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RIGHTS  
WATCH

## MASS RAPE IN DARFUR

Sudanese Army Attacks Against Civilians in Tabit



# **Mass Rape in Darfur**

## **Sudanese Army Attacks against Civilians in Tabit**

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# Mass Rape in North Darfur

## Sudanese Army Attacks against Civilians in Tabit

**Maps** ..... i

**Summary** ..... 1

**Recommendations** ..... 5

**Methodology** ..... 7

**Satellite Imagery** ..... 10

**I. Background** ..... 14

**II. Government Attacks on Tabit, North Darfur** ..... 18

    Survivor Accounts of Rape ..... 19

    Accounts of Rape of Girls ..... 24

    Other Evidence of Rape and Sexual Violence ..... 26

    Arbitrary Detentions, Beatings, and Looting ..... 27

**III. Sudanese Government Response** ..... 29

    Threats, Intimidation, and Disinformation ..... 29

    Arbitrary Detention and Ill-Treatment ..... 31

    Restricted Access to Medical Care ..... 32

    Failure to Investigate ..... 33

**IV. International Response** ..... 36

    African Union-United Nations Hybrid Operation in Darfur ..... 36

    Governments and Inter-Governmental Organizations ..... 37

**V. Applicable Legal Standards** ..... 39

    Mistreatment of Persons in Custody ..... 40

    Rape and Other Sexual Violence ..... 41

    Pillage and Looting ..... 42

    Reprisals and Collective Punishment ..... 42

    Individual Criminal Responsibility ..... 43

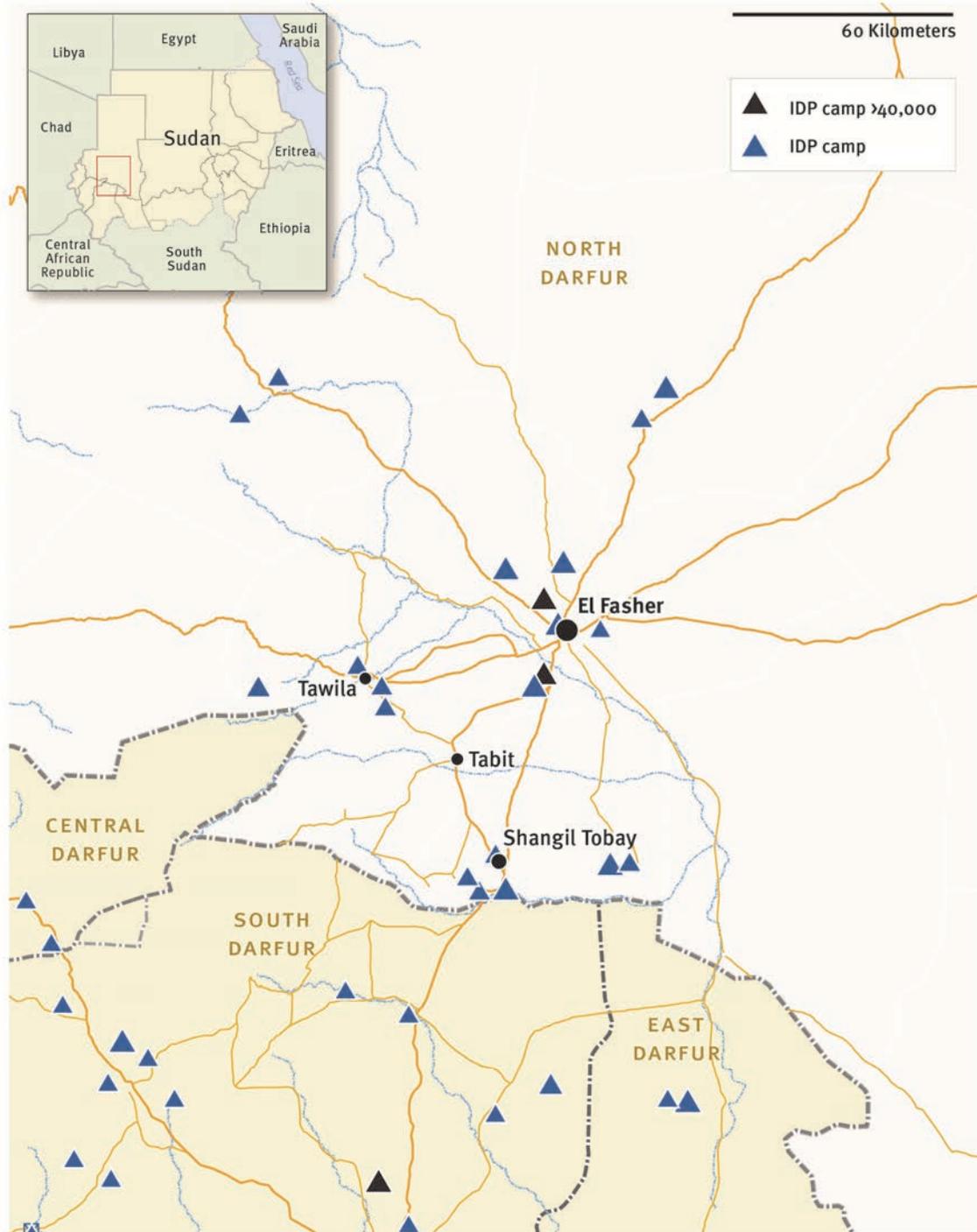
**VI. Acknowledgments** ..... 48

# Maps

## Darfur



## Tabit and the Surrounding Area



Maps © 2015 John Emerson/Human Rights Watch

## Summary

Over the course of 36 hours beginning on October 30, 2014, Sudanese army troops carried out a series of attacks against the civilian population of the town of Tabit in North Darfur, Sudan. The attacks included the mass rape of women and girls and the arbitrary detention, beating and ill-treatment of scores of people. The government of Sudan has denied that any crimes occurred and has prevented the African Union-United Nations Hybrid Operation in Darfur (UNAMID) from carrying out a credible investigation of the incident.

From research conducted remotely in November and December 2014, this report documents 27 first-hand accounts of rape, often by multiple perpetrators, and credible information about an additional 194 incidents of rape. Based on more than 130 interviews, the report provides a detailed account of the serious violations of international law that took place in Tabit from October 30 to November 1.

Sudanese government forces carried out the rapes and other abuses during three distinct military operations against the town during the 36-hour period: the first beginning the evening of Thursday, October 30; the second on the morning of Friday, October 31; and the third starting that evening and continuing until the following morning, November 1. Human Rights Watch found no evidence of a presence of any rebel force in the town immediately prior to or during the attacks.

Witnesses told Human Rights Watch that during each of these attacks, government soldiers went house-to-house in Tabit, searching houses, looting property, severely beating residents, and raping women and girls. On the two nights, soldiers forced many of the men to outdoor locations on the outskirts of the town, leaving the women and children especially vulnerable. The soldiers detained the men en masse, and threatened and physically abused them throughout the night.

Residents recognized some of the soldiers as among those stationed at the Sudanese Armed Forces (SAF) base on the outskirts of Tabit. Two soldiers who later defected to a rebel group, the Sudan Liberation Army/Abdul Wahid, told Human Rights Watch that other soldiers came from bases in El Fasher, the North Darfur capital 55 kilometers northeast of Tabit, and from Khartoum.

The aims of the military operations against Tabit are unclear. Numerous residents told Human Rights Watch that government soldiers entering their homes said that they were looking for a soldier who had been abducted and to punish his captors. One soldier who later defected told Human Rights Watch that they had been ordered to search for and punish rebel supporters in the town because of information that rebel forces deployed outside the town were planning to attack the SAF base. Two soldiers who had participated in the operations said that superior officers had ordered them to “rape women” because the women were rebel supporters.

Rape and other serious abuses against civilians in Tabit are serious violations of international humanitarian law (the laws of war) and international human rights law. Military personnel who participated in, aided or abetted, or ordered rape are responsible for war crimes. Commanding officers who knew or should have known of the mass rape – and took no action to prevent it or punish those responsible – are criminally liable as a matter of command responsibility.

The mass rape of women and girls in Tabit may amount to crimes against humanity. Crimes against humanity are serious offenses, including murder, torture and rape, committed as part of a widespread or systematic attack on a civilian population. As Human Rights Watch research has found, the rape was on a large scale and thus could be considered widespread. It was carried out in multiple locations at the same time during the course of three successive attacks on the civilians in the town, indicating it was systematic.

Since the attacks, Sudanese government officials, military commanders, and traditional leaders responsible for Tabit have taken drastic measures to prevent information about the rapes and other abuses from becoming public. They have threatened, intimidated, beaten, detained, and tortured residents of Tabit to prevent them from speaking out about what took place. The authorities have also repeatedly denied UNAMID and other investigators access to the town.

The Sudanese government-appointed Special Prosecutor for Crimes in Darfur visited Tabit on November 20; but amid a large government presence residents were too afraid to report what had occurred and he concluded that no crimes had been committed.

Most of the rape victims interviewed by Human Rights Watch said they were unable or unwilling to be treated at Tabit's limited medical facilities because they feared arrest and further physical abuse by government officials.

Although UNAMID's mandate includes the protection of civilians, it has not been able to undertake a credible investigation of the incident. On November 9, a UNAMID Integrated Field Mission visited Tabit for several hours, and, the following day the mission said in a statement it found no evidence to support the allegations of mass rape but failed to mention that UNAMID staff members were in the town in the presence of government security officials. Since then, UNAMID's numerous attempts to obtain permission to enter Tabit have been rejected by the government.

The UNAMID statement and Sudan's denials that crimes had occurred have contributed to the UN Security Council's failure to ensure a strong international response to the incident, with Russia adopting the position that no crimes occurred. The African Union's Peace and Security Council has also failed to respond publicly.

The Tabit atrocities demonstrate the continuing and urgent need for a professional and independent force that can help protect civilian populations in Darfur from attack. It also underscores the reality that the current UNAMID force has been hamstrung in its performance and in the implementation of its core mandate.

The UN and AU's current review of UNAMID should focus on how to urgently improve and bolster the ability of UNAMID to protect people from the kinds of attacks that occurred in Tabit, and effectively investigate human rights abuses without endangering victims and witnesses.

The exact number of women and girls who were raped or subjected to sexual violence by Sudanese military personnel in Tabit will not be known until independent and impartial investigators with expertise in sexual and gender-based crimes are granted unfettered access to Tabit and town residents feel safe to share their experiences without fear of retaliation.

Human Rights Watch calls on the UN Security Council, the AU Peace and Security Council, and UNAMID to take concrete steps to protect civilians in Darfur from further abuse, ensure

access to medical care for victims, and see that those responsible for crimes in violation of international law are brought to justice.

# Recommendations

## To the Government of Sudan

- Immediately issue clear, public orders to the Sudanese armed forces, military intelligence, and allied militia to stop all abuses – including harassment, intimidation, arbitrary arrests, and restrictions on freedom of movement – against Tabit residents for speaking out or seeking to enforce their rights concerning crimes committed in the town.
- Immediately allow UNAMID, humanitarian agencies, and human rights organizations unfettered access to Tabit.
- Ensure the urgent provision of comprehensive and non-discriminatory health services to women and girls who have experienced sexual violence.
- Ensure that any abusive forces are removed from Tabit, and that all military personnel, regardless of rank, implicated in abuses including as a matter of command responsibility are fully held to account.
- Immediately release all individuals who are arbitrarily detained, including those held for speaking about abuses in Tabit.
- The Ministry of Justice should ensure that the Office of the Prosecutor, whether in collaboration with the Special Prosecutor for Crimes in Darfur or acting independently, should carry out a comprehensive, credible and impartial investigation into alleged crimes committed in Tabit with the view to prosecuting those responsible.

## To UNAMID, the African Union-United Nations Hybrid Operation in Darfur

- Continue to demand access to Tabit in order to establish a permanent presence in the town, such as an operating base, and implement proactive patrols in and around the town to protect civilians.

## To the United Nations Security Council

- Demand in a resolution that Sudan allow UNAMID immediate and unrestricted access to Tabit, including to establish a permanent presence such as an operating base.

- Impose travel bans and asset freezes on individuals responsible for the attacks on Tabit, and for the continued obstruction of peacekeepers and UN investigators

### **To the African Union Peace and Security Council**

- Condemn the attacks and urgently dispatch a heads of state mission to Khartoum to discuss UNAMID access issues with Sudan's government.
- Support a special investigation by the OHCHR and offer to contribute investigators or experts in sexual and gender-based violence.

### **To the UN Office of the High Commissioner for Human Rights**

- Given the failure of UNAMID to conduct a proper investigation in Tabit, the Office of the High Commissioner for Human Rights should create a special investigative team with expertise in sexual and gender-based violence to conduct an investigation into alleged abuses in Tabit. If independent access is not granted, the team should investigate through telecommunications, interviews outside of Tabit, and other remote research methods.

### **To the International Criminal Court (ICC)**

- The Office of the Prosecutor should investigate, to the extent possible, the allegations of rape and other crimes within the ICC's mandate.

### **To African Union Special Envoy on Women, Peace and Security, the African Commission on Human and Peoples' Rights, the UN Special Rapporteur on Violence Against Women and the UN Special Representative of the Secretary-General on Sexual Violence in Conflict**

- Urgently visit Sudan to raise the issue of sexual violence by Sudanese forces with senior government officials.
- Encourage UN agencies and humanitarian aid groups to take steps to ensure victims of sexual abuse in Tabit and throughout.

## Methodology

A Human Rights Watch researcher conducted the research for this report in November and December 2014. The report documents 27 first-hand accounts of rape, often by multiple perpetrators, and credible information about an additional 194 incidents of rape.

Based on more than 130 interviews, including with over 50 current and former residents of Tabit, the report provides a detailed account of the serious violations of international law that took place in Tabit from October 30 to November 1, 2014. Sudanese investigators and researchers provided additional research support.

Human Rights Watch was not able to visit Tabit due to government restrictions on access. Several intermediaries in Sudan, including residents of Tabit helped to identify and contact interviewees.

All the interviews were conducted by telephone with the assistance of an interpreter who is fluent in English, Arabic, and Fur.

Interviews were conducted individually and generally lasted from 30 minutes to 2 hours. The interviewees included 17 women and a girl (15 of whom described being raped), 10 men who suffered abuses, 8 men and 1 woman who witnessed abuses other than rape, and 9 people who visited Tabit shortly after the attacks. Human Rights Watch also interviewed four soldiers who defected from the government battalion stationed in Tabit, including three who participated in the attack.

Interviewees were fully informed about the nature and purpose of the research and how the information they provided would be used. Human Rights Watch obtained oral consent for each of the interviews. No incentives were provided to individuals in exchange for their testimonies.

Those interviewed described a continuing climate of fear in Tabit. Most told Human Rights Watch that they were afraid of beatings, imprisonment and even execution by government authorities if identified as having spoken to Human Rights Watch. All names, precise ages,

neighborhoods, and other identifying details have been withheld in this report for security reasons. Names have been replaced with pseudonyms.

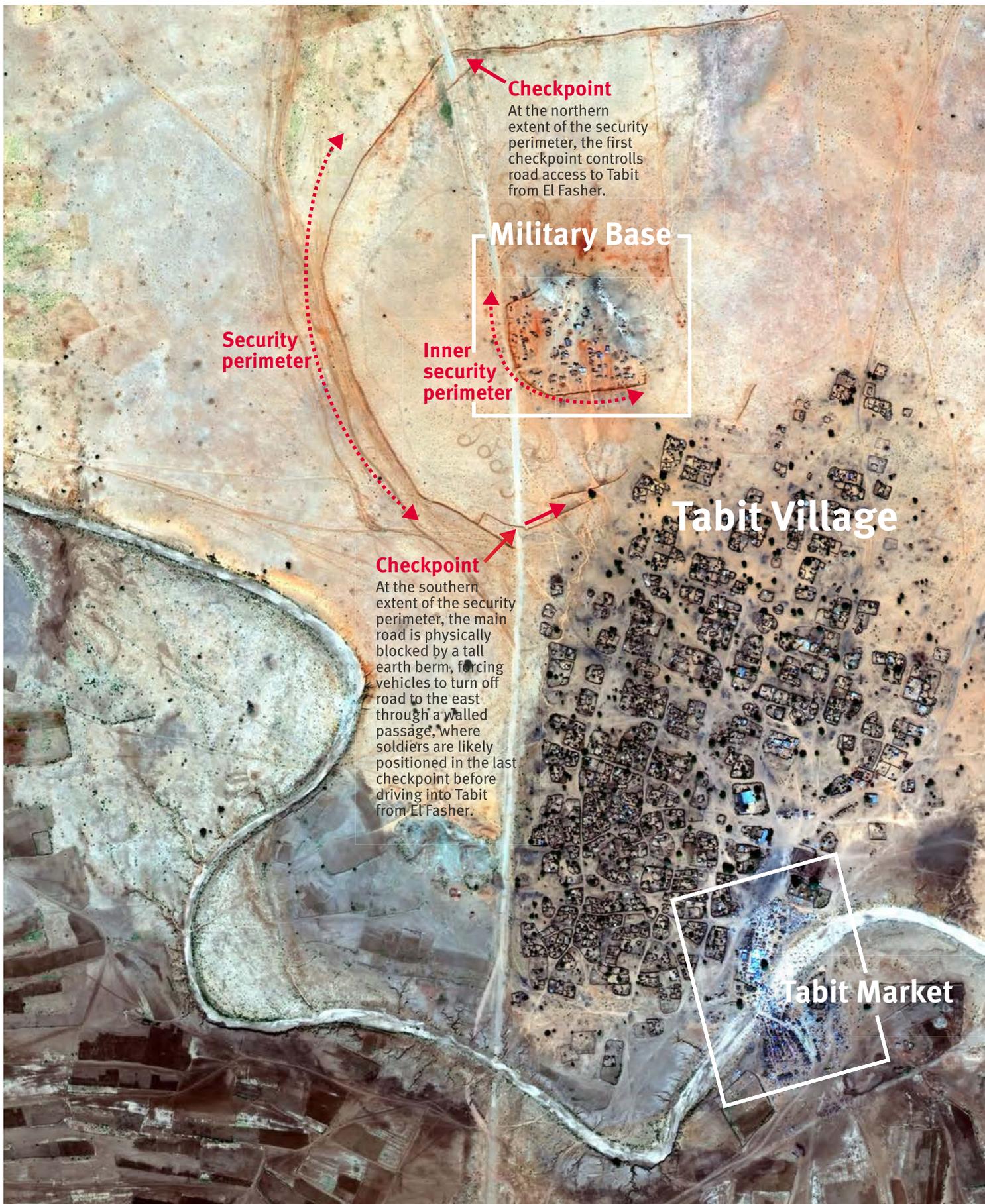
Despite the climate of fear, we were able to cross-reference and verify many individual cases and allegations. While this report documents some of the abuses perpetrated by government forces during the 36-hour period, only a thorough investigation that is independent of the government of Sudan, with full access to Tabit and protection for victims and witnesses would be able to fully unearth the details of the events of October 30 to November 1.

Human Rights Watch collected 221 names of women and girls who were allegedly raped in Tabit from October 30 to November 1, 2014. These names were gathered from broadly three categories of sources, all of whom spoke directly with Human Rights Watch:

- (1) *Victims and witnesses*: Fifteen female rape victims and one female witness provided the names of 12 other women whom they witnessed being raped, making for 27 named victims altogether.
- (2) *Residents*: Thirty five residents of Tabit provided 119 additional names. These residents gathered 92 names directly from rape victims and 27 names from the family members, friends, or neighbors of rape victims.
- (3) *Other investigations*: Three Sudanese groups that conducted their own investigations provided 75 additional names. Two of these groups were composed of representatives from internally displaced persons (IDP) camps in Darfur; the other was composed of representatives from a Darfurian diaspora organization. The three groups, which each visited Tabit for two or three days in the week immediately following the attacks, subsequently shared their findings with Human Rights Watch. Human Rights Watch spoke directly to at least one member of each of the three investigation committees of the groups. These three committees reported that they gathered 31 names directly from rape victims and 44 names from the family members, friends, or neighbors of rape victims.

Fifty-one of the accounts provided by the local investigation committees corroborated accounts given independently to Human Rights Watch by victims or other residents of Tabit. Names were also cross-checked to avoid duplication.

Based on all the available evidence, Human Rights Watch was able to directly document the accounts of least 27 women and girls who were raped, and has credible information about another 194 alleged incidents of rape.



**Checkpoint**

At the northern extent of the security perimeter, the first checkpoint controls road access to Tabit from El Fasher.

**Military Base**

**Inner security perimeter**

**Security perimeter**

**Tabit Village**

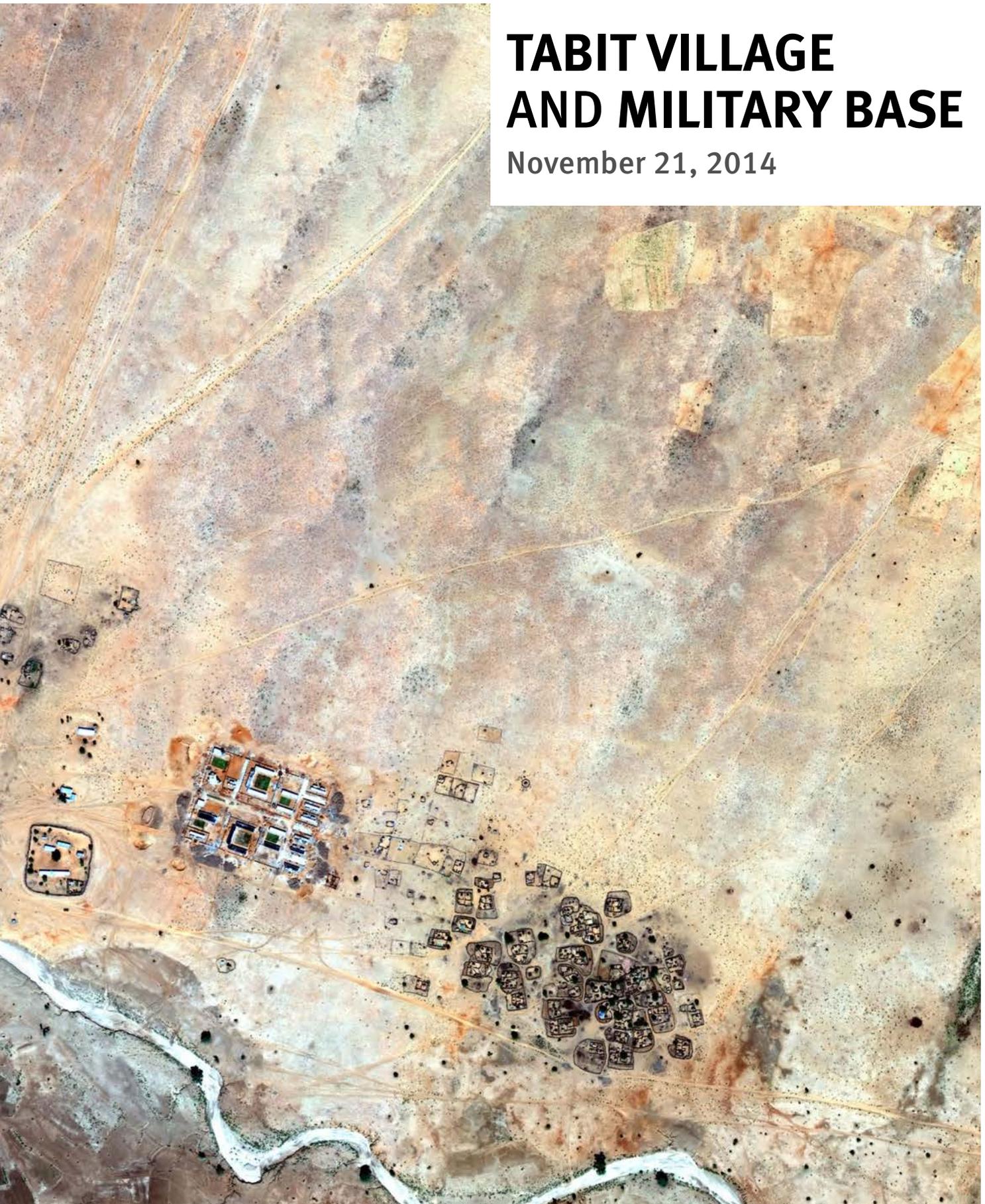
**Checkpoint**

At the southern extent of the security perimeter, the main road is physically blocked by a tall earth berm, forcing vehicles to turn off road to the east through a walled passage, where soldiers are likely positioned in the last checkpoint before driving into Tabit from El Fasher.

**Tabit Market**

# TABIT VILLAGE AND MILITARY BASE

November 21, 2014



## TABIT MARKET DETAIL

November 21, 2014



# MILITARY BASE DETAIL

November 21, 2014



# I. Background

Armed conflict between the Sudanese government and rebel groups has ravaged Darfur, the western region of Sudan, since 2003.<sup>1</sup> Twelve years on, the fighting continues, with more than 450,000 people having been displaced by violence in 2014 alone.<sup>2</sup> The conflict's impact on the civilian population has been horrific, with over two million people displaced, hundreds of villages destroyed, widespread killings, torture and sexual violence against civilians, and an estimated 300,000 killed during hostilities or conflict-induced disease and starvation.<sup>3</sup>

In March 2005, the United Nations Security Council referred the situation in Darfur to the International Criminal Court (ICC), and three months later the ICC began its investigations.<sup>4</sup> The ICC has since issued arrest warrants for five individuals, including Sudanese President Omar al-Bashir, for serious crimes in violation of international law committed in Darfur.<sup>5</sup> Sudan has refused to cooperate with the court in any of the cases and all five remain at large. In a December 14, 2014, briefing to the Security Council, the ICC prosecutor, Fatou Bensouda, stated that “given this Council’s lack of foresight on what should happen in Darfur, I am left with no choice but to hibernate activities in Darfur.”<sup>6</sup> Earlier in the briefing she noted that “the recent allegations of rape of approximately 200 women and girls in Tabit should shock this Council into action.”<sup>7</sup>

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<sup>1</sup> Julie Flint and Alex de Waal, *Darfur: A New History of a Long War*, New York, Zed Books, 2008.

<sup>2</sup> OCHA map of North Darfur showing New Displacements in 2014 as of December 31, 2014, [http://reliefweb.int/sites/reliefweb.int/files/resources/Situation\\_update\\_on\\_displacements\\_N\\_Darfur\\_31Dec14\\_A4.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Situation_update_on_displacements_N_Darfur_31Dec14_A4.pdf) (accessed January 10, 2015).

<sup>3</sup> Human Rights Watch, *Darfur in Flames: Atrocities in Western Sudan*, April 2004, <http://hrw.org/reports/2004/sudano404>; Human Rights Watch, *Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan*, May 2004, <http://hrw.org/reports/2004/sudano504>; Human Rights Watch, *Five Years On: No Justice for Sexual Violence in Darfur*, April 2008, <http://www.hrw.org/reports/2008/darfuro408/>, (all accessed January 19, 2015). “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.

<sup>4</sup> United Nations, Security Council Resolution 1593, S/RES/1593 (2005).

<sup>5</sup> Warrant of Arrest for Omar Hassan Ahmad Al Bashir in the case of *The Prosecutor v. Omar Hassan Ahmad Al Bashir* (“*Omar Al Bashir*”), March 4, 2009, <http://www.icc-cpi.int/iccdocs/doc/doc639078.pdf> (accessed on January 23, 2015).

<sup>6</sup> ICC Prosecutor Statement to the UN Security Council on the Situation in Darfur, pursuant to UNSCR 1593, December 2014, <http://www.icc-cpi.int/iccdocs/otp/stmt-20threport-darfur.pdf> (accessed January 20, 2015).

<sup>7</sup> *Ibid.*

A political process to resolve the conflict has been ongoing since 2003. The government and some rebel groups signed peace agreements in 2006 and 2011.<sup>8</sup> Neither of these agreements has significantly improved the security situation in Darfur.

Tabit, a town of about 7,000 people, mostly populated by people of Fur ethnicity, is located in the state of North Darfur, within the locality of Tawila.<sup>9</sup> It is roughly 55 kilometers southwest of the state capital, El Fasher, near the northern part of East Jebel Marra, a stronghold for rebels throughout most of the conflict, especially the Sudan Liberation Army (SLA) faction led by Abdel Wahid el-Nur.<sup>10</sup> Although rebels controlled Tabit for significant periods, the Sudanese Armed Forces (SAF) regained control of the area in 2011. The SAF has a base about half a kilometer outside of the town, with approximately 180 troops, including a small number of Popular Defense Forces and military intelligence officers.<sup>11</sup>

International peacekeepers have been present in Darfur since 2004. On July 31, 2007, the UN Security Council authorized the hybrid African Union-United Nations Hybrid Mission in Darfur (UNAMID), which currently has 16,000 peacekeepers deployed across the region, with headquarters in El Fasher, and bases in each of Darfur's five states.<sup>12</sup>

UNAMID is mandated to “contribute to the protection of civilian populations under imminent threat of physical violence and prevent attacks against civilians,” including through the use of force, and to “contribute to the promotion of respect for and protection of human rights and fundamental freedoms in Darfur” through investigating, documenting,

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<sup>8</sup> 2006 Darfur Peace Agreement (Abuja Agreement), May 2006, <http://www.ucdp.uu.se/gpdatabase/peace/Sud%2020060505.pdf> (accessed on January 23, 2015); 2011 Darfur Peace Agreement (Doha Agreement), May 2011, <http://unamid.unmissions.org/Portals/UNAMID/DDPD%20English.pdf> (accessed on January 15, 2015).

<sup>9</sup> The official population of Tabit is not known. Human Rights Watch received differing estimates, ranging from 200 to 1000 households. UNAMID reported the population as 7,000. The majority of the population is from the Fur tribe. Minority populations include the Tama, Zaghawa, and Tunjur.

<sup>10</sup> Throughout the conflict in Darfur, the three largest rebel factions have been the Sudan Liberation Army faction led by Abdel Wahid el-Nur (SLA/AW), the Sudan Liberation Army faction led by Minni Minnawi (SLA/MM) and the Justice and Equality Movement (JEM). These factions have fragmented throughout the conflict, creating dozens of smaller groups. In 2010, a coalition of small splinter factions from the SLA and the JEM emerged called the Liberation and Justice Movement, which signed a peace agreement with the government of Sudan in 2011. In 2012, the SLA/AW, SLA/MM, and the JEM entered into a coalition with rebel groups from other parts of Sudan called the Sudan Revolutionary Front (SRF).

<sup>11</sup> Human Rights Watch interview with a former member of SAF, November 19, 2014; Human Rights Watch interview with a former member of SAF, November 22, 2014; The Popular Defense Forces (Difaa al-Shabi) are an auxiliary paramilitary force.

<sup>12</sup> The five states are North Darfur, South Darfur, West Darfur, Central Darfur, and East Darfur.

and reporting publicly on human rights abuses.<sup>13</sup> In addition, the mission is specifically mandated to report on sexual and gender-based violence.<sup>14</sup>

Although by agreement with the Sudanese government that UNAMID should have unfettered access to the whole of Darfur, Sudan routinely blocks peacekeepers from going to conflict-affected areas.<sup>15</sup> These denials of access, and frequent attacks by gunmen on peacekeepers, have severely hampered the mission's effectiveness in protecting civilians and in reporting on human rights abuses. Human Rights Watch has previously raised concerns about UNAMID cover-ups and misreporting of the human rights situation.<sup>16</sup> Apart from the mission, the UN Panel of Experts on Darfur, established in 2005, is mandated to report on violations of human rights and international humanitarian law; however, its reports are often not made public and the government of Sudan has severely restricted its access to Darfur.<sup>17</sup>

On November 2, 2014, Radio Dabanga, a radio station based in the Netherlands that broadcasts in Darfur and exclusively covers the conflict in Darfur, reported that members of the Sudanese military had perpetrated a mass rape of over 200 women in Tabit.<sup>18</sup> The Sudanese government immediately denied the report, blocked off the town, and began a campaign to prevent information about the incident from becoming public.

The government, however, gave UNAMID peacekeepers access to Tabit only for a couple of hours on November 9, but prevented them from conducting an extended investigation without government minders and has denied access ever since. Two weeks later,

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<sup>13</sup> UN Security Council Resolution 1769 (2007), S/RES/1769 (2007).

<sup>14</sup> UNAMID Mandate, July 2007, <http://www.un.org/en/peacekeeping/missions/unamid/mandate.shtml>, (accessed on December 23, 2014).

<sup>15</sup> Government of Sudan and UNAMID Status of Forces Agreement, February 2008, <http://unamid.unmissions.org/Portals/UNAMID/UNAMID%20SOFA.pdf>; Jonathan Loeb, "Talking to the Other Side: Humanitarian Negotiations with Armed Non-State Actors in Darfur, Sudan," Overseas Development Institute, August 2012, <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8590.pdf> (accessed on January 10, 2015).

<sup>16</sup> Human Rights Watch news release, "Darfur: UN Should End Silence on Rights Abuses," August 22, 2014, <http://www.hrw.org/news/2014/08/21/darfur-un-should-end-silence-rights-abuses> (accessed January 25, 2015).

<sup>17</sup> United Nations Security Council Resolution 1591, S/RES/1591 (2005), [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/1591\(2005\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1591(2005)).

<sup>18</sup> "Mass Rape of '200' in North Darfur," *Radio Dabanga*, November 2, 2014, <https://www.dabangasudan.org/en/all-news/article/mass-rape-of-200-in-north-darfur> (accessed November 3, 2014). According to its website, Radio Dabanga is "a project of the Radio Darfur Network, a coalition of Sudanese journalists and international (media) development organizations, supported by a consortium of international donors, humanitarian community organization and local NGOs. Radio Dabanga is conceived, operated and facilitated by Free Press Unlimited in the Netherlands."

Sudanese authorities shut down the mission's human rights office in Khartoum, Sudan's capital.<sup>19</sup> The government has since renewed calls for the mission to withdraw and on December 25 announced the expulsion of the two most senior UN officials in the country.<sup>20</sup>

The UN and the AU have been reviewing and downsizing UNAMID. Officials have indicated that this process has been driven by several factors including Sudan's hostility to the mission, the mission's high cost, and its longstanding ineffectiveness with respect to its core mandate, and the perception that the conflict in Darfur is subsiding and no longer requires a robust peacekeeping force. The withdrawal of peacekeepers could undermine what little protection the mission has afforded the people of Darfur.

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<sup>19</sup> "Sudan asks UN to shut human rights office in Khartoum over abuse claims," *The Guardian*, November 27, 2014, <http://www.theguardian.com/world/2014/nov/27/sudan-un-khartoum-abuse-claims> (accessed on November 27, 2014).

<sup>20</sup> "Sudan expels two UN officials," December 25, 2014, Reuters, <http://www.reuters.com/article/2014/12/25/us-sudan-un-expulsions-idUSKBN0K301C20141225> (accessed on January 23, 2015).

## II. Government Attacks on Tabit, North Darfur

Sudanese government forces carried out three attacks against civilians in Tabit over a 36-hour period from Thursday, October 30 until Saturday, November 1, 2014. The first attack began at about 8 p.m. on October 30 and continued until very early the next morning. The second attack, on Friday, October 31, was from about 9 a.m. until noon. The third attack began at 8 p.m. on October 31 and continued until early in the morning of Saturday, November 1.

During each of these attacks, uniformed and armed military personnel entered Tabit and went house-to-house. Witnesses told Human Rights Watch that they saw more than 100 troops during the operation on Thursday night and several hundred troops during the attack on Friday night. The troops were moving around on trucks and by foot. Witnesses recognized many as among those stationed at the SAF base on the outskirts of Tabit; during the attacks on Friday, the soldiers also came from bases near El Fasher and Khartoum, according to army defectors. Witnesses also saw men in plainclothes, some of whom they recognized as residents of Tabit, participating in abuses alongside the soldiers.

Although each of the accounts provided by victims and witnesses to Human Rights Watch had distinct features, many followed a consistent pattern: armed soldiers entered homes, accused residents of harboring or killing a missing soldier, searched the premises, beat men and either chased them out of the compound or detained them, and then raped women and girls in their homes.

The rapes occurred in several of Tabit's neighborhoods, including Hai Adan Barit and Hai Al-Fur.<sup>21</sup> Human Rights Watch interviewed 15 survivors and one female witness who provided firsthand information about 27 incidents of rape. They, along with 23 other credible sources, provided information about an additional 194 incidents of rape. Altogether, Human Rights Watch collected the names and other information about 221 women and girls who were allegedly raped.

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<sup>21</sup> The town of Tabit is composed of a variety of neighborhoods, the three largest of which are Hai Al-Adan Barit, Hai Al-Fur, and Hai Al-Kuwait.

The rapes were carried out in multiple locations at the same time. Two government soldiers who participated in the attacks told Human Rights Watch that they were directly given orders from superior officers to “rape women,” because the women were rebel supporters; three government soldiers said they witnessed other soldiers raping women.<sup>22</sup>

## Survivor Accounts of Rape

Human Rights Watch interviewed 15 women who said they were raped by soldiers. Most said they were raped multiple times, often by multiple men, and often in front of their families or friends. Almost all reported that they were also severely beaten.

*Thursday, October 30, 2014*

Mahassan, in her twenties, said that she and three friends were raped by soldiers after sunset. They were in her home preparing perfumes for a wedding when about 10 soldiers entered the compound, dragged the women outside, and raped each of them multiple times:

[The soldiers] said that they were looking for a missing soldier. ... They searched the compound. ... [T]hen they came towards us. They grabbed me and they grabbed my friend. The other soldiers took the other girls in a different direction. They took [me and my friend outside of the compound] towards the school. They raped both of us on the street. ... Three of them raped me and three of them raped my friend. ... They raped us all night. That’s why I’m still sick. I cannot sit down for a long time like I could before.<sup>23</sup>

Around the same time, another woman, Maria, in her forties, encountered soldiers blocking the road to town as she was returning from her farm. She said:

I wanted to pass. They stopped me. I refused to stop and one cocked his gun. ... He said that if I didn’t stop he would shoot me. I asked why. He said, “Your men killed our guy.” ... I was on a donkey. Then he pulled me [off the

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<sup>22</sup> Human Rights Watch interview with a member of the SAF, November 19, 2014; Human Rights Watch interview with a member of the SAF, November 22, 2014.

<sup>23</sup> Human Rights Watch interview with a female victim, December 5, 2014.

donkey]. Then three other [soldiers] came. They surrounded me. Then they beat me. They raped me. Then they went and left me.<sup>24</sup>

She said two of her neighbors were also raped that evening.

Around the same time, another woman, Umm-Jumma, in her thirties, heard screaming and fled with her children to her mother's compound, where soldiers arrived and asked her if she was hiding a missing soldier, then beat and tied up her mother. Umm-Jumma described how she attempted to resist them:

I fought one and hurt one. ... When they saw that I wanted to fight they threatened me with their gun. Then they raped me. ... There were four of them. ... Two had civilian clothes. ... [They raped me] in front of my mother. She was screaming.<sup>25</sup>

After they left she recalled hearing gunshots and the sound of women screaming from other compounds. She also realized that her child, who was snatched from her by a soldier and thrown against the wall, had broken his leg and arm.<sup>26</sup>

Khamisa, in her twenties, said she was beaten and then raped by soldiers and men in civilian clothes at the gate of her neighbor's compound:

I found a soldier at the gate of my neighbor's house. The soldier stopped me. When he stopped me I hit him with a stick on the head. Then he hit me with the butt of his gun. When he hit me, I fell down. Before I realized anything there were two men holding me down [and raping me].<sup>27</sup>

She said she recognized two of the three men who raped her as residents of Tabit. She saw both of them in the market the following day.<sup>28</sup>

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<sup>24</sup> Human Rights Watch interview with a female victim, December 4, 2014.

<sup>25</sup> Human Rights Watch interview with a female victim, December 4, 2014.

<sup>26</sup> Human Rights Watch interview with a female victim, December 4, 2014.

<sup>27</sup> Human Rights Watch interview with a female victim, December 4, 2014.

<sup>28</sup> Human Rights Watch interview with a female victim, December 4, 2014.

Jameya, in her late twenties, was in her compound with her husband, cooking dinner, when several soldiers arrived. She said:

[The soldiers] said that they were looking for a missing soldier. ... They searched and found nothing. ... They asked me to get up and they said, “Don’t cook that food.” I refused to get up. Then one of them hit me with the butt of his gun. I fell down. My head was injured. Then my husband came out. ... He was badly beaten. Even now he is still confined to a bed. Then they grabbed me by my hand and took me inside the room. Then they raped me inside the room.<sup>29</sup>

Jameya also saw the soldiers go to the neighbor’s house and heard women screaming from the house.<sup>30</sup>

Rufeeda, in her early twenties, said that five soldiers entered her compound and grabbed her and her friend:

They took us outside the village. I don’t know exactly where. We were two and we were taken to the same place. Two of them raped me and my friend was raped by three. ... They left us out there. [The next morning] my mother and my aunt found us. They took me to our house.<sup>31</sup>

#### *Friday morning, October 31, 2014*

Nur al-Huda, in her early twenties, said soldiers came to her compound on Friday morning, chased away her husband and two of them raped her. She recognized some of the soldiers as belonging to the nearby SAF base.<sup>32</sup>

After being raped she spoke with six of her friends from her neighborhood and learned that they were also raped that morning.<sup>33</sup>

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<sup>29</sup> Human Rights Watch interview with a female victim, December 6, 2014.

<sup>30</sup> Human Rights Watch interview with a female victim, December 6, 2014.

<sup>31</sup> Human Rights Watch interview with a female victim, December 6, 2014.

<sup>32</sup> Human Rights Watch interview with a female victim, December 5, 2014.

Nadia, in her early twenties, was in her compound on Friday morning cooking breakfast and making food to take to her farm when a group of soldiers arrived, beat the men and raped the women. The soldiers spent several hours in the compound:

Eighteen soldiers came into our house. Three took the men out. ... They beat the men with the back of their guns. ... Then they dragged [the men] out of the house. ... Then the 15 [remaining soldiers] raped us, all four of us. They beat us and they did whatever they wanted.<sup>34</sup>

Nadia said five other women from the town told her they were also raped on the same day.<sup>35</sup>

Tahira, in her mid-twenties, was alone on Friday morning at about 10 a.m. when soldiers attacked her:

I was in our compound. I heard the noise and came out of our compound. I saw some of [the soldiers] chasing a girl. They arrested her and beat her. ... When they saw me they ran towards me and knocked me down. Then they raped me. They raped me on the street [in front of my house].<sup>36</sup>

Yasmin, in her early thirties, said she saw a group of soldiers coming towards her house on Friday morning, and ran to her neighbor's house for safety. The soldiers then entered her neighbor's house, found her with women and boys, and raped her. "They hit me with a baton and pointed a gun toward me and made me lie down," she said. "They said I would be killed if I didn't lie down. ... They raped us and we were scared. I am still suffering."<sup>37</sup>

#### *Friday evening, October 31, and Saturday morning, November 1, 2014*

Asal, in her early twenties, said soldiers came into her compound and tied up her brother, hung him from a tree, then raped her, tied her up, and left her:

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<sup>33</sup> Human Rights Watch interview with a female victim, December 5, 2014.

<sup>34</sup> Human Rights Watch interview with a female victim, November 26, 2014.

<sup>35</sup> Human Rights Watch interview with a female victim, November 26, 2014.

<sup>36</sup> Human Rights Watch interview with a female victim, November 28, 2014.

<sup>37</sup> Human Rights Watch interview with a female victim, November 30, 2014.

Three men came inside the hut. Two of them were holding me. The third was raping me. When I cried they pushed a piece of cloth into my mouth. Then the other one raped me. And then they tied me up and left me inside the hut. Then my mother came and untied me and my brother. ... Then [my mom] cried a lot. Then we all cried.<sup>38</sup>

Asal said that after she was raped her mother treated her “with hot water, in the traditional way,” and recalled screaming coming from the village all night, which she believes was other victims. After the incident she spoke to two of her neighbors who told her they were also raped on Friday night.<sup>39</sup>

Kondero was in her compound on Friday at about 8 p.m. with her mother, father, and brothers when six soldiers entered, beat her father and brother and took them out of the compound, before raping her and her mother. She said:

I was in the house in the morning. I was with my mother and brothers. Six soldiers entered. Three men raped me. They had guns. If you try to do anything they will kill you. Everyone was raped.<sup>40</sup>

Najma, in her mid-twenties, was in her compound with her two young children when soldiers entered very early Saturday morning. She said:

I was in the bathroom taking a shower. Four soldiers ... found me in the bathroom. ... When I wanted to put on my clothes the soldier stopped me. ... Then they threw me on the ground. Then they raped me. When they finished they threw me in the room and locked me up. Then I heard my neighbors screaming and shouting.<sup>41</sup>

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<sup>38</sup> Human Rights Watch interview with a female victim, November 24, 2014.

<sup>39</sup> Human Rights Watch interview with a female victim, November 24, 2014.

<sup>40</sup> Human Rights Watch interview with a female victim, November 28, 2014.

<sup>41</sup> Human Rights Watch interview with a female victim, November 26, 2014.

She said she recognized two of her attackers: “I know two of [the attackers]. I know their faces. One was in a military uniform. One was in civilian clothes. They are from the [nearby] garrison.”<sup>42</sup>

## Accounts of Rape of Girls

Victims and witnesses also described rapes of girls under 18.

Khadamallah, in her mid-teens, said that soldiers came to her home at about 10 p.m. on Friday night:

I was in the house with my younger siblings. We were sleeping when the soldiers came into our house. ... They entered the house. I took firewood and hit one of them. One of them dragged me out of the room. ... They raped me. ... Two of them held me down while the other one raped me. Many others who were there were standing around. ... And then they brought me back [to my room], tied me [to the bed], and left.<sup>43</sup>

Khatera, in her early forties, said that soldiers came into her house and raped her and her three daughters, two of whom were under the age of 11:

Immediately after they entered the room they said: “You killed our man. We are going to show you true hell.” Then they started beating us. They took my husband away while beating him. They raped my three daughters and me. Some of them were holding the girl down while another one was raping her. They did it one by one. One helped beat and the other raped. Then they would go to the next girl. Two were holding the girl and one would rape.<sup>44</sup>

Tinbil, in her forties, said soldiers raped three of her daughters, all of whom are under the age of 15, while doing house-to-house search on Friday. She recalled that the soldiers

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<sup>42</sup> Human Rights Watch interview with a female victim, November 26, 2014.

<sup>43</sup> Human Rights Watch interview with a female victim, December 4, 2014.

<sup>44</sup> Human Rights Watch interview with female victim, November 15, 2014.

“beat the young children and they raped my older daughters...They put clothes in [my daughters’] mouths so that you could not hear the screaming.”

In the few days following the incident, she spoke to four other young women in her neighborhood who said they were raped.<sup>45</sup>

Katwoa, in her thirties, told Human Rights Watch that she was with her newborn baby in her compound on Thursday evening when soldiers entered her compound, beat her, then went to the neighbors’ and raped a girl who was about 15-years-old:

They asked me what I was doing in the house. I told them that I just delivered a baby. They asked me to come out from the room. I refused. ... Then they came and beat me. ... I was injured on my head from a stick. When they beat me they left. They went to my neighbor’s house. They beat my neighbors. They raped my neighbor’s daughter. ... She is about 15.<sup>46</sup>

In some instances, men who were chased away by soldiers returned home to find their daughters had been raped.

Hamid, in his sixties, said that his two eldest daughters, both of whom were under the age of 15, and their mother were raped during an attack on his neighborhood on Friday. He told Human Rights Watch that soldiers arrived in his neighborhood at about 8 p.m., accused him of being a rebel and killing their comrade, beat him, and beat his sons with whips and chased them out of the compound. As he was being dragged away, he saw soldiers enter the room where his wife and daughters were and heard them screaming.<sup>47</sup>

Ahmed, in his fifties, said that he found his daughters were raped when he returned home after soldiers detained and beat him on Thursday night: “When I came back [home] Friday morning I found women tied up and men tied up and women raped. In my family I have four girls who were raped. One is only 14.”<sup>48</sup>

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<sup>45</sup> Human Rights Watch interview with female victim, December 1, 2014.

<sup>46</sup> Human Rights Watch interview with female victim, December 5, 2014.

<sup>47</sup> Human Rights Watch interview with male victim, December 2, 2014.

<sup>48</sup> Human Rights Watch interview with a male victim, December 18, 2014.

## Other Evidence of Rape and Sexual Violence

In addition to the 15 rape survivors, Human Rights Watch interviewed 21 other victims and witnesses to other abuses. These include the use of excessive force, arbitrary arrests and detention, and beatings and other ill-treatment. The soldiers accused many of the men from the town of being rebels, and arrested them or chased out of their compounds. During this time, soldiers remained inside compounds and raped women and girls.

Some of the victims and witnesses of these abuses said they witnessed women being raped. Others said that upon returning home, they discovered that soldiers had raped their female relatives or neighbors. Among those interviewed was a woman who treated a large number of victims of rape and sexual violence with traditional medicine.<sup>49</sup>

Mamdoun, in his twenties, returned to his house Friday morning after being beaten and detained Thursday night and found his sister lying down crying. She told him that she had been raped.<sup>50</sup>

Idriss arrived back at his compound on Saturday morning after being detained by soldiers on Friday night and was told by his neighbors that numerous women from his neighborhood had been raped, including eight of his relatives. During the two weeks following the incident, he spoke to 15 women from his neighborhood who said they were raped on Friday evening.<sup>51</sup>

Hamed, in his early thirties, was chased out of his neighbor's compound by soldiers on Friday evening. He said that he saw a woman being raped inside his neighbor's compound and another being raped on the street while he fled to the outskirts of town. When he returned to his compound the next morning, he learned that all three of his nieces who were living with him in his compound had been raped. The next day he took his family and left the village.<sup>52</sup>

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<sup>49</sup> Human Rights Watch interview with a female witness, December 4, 2014.

<sup>50</sup> Human Rights Watch interview with a male victim, December 16, 2014.

<sup>51</sup> Human Rights Watch interview with a male victim, November 5, 2014.

<sup>52</sup> Human Rights Watch interview with a male victim, December 5, 2014.

Tasnim, in her forties, heard members of her family and neighbors being raped inside her compound on Friday night. Before the soldiers entered the compound, she hid behind some sacks of millet and firewood, from where she saw her uncle being beaten with a whip and chased out of the compound and heard women screaming. She later learned three women had been raped and a member of her family had been abducted by soldiers and raped.<sup>53</sup>

Tasnim helped to treat many women for injuries resulting from acts of sexual violence. Seven of the women whom she helped treat told her that they had been raped.<sup>54</sup>

Tahir, in his twenties, said soldiers beat him severely in his compound on Friday evening. He told Human Rights Watch that during the weeks after the incident he spoke with 12 women from different parts of Tabit who alleged that they were raped on either Thursday or Friday.<sup>55</sup>

Human Rights Watch also interviewed three investigators from three local groups and two residents who assisted two of these groups.<sup>56</sup> These investigators visited Tabit during the week after the incident and interviewed numerous women. Two of these groups were composed of representatives from IDP camps in Darfur; the other group was composed of representatives from a Darfur diaspora organization. They collected names of 126 rape victims, 51 of which corroborated information given to Human Right Watch by other sources.

## Arbitrary Detentions, Beatings, and Looting

During the attacks, government soldiers arrested and detained dozens of men, and carried out other abuses including harsh beatings and widespread looting.

On the evenings of October 30 and 31, soldiers detained large groups of men – reportedly more than 100 were detained together on Friday night – and marched them to locations on the outskirts of town, and subjected them to beating and threats. Soldiers also detained men in the military base, accusing them of links to rebels.

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<sup>53</sup> Human Rights Watch interview with a female witness, December 2, 2014.

<sup>54</sup> Human Rights Watch interview with a female witness, December 4, 2014.

<sup>55</sup> Human Rights Watch interview with a male victim, November 22, 2014.

<sup>56</sup> Human Rights Watch interview with a male investigator, November 17, 2014; Human Rights Watch interview with a male investigator, November 18, 2014; Human Rights Watch interview with a resident from Tabit, November 17, 2014; Human Rights Watch interview with a local resident, December 2, 2014; Human Rights Watch interview with a female investigator, December 3, 2014.

Mamdoun said he was arrested and detained with dozens of men on October 30. He and the group were at Club Amtar, a place where men gather to play dominoes and listen to music, when about 40 soldiers entered, and forced everyone to move to a football pitch, east of the village. He said that soldiers “were guarding us with guns. They forced us to sit for a long time. ... Eventually they beat us and made us lie down. ... A few people who tried to run away were badly beaten.”<sup>57</sup>

Idriss was at his home on Friday evening when seven soldiers arrived at about 8 p.m., beat him badly then forced him out of the house to the *wadi* (dry river bed).<sup>58</sup> The soldiers held him overnight in the *wadi* with over 100 other men from the village: “[The soldiers] made us lie with our faces down and they said: ‘If anyone [lifted] their head it would be shot off. And if you don’t find our missing soldier you will be food for termites.’”<sup>59</sup>

Many of those interviewed said the soldiers beat them and accused them of supporting rebels. Abdul told Human Rights Watch: “They beat me with the butts of their guns and said: ‘We didn’t know that you were Tora Bora [i.e. a member of a rebel group] but now we are sure that you are Tora Bora. We will kill all of you.’”<sup>60</sup>

Many witnesses also told Human Rights Watch that soldiers stole their property during the attacks. “Our house was completely looted. The door was broken. They took everything,” Abdallah said. “We have nothing to eat. We are working in the farms of others just to feed our children. Now the children are only eating bush fruits.”<sup>61</sup>

Yasmin, a mother, told Human Rights Watch that soldiers stole everything her family owned: “We lost everything. They looted our house and we are left with nothing.”<sup>62</sup>

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<sup>57</sup> Human Rights Watch interview with a male victim, December 16, 2014.

<sup>58</sup> There is a *wadi*, a dried-up riverbed, located just outside the town.

<sup>59</sup> Human Rights Watch interview with a male victim, November 5, 2014.

<sup>60</sup> Human Rights Watch interview with a male victim, November 22, 2014.

<sup>61</sup> Human Rights Watch interview with a male victim, December 4, 2014.

<sup>62</sup> Human Rights Watch interview with a female witness, November 30, 2014.

### III. Sudanese Government Response

Since the attacks in Tabit, government officials, military commanders, and traditional leaders have used harsh measures to prevent information about the incident from becoming public. These measures included widespread threats and intimidation, arbitrary arrests of people for speaking out, along with denials, disinformation and an ineffective criminal investigation designed to give the appearance of a response.

#### Threats, Intimidation, and Disinformation

The military presence in Tabit increased significantly in the aftermath of the incident, with a constant military presence in the town during the day and patrols throughout the night, and new military checkpoints on the roads leading into the town.<sup>63</sup> Female residents of Tabit were reportedly prevented from leaving the town, and visitors were barred from entering.<sup>64</sup> One Tabit resident told Human Rights Watch that since the attacks, the people of Tabit have been “living in an open prison.”<sup>65</sup>

Authorities went to great lengths to suppress information about the abuses. On November 1, just hours after the soldiers who committed the abuses left the town, a commander from the nearby SAF base gathered men from the village and told them not to speak about the incident. The commander apologized for the attack, saying he had given orders to look for rebels, not commit crimes, according to a man present at the time.<sup>66</sup>

On November 4, at a meeting in El Fasher, the local commissioner Al-Hadi Mohammed Abdallah Abdelrahman, who is also a traditional leader responsible for Tabit, told other traditional leaders that no crimes were committed.<sup>67</sup> On the same day, several residents of Tabit were brought to El Fasher to meet with traditional leaders and other officials. These

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<sup>63</sup> Human Rights Watch interview with a male victim, November 5, 2014; Human Rights Watch interview with female victim, November 15, 2014; Human Rights Watch interview with male witness, December 3, 2014; Human Rights Watch interview with a male victim, 22 November 2014.

<sup>64</sup> Human Rights Watch interview with a local human rights investigator witness, November 22, 2014; Human Rights Watch interview with male resident of Tabit, Decmber 3, 2014.

<sup>65</sup> Human Rights Watch interview with a male victim, November 22, 2014.

<sup>66</sup> Human Rights Watch interview with a male victim,, November 5, 2014.

<sup>67</sup> Human Rights Watch Interview with traditional leader, December 22, 2014.

residents told one of the traditional leaders that they were brought to confirm that nothing happened in Tabit, in an apparent attempt to contain the spread of information.<sup>68</sup>

Later that day, according to several witnesses, the commissioner and other traditional leaders in Tabit instructed the population not to speak about the incident and threatened to kill anyone who did.<sup>69</sup> Civilians were specifically warned not to speak with Radio Dabanga or UNAMID (see UNAMID section below).

Commissioner Al-Hadi told Human Rights Watch that he was not present in Tabit during the period in question and referred researchers to two other traditional leaders. These two traditional leaders told Human Rights Watch that “nothing happened” in Tabit. One of them also said that Radio Dabanga should be held accountable for “spreading lies.”<sup>70</sup>

One Tabit resident said that the army forced men from the town to swear an oath not to speak about the incident.<sup>71</sup> Ibrahim, in his sixties, told Human Rights Watch that on November 5 the military summoned him and about 50 other men to an area near the military base. An officer made them swear that they would not reveal anything about the incident.<sup>72</sup>

Despite these government efforts, many witnesses and victims have, at great personal risk, reported their experiences to local journalists and human rights monitors, as well as Human Rights Watch. A female rape survivor said: “We want people to know that we are suffering. We don’t want to suffer anymore.”<sup>73</sup>

One male witness told Human Rights Watch:

Imagine that people are raping your wife in front of your eyes and you can’t do anything. Or you see your sister is being raped and you are incapable of

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<sup>68</sup> Human Rights Watch Interview with traditional leader, December 22, 2014.

<sup>69</sup> Human Rights Watch interview with a female victim, December 4, 2014; Human Rights Watch interview with female victim, December 4, 2014.

<sup>70</sup> Human Rights Watch interview with Al-Hadi Mohammed Abdallah Abdelrahman, November 17, 2014.

<sup>71</sup> Human Rights Watch interview with a male victim, November 5, 2014.

<sup>72</sup> Human Rights Watch interview with a male victim, December 2, 2014.

<sup>73</sup> Human Rights Watch interview with a female, November 30, 2014.

stopping it. After all of this if you want to look for justice and there is no justice. Even to talk to those who are interested to help you is very difficult. ... What happened to us is unimaginable. One feels ashamed to talk about it.<sup>74</sup>

## Arbitrary Detention and Ill-Treatment

Human Rights Watch interviewed four men who were detained at different times for speaking about the attacks. They all said soldiers beat and threatened them, told them that rebels had carried out the attacks, made them sign a document swearing not to speak, and then paid a sum of money for their silence. The men were detained at the SAF barracks in Tabit, and three were then held at a military intelligence base called Al-Manhal in El Fasher.<sup>75</sup>

Khamis, in his fifties, said he was on his farm at the time of the attack but returned to Tabit on the Sunday after the incident. He was arrested about a week later and detained for a week in Al-Manhal. He believes he was detained because he registered a complaint with his traditional leader after learning that soldiers had raped his daughter.<sup>76</sup>

Adam, in his thirties, was in El Fasher at the time of the attack. He said he returned to Tabit two days after the attacks and learned his sister had been raped. After he told a traditional leader about the incident on November 4, soldiers beat him in public. The authorities then detained him for four days in Al-Manhal during which time he was severely beaten.<sup>77</sup>

Khalil, in his twenties, said he was at his farm but returned to Tabit on the morning of October 31 and learned that his sister had been raped. Security officers detained him that evening at the base in Tabit for informing his brother by telephone about the incident:

When I was told what happened I was so angry. I cried a lot. My brother called and asked me to explain what happened. I was on the phone with him and before I realized it I was surrounded by intelligence officers. Then

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<sup>74</sup> Human Rights Watch interview with a male witness, December 2, 2014.

<sup>75</sup> Human Rights Watch interview with a male victim, December 12, 2014; Human Rights Watch interview with a male victim December 12, 2014; Human Rights Watch interview with a male victim 16 December, 2014.

<sup>76</sup> Human Rights Watch interview with a male victim, December 12, 2014.

<sup>77</sup> Human Rights Watch interview with a male victim, December 13, 2014.

they took me on the base in Tabit. I was badly beaten. They asked why I disclosed information to people outside of Tabit. They said I committed a crime. They asked me to say that [the attack in Tabit] was committed by [rebel] movements.<sup>78</sup>

Khalil said that after one night on the base he was taken to El Fasher, where soldiers tortured him and threatened him with death. He recalled:

They took me to Al-Manhal intelligence prison. ... They said if I talked about Tabit again that I was going to be finished. ... They kicked me. Tied me and hanged me up. They beat me with whips and electric wires. And they told me I was Tora Bora.<sup>79</sup>

The soldiers made him sign a statement and gave him money before releasing him.

## Restricted Access to Medical Care

The climate of fear created by government authorities in Tabit deterred many women and girls from seeking medical care at clinics and hospitals.

Human Rights Watch interviewed several victims and witnesses who were afraid to visit medical clinics because they believe that many doctors work for the government and that intelligence officers monitor medical clinics in Tabit.<sup>80</sup>

Most of the women interviewed by Human Rights Watch said that they were afraid to visit a doctor or a hospital because they believed that if they admitted to being raped, then they risked arrest and further abuse. Several female victims said traditional leaders arrived

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<sup>78</sup> Human Rights Watch interview with a male victim , December 16, 2014.

<sup>79</sup> Human Rights Watch interview with a male victim , December 16, 2014.

<sup>80</sup> Human Rights Watch interview with a male victim, December 2, 2014; Human Rights Watch interview with a female victim, December 4, 2014; Human Rights Watch interview with a female victim, December 5, 2014.

after the incident with medicine, which they interpreted as a government attempt to prevent victims from accessing health clinics in Tabit.<sup>81</sup>

Human Rights Watch was unable to verify cases of reprisals against survivors, but did receive accounts of local authorities refusing to help victims access medical doctors, intimidating healthcare professionals, and punishing family members for attempting to bring rape victims to see a doctor. In one case, the authorities arrested and detained a man for arguing that his family member, a rape victim, should refuse medicine brought by the traditional leader and instead should receive treatment from a doctor.<sup>82</sup>

The two female victims who visited a doctor in Tabit said the doctor himself was nervous and wanted them to leave quickly.<sup>83</sup> One mother who was raped along with her daughters said: “I took my daughters to a doctor named [name withheld]. He treated them quickly and told them to leave.”<sup>84</sup>

## Failure to Investigate

On November 20, government officials, including Commissioner Al-Hadi and the Special Prosecutor for Crimes in Darfur, Yasir Ahmed Mohammed, visited Tabit to conduct an investigation into the alleged rapes. They were escorted to the town by military personnel and accompanied by local journalists.<sup>85</sup>

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<sup>81</sup> Human Rights Watch interview with a male victim, December 16, 2014; Human Rights Watch interview with a female victim, December 4, 2014; Human Rights Watch interview with a female victim, December 4, 2014; Human Rights Watch interview with a female victim, December 5, 2014; Human Rights Watch interview with female victim, December 6, 2014.

<sup>82</sup> Human Rights Watch interview with a male victim, December 16, 2014.

<sup>83</sup> Human Rights Watch interview with female victim, November 13, 2014; Human Rights Watch interview, female victim November 14, 2014.

<sup>84</sup> Human Rights Watch interview with a female victim. November 13, 2014.

<sup>85</sup> “Khartoum escorts reporters to Tabit for inquiring on mass rape,” November, 20, 2014, Radio Dabanga, <https://www.dabangasudan.org/en/all-news/article/khartoum-escorts-reporters-to-tabit-for-inquiring-on-mass-rape> (accessed January 23, 2015).



Special Prosecutor for Crimes in Darfur Yasir Ahmed Mohamed (R) and his team talk to women during an investigation into allegations of mass rape in the village of Tabit, in North Darfur, November 20. © 2014 Reuters

A report detailing the findings of their investigation, delivered to the president of the UN Security Council on December 3, 2014, stated:

The Special Prosecutor for Crimes in Darfur and his aides reached the conclusion that there had not been a single case of rape. We did not find a single victim or witness to the alleged events, or any piece of evidence, document, or anything else that proved or suggested that occurrence of a rape.<sup>86</sup>

On its face the investigation was neither credible nor impartial. Witnesses and victims told Human Rights Watch that local officials told them not to speak with any investigation team, and that people from outside of Tabit were brought to town to speak with the journalists

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<sup>86</sup> Report on the Investigation of the Office of the Special Prosecutor for Crimes in Darfur on the alleged rape of 200 women in the Tabit, December 3, 2014, <http://www.refworld.org/docid/5492dd394.html> (accessed January 23, 2015).

and pretend that nothing happened.<sup>87</sup> Moreover, the investigators were present in Tabit for only four hours. Although “care was taken to preserve the confidentiality, dignity and privacy of the interview subjects,” the full names of all 88 interviewees were included as an appendix to the publicly available report, and a picture of the team interviewing witnesses was published by Reuters.<sup>88</sup>

All victims and witnesses interviewed for this report expressed a desire for the perpetrators of rape and other abuses to be held accountable through a judicial process.

The exact number of women and girls who were raped or subjected to sexual violence by Sudanese military personnel in Tabit will not be known until independent and impartial investigators with expertise in sexual and gender-based crimes are granted unfettered access to Tabit and town residents feel safe to share their experiences without fear of retaliation.

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<sup>87</sup> Human Rights Watch interview with a male victim, November 5, 2014; Human Rights Watch interview with male victim, December 2, 2014.

<sup>88</sup> Report on the Investigation of the Office of the Special Prosecutor for Crimes in Darfur on the alleged rape of 200 women in the Tabit, December 3, 2014, <http://www.refworld.org/docid/5492dd394.html> (accessed January 23, 2015); Mohamed Nureldin Abdallah, “Mission to Tabit,” November 20, 2014, <http://www.reuters.com/news/picture/2014/11/23/mission-to-tabit?articleId=USRTR4F2R5> (accessed January 23, 2014).

## IV. International Response

### African Union-United Nations Hybrid Operation in Darfur

UNAMID has not been able to credibly investigate the allegations of mass rape in Tabit.

Since reports of the attacks on Tabit surfaced, UNAMID has attempted to access Tabit numerous times. On November 4, UNAMID officials from Shangil Tobay attempted to go to Tabit but were denied entry by Sudanese military on the road into town.<sup>89</sup>

On November 9, a UNAMID Integrated Field Mission visited Tabit for several hours, interviewed “a variety” of residents, and then issued a news release stating that it “neither found any evidence nor received any information regarding the media allegations during the period in question.”<sup>90</sup>

The news release failed to convey the environment of fear and intimidation created by the presence of government security forces. According to three UNAMID internal reports about the investigation, the Sudanese army and military intelligence presence was ubiquitous; soldiers even videotaped UNAMID investigators conducting interviews. One UNAMID staff member present on the mission told Human Rights Watch: “People were afraid... [UNAMID] was not allowed to speak to people in private. Military and intelligence officers followed us everywhere.”<sup>91</sup>

Available information indicates that the investigation was compromised. One internal report stated that civilians in the town told investigators that a military commander had gathered residents the day before the investigation and told them not to talk to UNAMID. Numerous victims and witnesses also told Human Rights Watch that they had been warned

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<sup>89</sup> “UNAMID investigates alleged mass rape in North Darfur, calls for access,” UNAMID press release, November 5, 2014; Human Rights Watch interview with UNAMID staff present during the November 4 mission to Tabit, January 3, 2014.

<sup>90</sup> “UNAMID Verification Team Visits Tabit village to Investigate Mass Rape Allegations,” UNAMID press release, November 10, 2014; Human Rights Watch interview with UNAMID staff present during the November 9 mission to Tabit, December 28, 2014.

<sup>91</sup> Human Rights Watch interview with UNAMID staff present during the November 9 mission to Tabit, December 28, 2014.

by local government officials and traditional leaders not to speak to UNAMID, and several said they were afraid to speak.<sup>92</sup>

UNAMID has reportedly requested access to return to Tabit on a daily basis since the brief November 9 mission. However, the government has denied all subsequent requests.

The Tabit atrocities show the continuing and urgent need for a professional and independent force that can help protect civilian populations in Darfur from attack. It also underscores the reality that the current UNAMID force, for many reasons, has been hamstrung in its core mandate and performance.

The UN and AU (African Union) are currently reviewing UNAMID. The evaluation should focus on how to urgently improve and bolster the ability of UNAMID to protect people from the kinds of horrific abuses that occurred in Tabit, and effectively investigate human rights abuses without endangering victims and witnesses.

## **Governments and Inter-Governmental Organizations**

Many governments and inter-governmental organizations quickly condemned the reported rapes and called for an investigation and accountability. The UN secretary-general's special representative on sexual violence in conflict issued a statement of concern on November 7, and urged Sudan to allow UNAMID to investigate.<sup>93</sup> The United States issued a similar statement days later, noting that while Sudan did finally grant access, it did so only after significant delays and under scrutiny of security officials.<sup>94</sup> The European Union and Norway issued similar statements.<sup>95</sup>

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<sup>92</sup> Human Rights Watch interview (name withheld), male victim, November 5, 2014; Human Rights Watch interview with male witness (name withheld), December 2, 2014; Human Rights Watch interview with male witness (name withheld), December 4, 2014.

<sup>93</sup> "Darfur: UN envoy on sexual violence urges immediate access for probe into alleged mass rapes," UN News Centre, November 7, 2014, <http://www.un.org/apps/news/story.asp?NewsID=49282#.VKchxbdozct> (accessed January 23, 2015).

<sup>94</sup> "Government of Sudan Delays Access to Investigate Reports of Mass Rape in North Darfur," State Department Statement, November 12, 2014, <http://www.state.gov/r/pa/prs/ps/2014/11/233976.htm> (accessed January 23, 2015).

<sup>95</sup> "EU and Norway follow with concern the reported allegations of sexual violence in Darfur," November 12, 2014, [http://www.norway-sudan.org/News\\_and\\_events/Development-Cooperation/EU-and-Norway-follow-with-concern-the-reported-allegations-of-sexual-violence-in-Darfur/#.VML5rNLF98E](http://www.norway-sudan.org/News_and_events/Development-Cooperation/EU-and-Norway-follow-with-concern-the-reported-allegations-of-sexual-violence-in-Darfur/#.VML5rNLF98E) (accessed January 23, 2015).

On November 19, the Security Council issued a press statement calling on the government of Sudan to conduct an investigation and to allow UN investigators access to Tabit.<sup>96</sup> On December 12, the prosecutor of the ICC referenced the crimes in an appeal to the Security Council for help in enforcing the court's warrants against Sudan's President Omar al-Bashir and others facing charges for past crimes against humanity in Darfur. However, at that meeting, Russia endorsed Sudan's narrative denying any crimes occurred in Tabit, and other member states were ambivalent. The UNAMID news release on November 9 finding that no crimes were committed appeared to contribute to this ambivalence.

The Security Council should act to greatly improve civilian protection, including protecting women and girls from all forms of sexual violence, which was clearly highlighted by the events in Tabit. The council should speak with one voice and make clear to the Sudanese authorities that efforts to block peacekeepers from entering the town and to prevent UN investigators from doing their job will elicit targeted sanctions.<sup>97</sup> The council should consider a range of measures to improve protection for the villagers of Tabit, support independent investigations of the crimes, and take steps to ensure that UNAMID gains the resources, professionalism and political will to deter, prevent, and address abuses of the kind that occurred in Tabit.

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<sup>96</sup> United Nations Security Council Press Statement on Darfur, November 19, 2014, <http://www.un.org/press/en/2014/sc11658.doc.htm> (accessed January 29, 2015).

## V. Applicable Legal Standards

The Sudanese military's attacks on Tabit and its aftermath resulted in numerous serious abuses against the town's residents, including rape and other sexual violence, torture, arbitrary detentions and pillage. Soldiers claiming that they were responding to the killing or abduction of a Sudanese soldier raise additional concerns of unlawful reprisal and collective punishment. Sudan's response to the incident needs to include bringing to justice those responsible for war crimes and serious violations of human rights. The mass rapes and other crimes may also amount to crimes against humanity.

Under international law, the conflict between Sudan and opposition armed groups in Darfur is a non-international (internal) armed conflict in which all parties are bound by international humanitarian law (the laws of war). Sudanese state forces – the Sudanese Armed Forces (SAF), other security forces, and pro-government militias – and rebel groups are obligated to observe article 3 common to the four Geneva Conventions of 1949 (“common article 3”), the Second Additional Protocol of 1977 to the Geneva Conventions (Protocol II) applicable in non-international armed conflicts, and customary international humanitarian law.<sup>98</sup>

International humanitarian law forbids deliberately harming civilians and other persons no longer taking part in the hostilities, including incapacitated or captured combatants. It also provides rules on the conduct of hostilities to minimize unnecessary suffering. International human rights law is also applicable, including the International Covenant on Civil and Political Rights (ICCPR)<sup>99</sup> and the African Charter on Human and Peoples' Rights.<sup>100</sup> Human rights law prohibits violations of the right to life, torture and other cruel, inhuman and degrading treatment or punishment, arbitrary arrest and detention, and

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<sup>98</sup> Sudan became a party to the Geneva Conventions of 1949 in September 1957 and a party to Protocol II in July 2006.

<sup>99</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1996), 999 U.N.T.S. 171, entered into force March 23, 1976. Sudan ratified the ICCPR in March 1986.

<sup>100</sup> African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986. Sudan ratified the charter in September 1982.

unfair trials. It also provides for the rights to the protection of the home and family, and specific protection of children in times of armed conflict.<sup>101</sup>

In the context of hostilities occurring as part of armed conflict, international humanitarian law, as the *lex specialis* or specialized law, may take precedence but does not replace human rights law. Persons under the control of government forces or armed groups in an internal armed conflict must in all cases be treated in accordance with international humanitarian law, which incorporates important human rights standards.<sup>102</sup>

As discussed below, individuals may be held criminally responsible for violations of international humanitarian and human rights law. Serious violations of international humanitarian law committed deliberately or recklessly are war crimes. Human rights abuses committed as part of a widespread or systematic attack against any civilian population are crimes against humanity.

## Mistreatment of Persons in Custody

The mistreatment of detained persons is illegal under any circumstances according to both international humanitarian and human rights law. Common article 3 prohibits with respect to civilians and captured combatants: murder, mutilation, cruel treatment, and torture; taking of hostages; outrages upon personal dignity, including humiliating and degrading treatment; and the passing of sentences without a judgment pronounced by a regularly constituted court applying international fair trial standards.<sup>103</sup> Similar fundamental guarantees are provided under Protocol II.<sup>104</sup>

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<sup>101</sup> 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 September 2, 1990. Sudan ratified the convention in August 1990. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, G.A. Res. 54/263, Annex I, 54 U.N. GAOR Supp. (No. 49) at 7, U.N. Doc. A/54/49, Vol. III (2000), entered into force February 12, 2002. Sudan ratified the optional protocol in July 2005.

<sup>102</sup> The UN Human Rights Committee, the international expert body that monitors state compliance with the ICCPR, has stated that “the Covenant applies also in situations of armed conflict to which the rules of international humanitarian law are applicable. While, in respect of certain Covenant rights, more specific rules of international humanitarian law may be specially relevant for the purposes of the interpretation of Covenant rights, both spheres of law are complementary, not mutually exclusive.” Human Rights Committee, General Comment No. 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. 11.

<sup>103</sup> Common article 3 to the four Geneva Conventions of 1949.

<sup>104</sup> Protocol II, article 4.

International human rights law prohibits the arbitrary deprivation of life and, at all times, torture and other cruel, inhuman or degrading treatment.<sup>105</sup>

The Rome Statute of the International Criminal Court (ICC) prohibits serious violations of common article 3 as war crimes as well as other intentional attacks on civilians.<sup>106</sup>

## Rape and Other Sexual Violence

Rape and other forms of sexual violence that is committed in a non-international armed conflict violate international humanitarian and human rights law.

Common article 3 of the Geneva Conventions does not specifically prohibit rape and other sexual violence, but it does so implicitly by requiring humane treatment and prohibiting “violence to life and person,” cruel treatment, torture, mutilation, and “outrages upon personal dignity.”<sup>107</sup> Protocol II explicitly prohibits rape and “any form of indecent assault.”<sup>108</sup> Rape and other sexual violence are specifically prohibited as war crimes and crimes against humanity under the ICC Statute.<sup>109</sup>

International criminal courts have ruled that rape and other sexual violence may amount to torture. The international criminal tribunals for the former Yugoslavia and for Rwanda have found that rape per se meets the threshold for severity for torture because it necessarily incurs severe pain and suffering.<sup>110</sup> International human rights bodies have reached similar conclusions.<sup>111</sup>

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<sup>105</sup> See ICCPR, articles 5 and 7.

<sup>106</sup> Rome Statute of the International Criminal Court (ICC Statute), 2187 U.N.T.S. 3, *entered into force* July 1, 2002, article 8(2)(c & e).

<sup>107</sup> Common article 3 to the Geneva Conventions of 1949.

<sup>108</sup> Protocol II, article 4(2)(e).

<sup>109</sup> ICC Statute, art. 8(2)(e)(vi)(1-6).

<sup>110</sup> See, e.g. *Stanišić and Župljanin* ICTY Trial Judgment, 2013, para. 48; *Delalić*, ICTY Trial Judgment, para. 495; *Akayesu*, ICTR Trial Judgment, para. 682. In *Kunarac*, the ICTY found “sexual violence necessarily gives rise to severe pain or suffering, whether physical or mental, and in this way justifies its characterisation as an act of torture.” *Kunarac*, ICTY Appeals Judgment, para. 150. The tribunal also determined that the forced observer of rape of an acquaintance could be torture. *Furundžija*, ICTY Trial Judgment, 1998, para. 267.

<sup>111</sup> UN Committee against Torture, *T. A. v. Sweden*, UN Doc. CAT/C/34/D/226/2003, May 27, 2005, paras. 2.4, 7.3; Report of the Special Rapporteur on Torture, UN Doc. E/CN.4/1986/15, February 1986, 19, para. 119.

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.<sup>112</sup> The Committee on the Elimination of Discrimination against Women, which monitors state compliance with the Convention on the Elimination of All Forms of Discrimination against Women, 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.<sup>113</sup>

## Pillage and Looting

International humanitarian law prohibits the deliberate targeting of civilians and civilian objects, such as homes, schools, and places of worship.<sup>114</sup> Protocol II specifically bans attacks, destruction and removal of objects indispensable to the survival of the civilian population including foodstuffs, agricultural areas, crops, livestock, drinking water installations and supplies, and irrigation works.<sup>115</sup> Pillage (or looting) – the forcible taking of private property – is also prohibited.<sup>116</sup>

The ICC Statute prohibits as a war crime “[p]illaging a town or place, even when taken by assault.”<sup>117</sup>

## Reprisals and Collective Punishment

During the attacks on Tabit, Sudanese soldiers often tried to justify their actions against civilians on the basis of an alleged killing or capture of a Sudanese soldier. Belligerent reprisals are acts that would otherwise be unlawful acts of war but, when used as an enforcement measure in reaction to the unlawful acts of an adversary may, in exceptional

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<sup>112</sup> The ICCPR prohibits torture and other cruel, inhuman or degrading treatment (article 7) and protects women’s rights to be free from discrimination based on sex (articles 2(1) and 26). The African Charter likewise prohibits torture and other ill-treatment (article 5) and discrimination based on sex (article 2).

<sup>113</sup> UN Committee on the Elimination of Discrimination against Women, “*General Recommendation No. 19: Violence against women*,” 1992, available at: <http://www.refworld.org/docid/52d920c54.html> [accessed January 17, 2015].

<sup>114</sup> See International Committee of the Red Cross (ICRC), (Jean-Marie Henckaerts and Louise Doswald-Beck, eds.), *Customary International Humanitarian Law* (Cambridge, UK: ICRC, 2005), rule 7.

<sup>115</sup> Protocol II, article 14.

<sup>116</sup> Protocol II, article 4(2)(g).

<sup>117</sup> ICC Statute, article 8, (2)(e)(v).

cases, be permitted.<sup>118</sup> Under international law, parties to non-international armed conflicts, such as the conflict in Darfur, may not resort to belligerent reprisals, and the abuses carried out in Tabit would not be lawful reprisals even during an international armed conflict.<sup>119</sup>

Reprisals and collective punishment violate international humanitarian law prohibitions against the mistreatment of civilians and captured combatants. The *Commentaries* of the International Committee of the Red Cross on Protocol II and customary international law make clear that these broad prohibitions leave no room for reprisals in non-international armed conflict.<sup>120</sup>

Collective punishments are prohibited under international humanitarian law in all circumstances. The prohibition on collective punishments applies not only to criminal sanctions against persons for actions for which they do not bear individual criminal responsibility, but also to “all sanctions and harassment of any sort, administrative, by police action or otherwise.”<sup>121</sup>

## Individual Criminal Responsibility

### *War Crimes*

Serious violations of international humanitarian law, including murder, rape and other forms of sexual violence, and other mistreatment of persons in custody, when committed with criminal intent amount to war crimes. Criminal intent requires purposeful or reckless action. Individuals may also be held criminally liable for attempting to commit a war crime, as well as assisting in, facilitating, and aiding or abetting a war crime. Responsibility may

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<sup>118</sup> See ICRC, *Customary International Humanitarian Law*, rules 145 and 146.

<sup>119</sup> See ICRC, *Customary International Humanitarian Law*, rule 148. “For a belligerent reprisal to be lawful in an international conflict, it must be an exceptional measure carried out as a measure of enforcement against an adversary who has violated the laws of war; it must be a measure of last resort; it must be proportionate to the original violation; the decision to carry out the reprisal should be carried out at the highest level of government; and the reprisal must stop once the adversary has complied with the law.” Ibid, rule 145.

<sup>120</sup> See ICRC, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva: Martinus Nijhoff Publishers, 1987), pp. 1372-73, paras. 4530-36; ICRC, *Customary International Humanitarian Law*, rule 148.

<sup>121</sup> ICRC, *Customary International Humanitarian Law*, rule 103; *ICRC Commentaries on Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, para. 3055.

also fall on persons ordering, planning, or instigating the commission of a war crime.<sup>122</sup>

Commanders and civilian leaders may be prosecuted for war crimes as a matter of command responsibility when they knew or should have known about the commission of war crimes and took insufficient measures to prevent them or punish those responsible.<sup>123</sup>

Under international law, Sudan has an obligation to investigate alleged war crimes by its nationals, including members of its armed forces, and prosecute those responsible for war crimes.<sup>124</sup>

### *Crimes against Humanity*

The mass rape and other serious abuses by Sudanese army personnel in Tabit may be part of a widespread or systematic attack on a civilian population that amounts to crimes against humanity under international law.

Crimes against humanity were first codified in the charter of the Nuremberg Tribunal of 1945. The purpose was to prohibit crimes “which either by their magnitude and savagery or by their large number or by the fact that a similar pattern was applied...endangered the international community or shocked the conscience of mankind.”<sup>125</sup> Since then, the concept has been incorporated into a number of international treaties and the statutes of international criminal tribunals, including the Rome Statute of the ICC.<sup>126</sup> The definition of crimes against humanity varies slightly by treaty, but as a matter of customary international law the term “crimes against humanity” includes a range of serious human rights abuses committed as part of a widespread or systematic attack by a government or organization against a civilian population.<sup>127</sup>

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<sup>122</sup> See ICRC, *Customary International Humanitarian Law*, p. 554.

<sup>123</sup> See ICRC, *Customary International Humanitarian Law*, rule 153.

<sup>124</sup> See ICRC, *Customary International Humanitarian Law*, rule 158, citing ICC Statute, preamble.

<sup>125</sup> *History of the United Nations War Crimes Commission and the Development of the Laws of War* (1943), p. 179, quoted in Rodney Dixon, “Crimes against humanity,” in *Commentary on the Rome Statute of the International Criminal Court* (O. Triffterer, ed.) (1999), p. 123.

<sup>126</sup> ICC Statute, article 7.

<sup>127</sup> See Rodney Dixon, “Crimes against humanity,” in *Commentary on the Rome Statute of the International Criminal Court* (O. Triffterer, ed.) (1999), p. 122. This is the standard applied by article 7 of the ICC Statute.

Murder, torture and rape and other forms of sexual violence all fall within the range of acts that can qualify as crimes against humanity.<sup>128</sup> The annex to the ICC Statute states that elements to the crime against humanity of rape include:

1. The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force.<sup>129</sup>

Unlike war crimes, crimes against humanity may be committed in times of peace or in periods of unrest that do not rise to the level of an armed conflict. Crimes against humanity include only abuses that take place as part of an attack against a civilian population. So long as the targeted population is of a predominantly civilian nature, the presence of some combatants does not alter its classification as a “civilian population” as a matter of law.<sup>130</sup> Rather, it is necessary only that the civilian population be the primary object of the attack.<sup>131</sup> The entire population need not have been attacked, but only a sufficient number of people.<sup>132</sup> Thus, abuses by the Sudanese armed forces directed against civilians in Tabit even during the course of military operations can fall under the definition of crimes against humanity.

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<sup>128</sup> Murder and torture were among the core offenses that have been included within the definition of crimes against humanity at least since the adoption of the charter establishing the Nuremberg tribunal after World War II. Rape was not explicitly included in the charter’s definition of crimes against humanity in article 6(c) although it could be derived from that definition’s general prohibition against “other inhumane acts.” This ambiguity has been resolved in recent years; the statutes of the International Criminal Tribunals for Rwanda and the former Yugoslavia as well as the Rome Statute all explicitly include rape in the list of enumerated offenses that can constitute crimes against humanity. ICC Statute, article 7(1).

<sup>129</sup> ICC Statute, article 7(1)(g)-1,f (Elements of Crimes annex).

<sup>130</sup> See, e.g., *Prosecutor v. Naletilic and Martinovic*, International Criminal Tribunal for the former Yugoslavia (ICTY), Trial Chamber, March 31 2003, par. 235 (“The population against whom the attack is directed is considered civilian if it is predominantly civilian”); *Prosecutor v. Akayesu*, International Criminal Tribunal for Rwanda (ICTR), Trial Chamber, September 2, 1998, par. 582 (“Where there are certain individuals within the civilian population who do not come within the definition of civilians, this does not deprive the population of its civilian character”).

<sup>131</sup> See *Naletilic and Martinovic*, para. 235.

<sup>132</sup> See, e.g., *Blaskic*, ICTY Appeals Chamber, July 29, 2004, para. 105.

The attack against a civilian population underlying the commission of crimes against humanity must be widespread or systematic. It need not be both.<sup>133</sup> “Widespread” refers to the scale of the acts or number of victims.<sup>134</sup> Human Rights Watch believes the dozens of reported rapes as well as beatings severe enough to be torture by Sudanese soldiers against the civilian population of Tabit may amount to a “widespread” attack. All the residents of the town were affected by the attacks.

A “systematic” attack indicates “a pattern or methodical plan.”<sup>135</sup> International courts have considered to what extent a systematic attack requires a policy or plan. For instance, such a plan need not be adopted formally as a policy of the state.<sup>136</sup> Human Rights Watch cannot determine conclusively whether or not the serious abuses committed by the Sudanese armed forces on Tabit were systematic. However, the numerous instances of rape by soldiers over the course of three separate attacks on the town suggest a pattern to the attacks that does not indicate mere sporadic and unconnected events.<sup>137</sup>

Lastly, for individuals to be found culpable for crimes against humanity requires their having the relevant knowledge of the crime.<sup>138</sup> That is, perpetrators must be aware that their actions formed part of the widespread or systematic attack against the civilian population.<sup>139</sup> While perpetrators need not be identified with a policy or plan underlying crimes against humanity, they must at least have knowingly taken the risk of participating

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<sup>133</sup> See *Prosecutor v. Tadic*, ICTY Trial Chamber, para. 646 (“it is now well established that...the acts...can...occur on either a widespread basis or in a systematic manner. Either one of these is sufficient to exclude isolated or random acts.”).

<sup>134</sup> *Akayesu* defined widespread as “massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims,” *Prosecutor v. Akayesu*, ICTR Trial Chamber, September 2, 1998, para. 579; see also *Kordic and Cerkez*, ICTY Trial Chamber, February 26, 2001, para. 179; *Kayishema and Ruzindana*, ICTR Trial Chamber, May 21, 1999, para. 123.

<sup>135</sup> *Tadic*, para. 648. In *Kunarac, Kovac and Vokovic*, the ICTY Appeals Chamber stated that “patterns of crimes—that is the non-accidental repetition of similar criminal conduct on a regular basis—are a common expression of [a] systematic occurrence.” Para. 94.

<sup>136</sup> *Akayesu*, para. 580.

<sup>137</sup> See *Blaskic*, ICTY Trial Chamber, March 3, 2000, para. 204.

<sup>138</sup> See *Prosecutor v. Kupreskic et al.*, ICTY Judgment, January 14, 2000, para. 556.

<sup>139</sup> See *Kupreskic et al.*, ICTY Trial Chamber, January 14, 2000, para. 556: “[T]he requisite mens rea for crimes against humanity appears to be comprised by (1) the intent to commit the underlying offence, combined with (2) knowledge of the broader context in which that offence occurs.” See also *Tadic*, ICTY Appeals Chamber, para. 271; *Kayishema and Ruzindana*, ICTR Trial Chamber, May 21, 1999, paras. 133-34.

in the policy or plan.<sup>140</sup> An investigation into crimes against humanity in Tabit would have to address this element of the crime.

The Sudanese government has a legal obligation to prosecute and punish military and civilian officials responsible for the commission of crimes against humanity.<sup>141</sup> Individuals accused of crimes against humanity cannot avail themselves of the defense of following superior orders nor benefit from statutes of limitation. Because crimes against humanity are considered crimes of universal jurisdiction, all states are responsible for bringing to justice those who commit crimes against humanity. There is an emerging trend in international jurisprudence and standard setting that persons responsible for crimes against humanity, as well as other serious violations of human rights, should not be granted amnesty.

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<sup>140</sup> See *Blaskic*, ICTY Trial Chamber, March 3, 2000, para. 257. *Blaskic* (paras. 258-259) listed factors from which could be inferred knowledge of the context:

[a] the historical and political circumstances in which the acts of violence occurred; [b] the functions of the accused when the crimes were committed; [c] his responsibilities within the political or military hierarchy; [d] the direct and indirect relationship between the political and military hierarchy; [e] the scope and gravity of the acts perpetrated; [f] the nature of the crimes committed and the degree to which they are common knowledge.

<sup>141</sup> See, e.g., UN General Assembly Resolution 3074, "Principles of international cooperation in the detention, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity," December 3, 1973.

## **VI. Acknowledgments**

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# MASS RAPE IN DARFUR

## Sudanese Army Attacks Against Civilians in Tabit

Over the course of 36 hours beginning on October 30, 2014, Sudanese government soldiers carried out a series of attacks against the civilian population of the town of Tabit in North Darfur, Sudan. The attacks included the mass rape of women and girls, and the arbitrary detention, beating and ill-treatment of scores of people.

From research conducted in November and December 2014, *Mass Rape in Darfur* documents 27 first-hand accounts of rape, often by multiple perpetrators, and credible information about an additional 194 incidents of rape and other sexual violence in Tabit. The mass rape may amount to crimes against humanity. Crimes against humanity are serious offenses, including murder, torture and rape, committed as part of a widespread or systematic attack on a civilian population.

The government of Sudan has denied that any crimes occurred, and authorities have taken drastic measures to prevent information about the rapes and other abuses from becoming public. They have threatened, intimidated, beaten, detained, and tortured residents of Tabit to prevent them from speaking out about what took place. They have also repeatedly denied the United Nations—UNAMID, the African Union/United Nations Hybrid Operation in Darfur and other investigators, access to the town.

The United Nations and African Union should prioritize protection for the people of Tabit and press Sudan to immediately allow peacekeepers and investigators access, ensure a full, impartial investigation into the alleged crimes, and hold those responsible to account.



*A government military convoy on its way to Tabit town in North Darfur, Sudan, November 20, 2014.*

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