⁴⁹ The Sudanese government has insisted that proper interpretation of the adultery law excludes this possibility.⁵⁰ Nevertheless, the threat of prosecution for adultery still deters victims from reporting cases. When a 35-year-old woman from West Darfur learned she was pregnant after two armed men raped her at gunpoint on her farm in early October 2007, she decided not to report the rape to the police. “If I inform the police, they will probably charge me with adultery. The community will also look badly at me because I have a baby and I am divorced.”

Some who reported rape cases to authorities have been subject to harassment and intimidation⁵¹ or been charged with the crime of “furnishing false information.”⁵² There were cases where male relatives of victims who reported sexual violence were accused of this crime as recently as 2007. Government authorities have also harassed victims after they have received medical care. In one example from 2007 in Zalingei, West Darfur, a National Security officer approached a victim and her family as they were leaving the hospital and confiscated their medical evidence form.⁵³ Local and international humanitarian organizations have also faced intimidation, most dramatically in 2005 when staff of Médecins sans Frontières was arrested after the organization released a report documenting 500 rapes in Darfur.⁵⁴

Legal barriers

Victims are also deterred from seeking justice because they consider the process too costly and difficult, given the unlikelihood of it resulting in redress. Although the government has not provided comprehensive court statistics for crimes of sexual violence, the available evidence indicates that only a very small fraction of cases goes to court. According to one set of official statistics, the courts of Darfur tried 10 cases of rape in 2006, resulting in seven convictions, one dismissal, and three still

⁴⁹ See examples from 2005 cited in OHCHR, “Access to Justice for Victims of Sexual Violence,” p. 16.

⁵⁰ Human Rights Council Report, p. 12.

⁵¹ OHCHR, “Access to Justice for Victims of Sexual Violence,” para.42.

⁵² OHCHR, “Access to Justice,” p.3; OHCHR, “Third Periodic Report of the United Nations High Commission for Human Rights on the human rights situation in the Sudan,” para. 72.

⁵³ Telephone conversation with aid worker (name withheld), North Darfur, December 30, 2007.

⁵⁴ OHCHR, “Access to Justice for Victims of Sexual Violence,” p.3; “Sudan minister sees no reason for aid worker arrest,” Reuters, June 1, 2005, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/MMQD-6CXPU?OpenDocument&query=MSF%20rape&cc=sdn> (accessed February 27, 2008).

pending resolution when the statistics were published.⁵⁵ In October 2007 the Sudanese Ministry of Justice reported that Darfur courts had tried 20 cases of rape in 2007.⁵⁶ Of rape trials that have resulted in conviction, Darfur courts have awarded compensation just once.⁵⁷

Additionally, the rape law itself presents an obstacle to justice because of the way it is interpreted by judicial authorities. Rape is defined as “sexual intercourse by way of ‘adultery’ or sodomy, with any person without his [or her] consent.”⁵⁸ Because this definition incorporates the crime of adultery, some judges interpret this to mean that the stricter *shari’a* evidence rules that are required for adultery also apply in rape cases, even though the criminal law does not require four male witnesses to prove rape.⁵⁹

Even in cases where judges do not apply *shari’a* rules to hear the rape case, the victim could be prosecuted for adultery if she fails to prove non-consent, especially if she is unmarried and pregnant (see above). The criminal law does not contain the crime of attempted rape, so if a rape victim fails to prove that penetration occurred, the court may only charge “gross indecency.”⁶⁰

Police ineffectiveness

One of the reasons victims of sexual violence say they do not report cases is that they lack confidence the police will respond effectively. According to Sudanese criminal procedure, police should move immediately to the scene of the incident and follow specific procedures for collecting evidence and taking injured victims to the hospital.⁶¹

⁵⁵ Government of Sudan, Advisory Council for Human Rights, “Darfur Conflict: A Human Rights Perspective,” March 2007.

⁵⁶ Human Rights Council Report, p.43.

⁵⁷ Telephone interview with a Darfurian human rights lawyer specializing in rape cases, February 18, 2008. As this lawyer may be unaware of compensation cases in other Darfur states, it is possible Darfur courts have awarded compensation more than one. The judiciary has not released statistics.

⁵⁸ Art. 149, Criminal Act 1991. It is punishable by 100 lashings, prison up to 10 years, or the death penalty.

⁵⁹ For a more detailed discussion of flaws in Sudan’s rape laws, see Refugees International, “Laws without Justice,” June 2007; Human Rights Watch, *Lack of Conviction: the Special Criminal Court on the Events in Darfur*, June, 2006, pp. 19-21, <http://hrw.org/backgrounder/ij/sudano606/>.

⁶⁰ Art. 151, Criminal Act 1991. The crime of gross indecency is defined as any act contrary to another person’s modesty or any sexual act which does not amount to adultery or sodomy. It is punishable by 40-80 lashes and prison up to one or two years.

⁶¹ Art. 48, Criminal Procedure Act of 1991; see also Instruction No. 3/2002, issued by Director of Police on January 28, 2002, on file with HRW.

But in practice police are notoriously ineffective in conducting investigations and making arrests in cases of sexual violence.

Based on scores of cases monitored by UN human rights monitors, the UN Human Rights Council's report stated, "Many victims have chosen not to file complaints with police because they have felt that the police cannot or will not take appropriate action against perpetrators. In some cases, police action has been limited to receiving complaints."⁶²

Victims avoid police even in cases of serious physical injury. In one case from West Darfur in August 2007, armed militia attacked and raped a 19-year-old Fur woman who was eight-months pregnant. She received medical attention in the camp clinic, but did not report the crime to the police because she did not believe they would take any action.⁶³

Frustration over police inaction—echoed by displaced persons across Darfur—came to head in one high-profile case in Kabkabiya, North Darfur, in October 2007. A man identified by eyewitnesses as an Arab wearing civilian clothes and carrying a gun attacked an 18-year-old Zaghawa girl while she was farming five kilometers from town. Her mother, who witnessed him harass and kill her daughter, said the man was attempting to rape her daughter when he shot her.

The incident sparked angry demonstrations by the Zaghawa and Fur communities of Kabkabiya, resulting in some damage to the AMIS compound. "Our intention was to send a clear message to the state, national and international community that these rapes are happening," explained one activist. "The governor promised to arrest the perpetrator within 24 hours, but nothing has happened." Some members of the Fur community have even stopped encouraging victims of sexual violence to report to police altogether. "It's no use to report to police. They do nothing," said one sheikh. To a large extent, policing failures relate to a lack of resources.⁶⁴ Darfur's police lack the most basic equipment—vehicles, telephones, paper, pens—let alone the correct

⁶² Human Rights Council Report, p. 43.

⁶³ Human Rights Council Report, pp.45-46.

⁶⁴ See Human Rights Watch, *Chaos by Design*, pp. 54-56.

forms or more sophisticated tools for forensic investigation. In Fataborno IDP camp, for example, the sole police truck was in disrepair for months in 2007 and police officers relied on AMIS for rides into Kutum town.

But lack of political will to seriously investigate cases is also an important factor. Even in towns where they are relatively well-equipped, police repeatedly fail to investigate cases of sexual violence. In a case in which a soldier allegedly raped an 11-year-old girl near a military post in El Fasher town, police registered the complaint but did not investigate despite repeated visits by family members, lawyers, and UN human rights monitors. The explanation police gave for their inaction was that the crime was committed at dusk, so no one could have identified the perpetrator. Similar excuses have been given in other cases.

Rather than proactively investigate, police often demand that victims do the leg-work in the investigation, from locating witnesses to identifying suspects. In an example from Zalingei from 2007, two armed men wearing green and beige camouflage khaki uniforms riding on camels intercepted two female displaced persons who had gone to collect firewood outside Zalingei. The armed men verbally assaulted the women, took away their axes and knives, and later shot one of the women in the foot. The Zalingei police helped the victim to obtain treatment at the government hospital, but refused to register a formal complaint unless the victim could first establish the identity of the perpetrators.⁶⁵

Many police and prosecutors exhibit a dismissive and hostile attitude in their interactions with victims and their families. Some have refused to register cases after a period of 24 hours from the time of the alleged crime, even though there is no such statute of limitations in the criminal law. All of Darfur's prosecutors and most police are male, and very few have been trained in appropriate victim-sensitive approaches. To Human Rights Watch's knowledge, the police and prosecutor's offices have not adopted protocols for protecting the confidentiality and physical safety of victims and their families and put them at ease during investigations.⁶⁶

⁶⁵ Human Rights Council Report, p. 45.

⁶⁶ Human Rights Watch, Lack of Convictions, p.29.

One case of gang rape by seven soldiers of an 18-year-old Arab woman in El Fasher in August 2007, illustrates this problem. The prosecutor ordered the victim and her family to attend the crime scene—a tent inside a military barracks—accompanied by a prosecutor, a military official, soldiers, and police officers. The inquiry was unstructured and no measures were taken to protect the victim’s privacy or guard against painful or dangerous interactions with the alleged perpetrators.

Medical evidence

In all crimes involving physical injury, police provide the victim with a medical evidence form, known as “Form 8.” This form is then filled out by a doctor and may be used as evidence in a legal proceeding. Until 2005, victims of physical assault were not allowed to obtain medical assistance without first reporting to police and obtaining a Form 8. After humanitarian agencies repeatedly voiced concerns that this practice prevented survivors from accessing healthcare, the procedures were amended by the Ministry of Justice to state explicitly that victims are allowed to obtain medical care without first going to the police to obtain a Form 8.⁶⁷

This amended procedure has facilitated victims’ access to medical care in some places, but has not been applied uniformly. Some police and community leaders who advise victims still believe that they must report the crime to police before they seek medical care. In many cases, police do not explain to complainants how to use the form. In the example of the 15-year-old girl who was beaten and raped outside of Kabkabiya in June 2007, police gave the form to the family and instructed them to return it after having it filled out by a doctor. When the family returned the completed form, they said the police kept it and took no further action in the case. In some cases, victims have had to pay for the forms. Government authorities have noted these problems and the need to better publicize the amended procedure.⁶⁸ They have indicated plans to conduct more awareness-raising workshops with support from donor agencies, and this could help to

⁶⁷ Criminal Circular 2/2005 on file with Human Rights Watch.

⁶⁸ Report of the Joint Task Force Team assigned to appraise the work of the State Committees to Combat Violence against Women in Darfur, September 2007, on file with Human Rights Watch.

improve the situation but is not in itself sufficient. Ideally, victims of sexual violence should be able to obtain a Form 8 inside the hospital.⁶⁹

Moreover, the process of obtaining and filling out the Form 8 in itself presents obstacles to justice. Some, but not all, clinics run by nongovernmental organizations (NGOs) have been authorized by the Ministry of Health to provide and complete the form. Victims who seek medical care at clinics that are not authorized—including some NGO women’s health clinics—do not receive the paperwork they need to pursue legal action. The only way for them to obtain the form is to visit a government-authorized doctor and undergo another examination (by which point critical evidence may be lost). As the Human Rights Council report noted, “there remain problems regarding access to justice for women who have been treated in NGO clinics.”⁷⁰

The evidentiary value of the form is also questionable. The form does not allow a full description of the extent of a victim’s physical injuries and doctors tend to report their conclusions rather than medical observations.⁷¹ Police often rely on the doctor’s notes on a Form 8 to decide whether a complaint should be registered in the first place. If the form does not state, “rape has occurred,” they may not bother to register a case as an assault crime. (As noted above, there is no crime of attempted rape under Sudan’s criminal law). Government authorities have noted the need for more training for medical personnel on use of the form, and on clinical standards for treating victims of sexual violence.⁷²

No recourse against armed forces

If a crime suspect happens to be a member of the armed forces, police often register the crime as committed by an “unknown” perpetrator and take no further action. In one example from North Darfur in July 2007, six women alleged that three government soldiers from a military base near their village raped them. According to one of the rape survivors, she encountered the soldiers while returning from the market on her donkey:

⁶⁹ This is one of the tasks of the re-constituted state committee to combat violence against women in West Darfur. See Human Rights Council Report, p. 49.

⁷⁰ Human Rights Council Report, p.51.

⁷¹ OHCHR, “Access to Justice,” para. 37.

⁷² Report on the Joint Task Force, on file with HRW.

One of [the soldiers] grabbed my arm and pulled me off my donkey.
When I shouted for help he hit me in the mouth with the butt of his gun.
He hit me several times and then tore off my clothes and raped me.
When he finished, the other man came and raped me.

Police opened cases against “unknown” perpetrators. High-ranking police and security personnel were informed of the case, but no steps were taken to determine the perpetrators’ identity or press charges.

Under Sudanese criminal law, prosecutors supervise criminal investigations, issue arrest warrants, determine charges and forward cases to court.⁷³ A prominent judge told Human Rights Watch that it is within the prosecutors’ powers to order police to be more proactive investigating cases against military, and that they should push police harder.

Police, who are far out-resourced and outnumbered by government military and militia,⁷⁴ openly admit they feel powerless to take action against soldiers and militia. They even tell victims that they cannot do anything if the case involves military. In one high profile case, seven young men raped a 17-year-old IDP girl when she was returning from school to Al Salaam camp in North Darfur. Police told the father of the victim that the case would be difficult to pursue because the perpetrators belonged to the military.⁷⁵ A police commissioner in another part of Darfur told a UN worker in May 2007, that because of the ongoing conflict in Darfur, police cannot arrest militia or soldiers.

The laws governing military, police, and security personnel all contain provisions protecting members of the security forces from prosecution in civilian courts for offenses committed while carrying out official duties, except with permission from the relevant superior officers.⁷⁶ There are administrative guidelines for obtaining waivers of

⁷³ Criminal Procedure Act of 1991.

⁷⁴ Human Rights Watch, *Chaos by Design*, p. 55.

⁷⁵ Human Rights Council Report, pp. 44-45.

⁷⁶ For example, article 33 of the National Security Forces Act of 1999 states: “No civil or criminal proceedings shall be instituted against a member, or collaborator, for any act connected with the official work of the member, save upon approval of the Director.” Similar language can be found in other acts and decrees regulating government actors. Article 46 of the 1999 Police Forces Act states: “No criminal procedure will be taken against any police officer for a crime committed while executing his official duty or as a consequence of those official duties without permission of the Minister of the Interior.” A 1995 criminal decree setting forth requirements for bringing charges against members of the armed forces in criminal courts specifies that

immunity. In July 2007, the director general of police issued a decree setting out procedures for lifting immunity for police.⁷⁷ However, the process is often cumbersome and time-consuming and requires decisions from authorities in Khartoum.

In cases against military personnel, the Darfur-based military authorities decide whether to allow a case to proceed in the civilian justice system. The prosecutor typically writes a letter to the suspect's commanding officer through the military legal adviser, informing him of the charges and requesting cooperation in an investigation.⁷⁸ In some cases, especially against low-ranking soldiers,⁷⁹ the military complies with the request and turns over the suspect for investigation and trial. More often, especially in cases against higher-ranking personnel or in relation to crimes committed in the context of armed conflict,⁸⁰ military authorities do not answer the prosecutor's requests.

One Darfur prosecutor confided that he was "very upset and disappointed" at the military legal adviser's failure to respond to written requests in six cases that had been pending for months.⁸¹ This non-responsiveness is tantamount to a decision not to waive immunity even in cases where immunity should not, technically, be granted because the suspect is alleged to have committed a crime outside his official duties. In view of the large proportion of reported rape cases perpetrated by soldiers and militia, the failure of military authorities to cooperate with justice sector actors poses a significant obstacle to accountability for sexual violence.

criminal courts have no authority to pursue charges without approval by the armed forces or a decree from the Chief Justice. Criminal Decree No. 3/95, "Trial of Accused who are Subject to People's Armed Forces Act, 1986," October 19, 1995, Ref. T.O./General/1-1. See Human Rights Watch, *Lack of Conviction: The Special Criminal Court on the Events in Darfur*, pp. 17-19.

⁷⁷ "Sudan to lift immunity for police accused of crimes," Reuters, August 22, 2007, <http://www.reuters.com/article/latestCrisis/idUSMCD155713> (accessed March 7, 2008); Human Rights Council Report, p.17, referring to Order of the Director General of the Police No. 57/2007, July 31, 2007.

⁷⁸ Conversations with police investigators and prosecutors (names withheld) from October 2007 to February 2008.

⁷⁹ Conversation with lawyers in North and South Darfur (names withheld) in February, 2008. One lawyer explained that it is possible to bring rape charges against soldiers on "reserve" status prior to their retirement.

⁸⁰ The rape convictions the government provided to the Human Rights Council did not include cases of sexual violence committed in the course of a conflict. See Human Rights Council Report, p. 18. For more discussion on the judiciary's failure to prosecute crimes against humanity, see Human Rights Watch, *Lack of Conviction*, pp. 15-16.

⁸¹ Conversation with prosecutor (name withheld), September, 2007.

Government's Response to Sexual Violence

The government of Sudan has repeatedly denied that sexual violence is a problem in Darfur. As recently as March 2007 President Omar al-Bashir said in a television interview, "It is not in the Sudanese culture or people of Darfur to rape. It doesn't exist. We don't have it."⁸² Authorities also respond to allegations of sexual violence by demanding evidence, in breach of victims' confidentiality, ostensibly so they can take action. When the UN Office of the High Commissioner for Human Rights issued a report in April 2007 on sexual violence during large-scale attacks in Jebel Mara, the then minister of justice, Mohammed Ali al-Mardi, noted, "We always seem to get sweeping generalizations, without naming the injured, without naming the offenders ... or supplying us with sufficient facts."⁸³ As one UN worker put it, "The government officials usually ask us to name the alleged victims, which of course we cannot do, so they say we have failed to provide evidence and continue with the denials."⁸⁴

In spite of this hardened position, the government has taken some action to address the crime of sexual violence in Darfur. In 2005, it adopted a National Action Plan on Combating Violence Against Women and created state-level committees to combat violence against women in the three Darfur states.⁸⁵ Also in 2005, the Ministry of Justice created a special unit to coordinate implementation of the national plan. This unit has attracted funding and support from international agencies, such as UNFPA, and in June 2007, it led an evaluation of the state committees.⁸⁶

In August 2007, the Ministry of Justice issued a forceful declaration affirming the Sudanese government's "zero tolerance" for sexual violence and renewing its

⁸² "Sudan's al-Bashir denies role in Darfur violence," NBC news, transcript available at <http://www.msnbc.msn.com/id/17691868/> (accessed February 27, 2008).

⁸³ "Sudan to investigate allegations of Darfur rapes," April 7, 2007, Associated Press, http://www.sudantribune.com/spip.php?article21220&var_recherche=allegations%20of%20rape (accessed February 27, 2008).

⁸⁴ "Sudan: too scared to tell—sexual violence in Darfur," PlusNews, February 12, 2008.

⁸⁵ These committees are comprised of a cross-section of government officials including police and prosecutors. They are distinct from the all-female committees hastily convened to investigate sexual violence in Darfur in 2004.

⁸⁶ Report of the Joint Task Force, on file with Human Rights Watch.

commitment to implementing the National Action Plan.⁸⁷ According to information the government provided to the UN Human Rights Council in October 2007, the government has also drafted orders to the armed forces prohibiting attacks on civilians during war, including violence against women. It also stated that it had deployed 40 female police officers and 21 new police investigators to Darfur, and additional prosecutors to towns that had previously lacked prosecutors.⁸⁸ Finally, with support from UNICEF, the government agreed to set up Family and Child Protection Units, modeled after a project in Khartoum, in the police stations of Darfur's three state capital towns.

These initiatives represent steps in the right direction. But, as the Human Rights Council report concluded, they are not sufficient. The state-level committees established in 2005—although potentially effective—have not had any significant impact. They are hamstrung by a lack of funding and leadership, and their work plans lacked clear objectives, targets, and time frames.⁸⁹ Female police officers, to the extent they have been deployed to towns in Darfur, are low-ranking officers assigned to administrative tasks or the women's prison, rather than to investigate sexual violence crimes.⁹⁰ In the beginning of 2008, it was still too early to assess the performance of the UNICEF-supported Family and Child Protection Units.

Nevertheless, as noted above, the Darfur judiciary has brought some perpetrators of sexual violence to justice.⁹¹ The number of cases remains very low. As the Council report concluded, "there appears to be a gap between the number of reported cases and the much lower number of cases of prosecution for rape and other forms of sexual violence."⁹² Still, the trials show that in principle, the judicial system can work to promote accountability for crimes of sexual violence committed by soldiers and militia—provided military authorities are willing to cooperate with police and prosecutors seeking to investigate, arrest, and prosecute members of the armed forces.

⁸⁷ Speech on file and also cited in Human Rights Council Report, p. 41.

⁸⁸ Human Rights Council Report, p.11.

⁸⁹ Human Rights Council Report, p. 49.

⁹⁰ Report of the Joint Task Force, corroborated in a conversations with UNAMID Police Gender Adviser, February 10, 2008.

⁹¹ Statistics received by the Group of Experts suggest 20 cases were prosecuted. It was unclear exactly how many were brought against government military, police, or security forces. Human Rights Council Report, p.43. In 2007, the Darfur courts convicted two auxiliary police and one government soldier for raping minors. Report of the Secretary-General on children and armed conflict in the Sudan, S/2007/520, August 29, 2007, para. 27.

⁹² Human Rights Council Report, p. 47.

International Response to Sexual Violence

African Union Mission in Sudan

During its lifespan from 2004 through 2007, the African Union's peacekeeping mission experienced a variety of obstacles to deploying and exercising its mandate.⁹³ Nevertheless, the mission did make some efforts to prevent the occurrence of sexual violence around IDP camps. In 2005, AMIS started "firewood patrols" to accompany IDP women and girls when they leave their camp or settlement to collect grass and firewood. These patrols did sometimes help reduce the risk of violence.⁹⁴ However, NGOs on the ground were concerned that all too often commanders refused to conduct the patrols, planners did not choose routes well and failed to engage IDP communities or humanitarian organizations in the planning, and patrols were often ineffective in reducing violence against women and girls.⁹⁵

The mandate of AMIS Civilian Police (CivPol) was initially to build public confidence, maintain contacts with government police and community members, and monitor the "service delivery" of government police.⁹⁶ The terms of the Darfur Peace Agreement expanded the list of mandated tasks, calling for more proactive monitoring and establishment of special units staffed by women to handle cases of crimes against women.⁹⁷ In late 2006 AMIS CivPol created "Women's Desks."⁹⁸ Like many CivPol staff, the police women often lacked the appropriate background in policing standards and protocols for handling cases of sexual violence. On a number

⁹³ See, e.g. Imperatives for Change: The African Union Mission in Sudan, Vol. 18 No 1A (A) January 2006 pp. 20-30; Commander S. Appiah-Mensah, "Monitoring fragile ceasefires: the challenges and dilemmas of the role of AMIS," July, 2006.

⁹⁴ Refugees International, "Ending Sexual Violence in Darfur: An Advocacy Agenda," November 2007, p. 16. The AU has reported that violence occurs more frequently in areas it could not patrol. African Union, "Report of the Chairperson of the Commission on the Situation in Darfur," Peace and Security Council, PSC/PR/2(CXII), para.34.

⁹⁵ Refugees International, "Ending Sexual Violence in Darfur: an Advocacy Agenda," p. 19.

⁹⁶ Civilian Police mandate, AMIS, <http://www.amis-sudan.org/PoliceComponent.html> (accessed February 27, 2008).

⁹⁷ Ibid. The DPA specifies that CivPol shall be given "unimpeded access to information on police investigations," and calls for establishment of special units for reporting crimes committed against women, staffed by women police personnel. The Darfur Peace Agreement (DPA), May 5, 2006, paras. 277-278, http://www.unmis.org/english/2006Docs/DPA_ABUIA-5-05-06-withSignatures.pdf (accessed March 21, 2008).

⁹⁸ United Nations Development Program document, "Capacity Building of the AU/AMIS Civilian Police," July & August 2007, also available at Sudan Vision Daily website, <http://www.sudanvisiondaily.com/modules.php?name=News&file=article&sid=25595> (accessed February 27, 2008).

of occasions, AMIS staff reported the details of the cases—including the names of victims of sexual violence—in public meetings.⁹⁹ One of their biggest challenges was the lack of female language assistants.

In 2007, the mission still lacked the resources it needed to carry out its mandate and it had lost a great deal of credibility, particularly among IDPs who opposed the DPA. The mission came increasingly under attack, most dramatically in October 2007 when 10 peacekeepers were killed in a raid by rebel forces on an AMIS camp near Haskanita.¹⁰⁰ To mitigate risks, AMIS adopted stricter security guidelines; civilian police could no longer conduct their confidence-building activities without heavily armed protection forces accompanying them, compromising their interactions with civilians in camps and villages. AMIS also reduced all its activities.¹⁰¹ By late 2007, most AMIS staff were confined to their bases and often expressed frustration about their predicament.

United Nations-African Union Mission in Darfur

Noting “with strong concern of on-going attacks on the civilian population and humanitarian workers and continued and widespread sexual violence,” the UN Security Council in July 2007 authorized UNAMID to take “necessary action” to protect civilians, albeit “without prejudice to the Government of Sudan.”¹⁰² The 26,000 personnel will include military observers, infantry, civilian police, Formed Police Units,¹⁰³ and civilian staff. In addition, UNAMID has absorbed the so-called “substantive”, functions of the UN Mission in Sudan (UNMIS), such as the Human Rights Unit, Civil Affairs, and Gender Affairs.

⁹⁹ A UNDP training project has attempted to strengthen the women’s desks since late 2006.

¹⁰⁰ African Union, “Report of the Chairperson of the Commission on the Situation in Darfur,” Peace and Security Council, PSC/PR/2(CXII), paras. 27-28; “Peacekeeper crimes are war crimes,” Human Rights Watch press release, October 10, 2007, <http://hrw.org/english/docs/2007/10/01/darfur16994.htm>.

¹⁰¹ *Ibid.*, para. 28.

¹⁰² United Nations Security Council Resolution 1769 (2007), S/RES/1769 (2007), para. 15 (ii), <http://daccessdds.un.org/doc/UNDOC/GEN/No7/445/52/PDF/No744552.pdf?OpenElement> (accessed February 27, 2008).

¹⁰³ “Formed Police Units” are contingents of police from one country that are deployed as a single unit, and are lightly armed and equipped to perform crowd control and public order functions.

The mandate prioritizes protection of civilians “under imminent threat of physical violence,” qualified by “within its capability and the areas of deployment, without prejudice to the responsibility of the Government of the Sudan.”¹⁰⁴ Its rules of engagement authorize use of lethal force in certain circumstances, but the extent to which UNAMID will exercise its powers depends largely on its resources and leadership.

So far, the Sudanese government’s obstructive tactics and failure of member states to provide necessary military equipment, such as attack helicopters, has significantly delayed deployment of the peacekeepers,¹⁰⁵ contributing to the perception that UNAMID is merely a “re-hatting” exercise. Despite these obstacles, UNAMID has recommenced patrols in IDP camps and started night patrols, inspiring a renewed sense of security among some populations.¹⁰⁶

The police component mandate is similar to that of AMIS following the signing of the DPA. It does not provide powers of arrest and detention and instead focuses on implementing the DPA, policing in IDP camps, and capacity-building for government and “movement” police through monitoring, training, and mentoring. It is still unclear whether UNAMID police will monitor government police more proactively than did AMIS. It plans to maintain the Women’s Desks, or “victim friendly” facilities, staffed by female police officers, inside the major IDP camps. As of February 2008 more than 200 female UNAMID police were deployed to Darfur. The UN Police Commissioner has advocated for more female police to be deployed, but the mission still faces challenges in finding qualified female officers, particularly from higher ranks, from the contributing countries.¹⁰⁷

¹⁰⁴ The mandate is drawn from paragraphs 54 and 55 of the Report of the Secretary General and the Chairperson of the African Union Commission on the hybrid operation in Darfur, S/2007/307/Rev.1, 5 June 2007, para. 54 (b), <http://daccessdds.un.org/doc/UNDOC/GEN/N07/369/68/PDF/N0736968.pdf?OpenElement> (accessed February 27, 2008).

¹⁰⁵ Human Rights Watch joint NGO report, UNAMID Deployment on the Brink: the road to security in Darfur blocked by government obstructions, December 2007, <http://hrw.org/pub/2007/africa/unamid1207web.pdf>.

¹⁰⁶ See “Peacekeeping in Darfur Hits More Obstacles,” *The New York Times*, March 24, 2008; “Hybrids’ take back night in dangerous Darfur camps,” *Reuters*, February 18, 2008; “New UN Force Seeks to Protect Darfur Women from Rape,” *AP*, February 19, 2008; UNAMID Press Release No/04/2008, “Protection of Civilians Top UN Police Priorities As Force Launches its Operation in Darfur IDP Camps” January 14, 2008, <http://unamid.unmissions.org/Default.aspx?tabid=36&ctl=Details&mid=376&ItemID=52> (accessed February 26, 2008).

¹⁰⁷ Human Rights Watch telephone conversation with UNAMID Police Commissioner, March 3, 2008.

A continuing concern, voiced by humanitarian actors on the ground, is that in an attempt to fulfill its mandate, UNAMID police officers may too aggressively seek and interview victims of sexual violence. NGOs have complained of unwanted visits by AMIS staff to women's health clinics in the past. Another concern is that UNAMID Police officers, in their efforts to build the capacity of government police, might take victims of sexual violence to government authorities against their will or share information in breach of confidentiality principles.

These concerns underscore the need for exceptional coordination between UNAMID police and humanitarian actors in cases of sexual violence. UNAMID police, government police, healthcare providers, humanitarian agencies, UN human rights officers, and child protection officers all have mandates to handle individual cases of sexual violence. A working group established to coordinate humanitarian agencies' responses to sexual violence in each Darfur state has developed a referral pathway to clarify which agencies should be involved at which stages, making clear that at all stages, those who come into contact with the victim must allow her to decide the next steps. This should be strictly adhered to.

Sudan's Obligation to Prevent, Investigate and Punish Sexual Violence

Sudan is bound by international humanitarian law (the laws of war) and by international human rights law. Both bodies of law prohibit acts of sexual violence. International humanitarian law, largely derived from the Geneva Conventions and customary international law, sets out protections for civilians and other non-combatants during armed conflicts. It prohibits both states and non-state armed groups from committing rape and other forms of sexual violence.¹⁰⁸

International human rights law binding on Sudan also contains protections from rape and sexual assault as forms of torture and other ill-treatment, and as discrimination based on sex.¹⁰⁹ Sudan is not party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).¹¹⁰

International human rights law also enshrines the right to an effective remedy. A victim's right to an effective remedy obligates the state to prevent, investigate, and punish serious human rights violations.¹¹¹ States must also provide reparations to victims of human rights violations. Among various reparations mechanisms, states

¹⁰⁸ See article 3 common to the four Geneva Conventions of 1949, which implicitly prohibits rape and other sexual violence during internal armed conflicts as forms of cruel treatment, torture and outrages upon personal dignity. The Rome Statute of the International Criminal Court, article 8(2)(e)(vi), and the Second Additional Protocol of 1977 to the Geneva Conventions in article 4(2)(e), which applies to Sudan during internal armed conflicts, explicitly prohibits rape and "any form of indecent assault."

¹⁰⁹ The International Covenant on Civil and Political Rights (ICCPR) prohibits torture and other cruel, inhuman or degrading treatment (art. 7) and protects women's rights to be free from discrimination based on sex (arts. 2(1) and 26). Sudan acceded to the ICCPR in 1986. See also, Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sept. 2, 1990 (ratified by Sudan in 1990), articles 2, 37 and 43; and African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, entered into force Oct. 21, 1986 (ratified by Sudan in 1981), articles 2, 5 and 18(3).

¹¹⁰ The CEDAW Committee has enumerated a wide range of obligations for states related to ending sexual violence, including ensuring appropriate treatment for victims in the justice system, counseling and support services, and medical and psychological assistance to victims. Committee on the Elimination of All Forms of Discrimination Against Women, "Violence Against Women," General Recommendation No. 19 (eleventh session, 1992), U.N. Document CEDAW/C/1992/L.1/Add.15.

¹¹¹ See Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 15, ("States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights," protected by the ICCPR). See also Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity ("Impunity Principles"), U.N. Doc. E/CN.4/2005/102/Add.1, February 8, 2005, adopted by the UN Commission on Human Rights in Resolution E/CN.4/2005/81, April 15, 2005, principle I; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law ("Reparations Principles"), adopted December 16, 2005, G.A. res. 60/147, U.N. Doc. A/RES/60/147 (2005), principle 11.

should restore the right violated and provide compensation for damages.¹¹² The UN has reaffirmed these principles specifically in relation to eliminating violence against women.¹¹³

In addition to its obligations under international law, Sudan also has a duty under its own laws to prevent and punish acts of sexual violence. The Interim National Constitution, adopted in 2005, contains a bill of rights that affirms personal liberties, rights of women, freedom from torture, and provides for the right to effective remedies.¹¹⁴

Sudan has failed to protect women and girls from sexual violence and provide redress to them. It has not taken meaningful action to prevent state actors (police, military, and other security forces personnel) or non-state armed groups from perpetrating sexual violence across Darfur. Nor has it provided effective remedies to the vast majority of victims of sexual violence although its courts are capable of prosecuting individual acts of sexual violence under the Criminal Act of 1991.

When crimes of sexual violence are committed as part of armed conflict, they can be prosecuted as war crimes.¹¹⁵ States have an obligation to investigate alleged war crimes committed by their nationals, including members of their armed forces, and prosecute those responsible.¹¹⁶ Non-state armed groups also have an obligation to prevent sexual violence and should investigate and appropriately punish perpetrators.¹¹⁷

¹¹² According to the Human Rights Committee, the ICCPR “requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparation to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of [enforcing the ICCPR] is not discharged. ... [T]he Covenant generally entails appropriate compensation.” Human Rights Committee, General Comment 31, para. 16. Compensation covers material losses, such as medical expenses and the loss of earnings, as well as economically assessable moral damage, such as pain and suffering. See Reparations Principles, principle 20.

¹¹³ United Nations General Assembly, “Declaration on the Elimination of Violence against Women,” A/RES/48/104, December 20, 1993 (issued on February 23, 1994).

¹¹⁴ Interim National Constitution of the Republic of the Sudan, adopted July 10, 2005.

¹¹⁵ See ICRC, Customary International Humanitarian Law, pp. 591-93.

¹¹⁶ *Ibid.*, pp. 607-10.

¹¹⁷ *Ibid.*, pp. 536.1.

In addition to being war crimes, sexual violence crimes can also be crimes against humanity and even acts of genocide.¹¹⁸ The UN International Commission of Inquiry into Darfur concluded that rapes occurred during widespread and systematic attacks on civilians, and could be prosecuted as crimes against humanity.¹¹⁹

On March 31, 2005, the Security Council referred the situation in Darfur to the International Criminal Court (ICC), which has jurisdiction over war crimes, crimes against humanity, and genocide. A case is admissible before the court when a state is “unwilling or unable genuinely to carry out that investigation or prosecution.” In warrants of arrest issued against a Sudanese official and a Janjaweed leader on April 27, 2007, the ICC’s Pre-Trial Chamber included counts of rape among the 51 counts of war crimes and crimes against humanity against the accused for their leading roles in a series of attacks against civilians in West Darfur in 2003 and 2004.¹²⁰

To date, Sudan has refused to execute the warrants. Sudan’s failure to address these crimes in domestic courts underscores the necessity of ICC prosecution in order to bring justice to victims of sexual violence in Darfur.

¹¹⁸ See Rome Statute of the ICC, articles 6 and 7(1)(g).

¹¹⁹ UN International Commission of Inquiry, para. 360.

¹²⁰ International Criminal Court, Pre-trial Chamber I, Decision on the Prosecution Application Under 58(7) of the Statute, ICC-02/05-01/07, April 27, 2008, Counts 10, 13,14,42,43, http://www.icc-cpi.int/library/cases/ICC-02-05-01-07-1_English.pdf (accessed February 29, 2008).

Conclusion

The risk of sexual violence is a fact of everyday life for many women and girls in Darfur. It is a particularly disturbing feature of the ongoing armed conflict, a consequence of abusive state armed forces and non-state armed groups, and of the breakdown of law and order. Its persistence is attributable in part to the government's failure to seriously investigate and prosecute those responsible, especially from among its own ranks. The government should take concerted, urgent steps to prevent these crimes and promote accountability for the perpetrators. In short, the government must send the message that sexual violence will not be tolerated and back up that message with action.

At the same time, the government should make a priority of restoring public confidence in police, especially in rural areas. This can be achieved through wider deployment of police, including female investigators, equipped with better resources to respond to crime and trained professionally in methods for dealing with cases of sexual violence. Police and medical personnel must understand and implement the correct procedure for recording medical evidence that can be used in court. Crucially, the government must address the military's refusal to cooperate with the civilian criminal justice system. Police must be allowed to fulfill their duty to investigate crimes, even when perpetrated by military and militia. Military authorities must not stand in their way.

UNAMID, still in the process of deploying, should make sure that the prevention of sexual violence is recognized by all staff as an integral element of its civilian protection responsibilities. This means deploying widely to vulnerable areas in both government and former-rebel and rebel areas. It should conduct protective patrols including firewood patrols, planned in coordination with local community and relevant humanitarian actors. It should ensure that its police are well-qualified, trained, and equipped to investigate cases of sexual violence and to proactively monitor the investigations of government police.

Recommendations

To the Government of Sudan

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

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

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

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

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

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

To UNAMID

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

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

To the United Nations Security Council

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

To UN and AU states contributing to UNAMID

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

Annex 1: Medical evidence form

In the Name of Allah the Compassionate the Merciful

Criminal Police Form No. (8)

(The Form associated with persons or corpses sent to medical examination)

Number of police report:Police Post:

Date and Hour:.....Police Station:

Filled in by the police:

Name Sex Age

Nationality or Tribe:..... Job.....

Date and hour of harm infliction (if any):

A brief report on incident circumstances with clarifications on needed procedures:

.....
.....
.....
.....
.....

Name, rank and signature of officer in charge:.....

Filled in by physician:

Place of examination:..... Date and hour:.....

Statement of person examined by physician regarding his status (if there are any statements):.....
.....
.....

In case of harm or death:

Description of harm (in understandable terms):

.....
.....
.....
.....

Is it a critical case?

.....
.....

Physician's opinion about probable cause of harm or death:

.....
.....

In case of drunkenness

Blood Alcohol Rate:

- (a) First degree drunk?
- (b) Lightly affected by alcohol?
- (c) Breathing of alcohol but in apparent good shape?
- (d) Sober?
- (e) Was he driving the vehicle safely?

Physician's signature (who did the examination)

Rank and job:

Note: Medical examination in this form isn't inconsistent with article 228 of law of criminal procedures

Note: The first two pages of this annex are an English translation of the Form 8 in Arabic on the following page. In many police stations, a Form 8 is not available and is sometimes drawn out by hand.

الاستمارة التي تصحب الشخص أو الجثة المرسلة للكشف الطبي

رقم البلاغ - الأحوال النقطة
التاريخ والساعة القسم

يملأ بواسطة الشرطة

الإسم النوع السن
الجنسية أو القبيلة المهنة

العنوان

تاريخ وساعة حدوث الأذى (إذا كان هنالك)
تقرير موجز عن ظرف الحادث مع توضيح المطلوب :

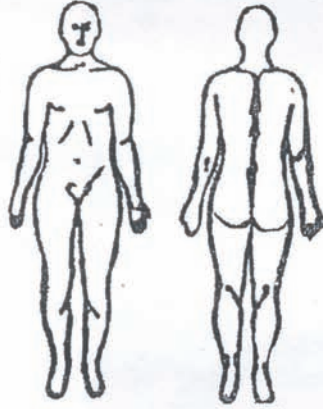
اسم ورتبة وتوقيع الضابط المسئول

يملأ بواسطة الطبيب

محل الكشف التاريخ والساعة
أقوال الشخص الذي كشف عليه الطبيب عن حالته أو (إن كانت هنالك أقوال

في حالة الأذى أو الموت

وصف الأذى (في الفاظ سهلة)



هل حالته خطيرة

رأي الطبيب عن السبب المحتمل لوقوع الأذى أو الموت

في حالة السكردرجة الكحول

(أ) سكران من الدرجة الأولى ؟

(ب) به تأثير خفيف من جراء الشراب ؟

(ج) تتبعث منه رائحة الشراب ولكن في الظاهر صاحي ؟

(د) صاحي ؟

(هـ) هل يمكن أن يسوق عربة بأمان ؟

امضاء الطبيب الذي أجري الفحص

الرتبة والوظيفة

ملحوظة : التقرير العائلي في هذه الاستمارة لا يتعارض مع المادة ٢٢٨ من قانون الإجراءات الجنائية.

Five Years On

No Justice for Sexual Violence in Darfur

Five years into the Darfur conflict, women and girls throughout the region—whether living in displaced persons' camps, towns, or rural areas—remain extremely vulnerable to sexual violence and powerless to seek redress. Sexual violence remains shockingly prevalent, both in the context of armed attacks on civilians and during periods of relative calm, as men armed with guns, whips, and sticks target women and girls. These attacks are carried out by Sudanese government security forces, pro-government Janjaweed militias, rebel and former rebel armed groups, and criminal bands.

Five Years On: No Justice for Sexual Violence in Darfur documents the many obstacles to justice for the victims of sexual violence. The vast majority of survivors are too afraid to report their cases. They lack confidence in a justice system that rarely convicts crimes of sexual violence or awards compensation, and instead exposes women and girls to prosecution for adultery.

Those who do wish to pursue legal remedies face hurdles ranging from difficulties in obtaining medical evidence for trial to immunity laws protecting some perpetrators from prosecution. Sudanese police in Darfur, where they are present and able, frequently fail to register complaints and are reluctant to investigate crimes by soldiers or militia. Attempts by civilian prosecutors to work with military authorities are far too often fruitless.

Human Rights Watch sets out recommendations to the Sudanese government and the United Nations/African Union peacekeeping force in Darfur (UNAMID) to respond meaningfully to the endemic problem of sexual violence in Darfur and the barriers to justice for its victims.

This 36-year-old woman reported being gang-raped along with three family members in December 2006 by Janjaweed and Sudanese army soldiers in their village in North Darfur.

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