



SUDAN

# Darfur in the Shadows

The Sudanese Government's Ongoing Attacks  
on Civilians and Human Rights

HUMAN  
RIGHTS  
WATCH

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

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

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

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

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

27 Rue de Lisbonne  
75008 Paris, France  
Tel: +33 (1)43 59 55 35, Fax: +33 (1) 43 59 55 22  
paris@hrw.org

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

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



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## The Sudanese Government’s Ongoing Attacks on Civilians and Human Rights

<b>Summary .....</b>	<b>1</b>
<b>Methodology.....</b>	<b>3</b>
<b>Recommendations.....</b>	<b>4</b>
To the Government of Sudan .....	4
To the United Nations, African Union and Concerned Governments .....	4
<b>I. Background .....</b>	<b>6</b>
Next Phase: Darfur-based Political Process? .....	6
Demise of the Darfur Peace Agreement.....	9
<b>II. Renewed Fighting and Attacks on Civilians .....</b>	<b>11</b>
Khor Abeche, South Darfur, December 2010 .....	11
Shangil Tobayi and Dar el Salaam, North Darfur, December 2010 .....	13
Continued Clashes and Attacks on Civilians in 2011 .....	14
Lack of access and information .....	17
<b>III. Other Human Rights Violations.....</b>	<b>19</b>
Attacks on displaced persons camps.....	19
Sexual violence .....	20
Repression of free expression and assembly .....	20
Arbitrary arrests, detention and torture of Darfuri activists.....	21
<b>IV. No Accountability for Past or Current Abuses .....</b>	<b>24</b>
<b>V. The Darfur-based Political Process .....</b>	<b>26</b>
<b>Acknowledgments.....</b>	<b>28</b>



## Summary

As the people of Southern Sudan peacefully voted for secession from northern Sudan in January 2011, closing the book on a brutal civil war, the people of Darfur struggled to survive an armed conflict that now commands little international attention, despite renewed fighting in Darfur. Darfur's civilians continue to bear the brunt of clashes between Sudanese government forces and the rebel Sudan Liberation Army (SLA), an eight-year war that has killed tens of thousands of people and displaced two million more.

The renewed fighting since December 2010, recalling earlier years of Darfur's conflict, has resulted in scores of civilian casualties, destruction and looting of property, and the displacement of up to 70,000 people. It also brought familiar patterns of killings, sexual violence, and arbitrary arrests by Sudanese state security forces against Darfuri civilians, often based on ethnicity. The extent of human suffering is still not known, as the government continues to restrict access to much of Darfur by United Nations/African Union Mission in Darfur (UNAMID) peacekeepers and humanitarian aid organizations.

In the context of the southern referendum, which was the focus of international attention for much of the past year, and against the backdrop of seismic political change in North Africa, Sudan has largely escaped condemnation for continued atrocities in Darfur and repression of activists and political opponents throughout the country. Sudan, along with the United Nations (UN), African Union (AU), and concerned governments appear to have seized upon Southern Sudan's independence on July 9, 2011 and the political reconfiguration of Sudan, as a possible turning point for Darfur. In the process of adopting a new constitution after the south's secession, the government could, in theory, address a host of political grievances including those that have fuelled conflict in Darfur and other peripheral areas.

In April 2011, the UN and the AU announced support for concluding the current Doha peace talks and ushering in a new "domestic process." According to the UN, the so-called "Darfur-based Political Process" is a way for ordinary Darfuris to promote and implement the peace agreement negotiated between the government and rebel leaders at Doha, and overcome the 2006 Darfur Peace Agreement's lack of support from rebel groups and their constituencies. In the absence of an effective peace agreement, however, the goals of this process are not at all clear. Nor is it clear how the envisioned process will interact with the national political process leading up to adoption of a new constitution.

This report exposes the human dimension of increased fighting in Darfur over the past six months and ongoing repression of civil and political rights of Darfuris. It documents the impact of government-led ground and air attacks on civilians connected to the resumption of fighting, and other abuses by government security forces and allied militia. It also describes the failure of the government to provide accountability for any of these abuses.

Human Rights Watch does not take a position on how peace talks should be structured or sequenced, or who should be involved in them. However, the AU, UN, United States and other concerned governments should ensure the talks meaningfully address human rights issues and promote effective protection of affected populations.

They should take a firm and unified position, pressing Sudan to immediately end deliberate attacks on civilians, indiscriminate aerial bombing, and arbitrary detention and torture of activists. They should also hold Sudan to its public commitment to repeal emergency laws and press it to reform the National Intelligence and Security Service (NISS) – both key tools of government repression. They should also seek measurable progress on accountability for human rights violations, and cooperation with the International Criminal Court (ICC) on the prosecution of Darfur cases.

## **Methodology**

Research for this report was conducted between January and May 2011. Human Rights Watch researchers interviewed over 50 Darfuri witnesses and victims of attacks and human rights abuses, government officials, lawyers, and members of civil society in towns, villages, and displaced persons camps in North and South Darfur and Khartoum. Researchers also interviewed United Nations staff, humanitarian workers, and government officials, and reviewed published reports and confidential documents. Interviews were conducted both in-person and by e-mail and telephone correspondence. The names of many of the people interviewed have been withheld for their own security.

## **Recommendations**

### **To the Government of Sudan**

- End all attacks in Darfur in violation of international humanitarian law, including deliberate attacks on civilians and indiscriminate aerial bombings, and hold all those responsible to account, regardless of rank.
- End harassment, threats, and arbitrary arrest and detention of human rights activists, students and others who seek to exercise their right to freedom of expression. Release all detainees who have not been charged with a cognizable offense.
- End ill-treatment and torture of detainees.
- Remove immunities under the law for members of the state security forces and investigate and discipline or prosecute as appropriate those responsible for human rights abuses, including killings, torture and ill-treatment of detainees, and rape and other sexual violence.
- Repeal emergency laws as pledged by the president and reform the national security apparatus in line with Sudan's Interim National Constitution.
- Fulfill obligations, pursuant to UN Security Council resolution 1593, to cooperate with the ICC, including surrendering to the court those subject to ICC arrest warrants.
- Ensure unfettered access by UNAMID and humanitarian agencies to all parts of Darfur, including conflict zones, pursuant to the Status of Forces Agreement between Sudan and UNAMID, and international humanitarian law.

### **To the United Nations, African Union and Concerned Governments**

- Publicly and privately press the Sudanese government to meet its legal obligations under international human rights and humanitarian law, and end deliberate and indiscriminate attacks against civilians, torture, rape and looting.
- Call on the Sudanese government to ensure unfettered access by UNAMID peacekeepers and humanitarian actors to all parts of Darfur including those most affected by conflict.
- Endorse the UN demand that the Darfur-based Political Process only proceed on the basis of the Sudanese government creating an enabling environment that ensures the rights of participants, including freedom of speech, assembly, and movement, and protection from arbitrary arrest, intimidation and other interference by the government or armed movements.
- Increase UNAMID's human rights monitoring and reporting on violations of international human rights and humanitarian law, including on Sudan's progress to

create an enabling environment for any political process or peace agreement that the peacekeeping mission may be tasked to facilitate.

- Actively press the Sudanese government to implement the AU High-Level Panel on Darfur justice recommendations and to cooperate with the ICC.

## **I. Background**

Residents of South Sudan voted overwhelmingly for independence in the January 2011 referendum, called for by the 2005 Comprehensive Peace Agreement (CPA), which brought to an end two decades of conflict between northern and southern Sudan. The conflict resulted in the deaths of an estimated two million people. In accordance with the referendum, South Sudan will become an independent country on July 9, 2011, and the CPA's timeline will draw to a close. After this date, both Sudan and the newly independent South Sudan will adopt new constitutions.

While Sudan and South Sudan have aimed to resolve their longstanding differences, the Darfur peace negotiations continue to falter. The 2006 Darfur Peace Agreement (DPA) was concluded three years after the conflict in northern Sudan's Darfur region erupted, but it lacked credibility and did not hold, in part because it was signed by only one major rebel faction. Subsequent efforts to revive the peace process, including the current talks between the Sudanese government and rebel movements in Doha, Qatar, have not resulted in an agreement or a ceasefire.

Meanwhile, the situation in Darfur has deteriorated, with a resumption of armed conflict between the government and rebel forces in December 2010. Despite this, the government with support of the United Nations (UN) and the African Union (AU) appears to be moving ahead with the "Darfur-based Political Process," or DPP, a controversial plan to move the locus of talks to Darfur – ostensibly to engage Darfuris on political solutions to Darfur's conflicts. At the same time, the government is moving ahead, despite objections from rebel groups and leaders of displaced persons, with a referendum in July to determine the administrative status of Darfur.

### **Next Phase: Darfur-based Political Process?**

In early 2011, during the period of renewed fighting, the UN and AU, which oversee the United Nations/African Union Mission in Darfur (UNAMID), urged conclusion of the Doha talks and the starting of the next phase, the DPP, to be facilitated with support from the joint peacekeeping mission.

The goal of the DPP is to allow Darfuri stakeholders to be directly involved in supporting and implementing a peace agreement.<sup>1</sup> However, the UN and AU have expressed different visions of the process: the UN secretary-general urged the process be based on the outcome of the Doha negotiations, while the AU urged it to proceed concurrently, irrespective of Doha's outcome.

The impetus for this process, according to UN and AU reports, was the October 2009 report and recommendations of the AU High-level Panel on Darfur, which envisions a multi-track approach culminating in a global political agreement.<sup>2</sup> This approach was also reflected in Sudan's own Darfur strategy, released in September 2010. Dubbed by Khartoum as "Peace from Within," the strategy calls for a "domestication" of the peace process, with accelerated return of displaced communities and "early recovery" development projects.<sup>3</sup>

In contrast to the Doha-based peace talks between the government and rebels outside of Darfur with international mediators, the DPP aims to engage Darfuri civil society in a more indigenous and inclusive political process. Many critics, including rebel movements, opposition parties, displaced persons representatives, and human rights groups, have strenuously objected to the "domestication" strategy on grounds that the government, through the ruling National Congress Party (NCP), would manipulate and control it.<sup>4</sup>

Participation by interested civil society groups in the DPP is likely to be problematic. The proposed political process would likely be dominated by NCP and other pro-government legislators elected in the deeply-flawed national elections in 2010, along with governors and native administration leaders who back the government. The government has a history of undermining attempts to engage civil society in Darfur talks outside of Sudan.<sup>5</sup> It could do so

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<sup>1</sup> UN Security Council, "Report of the Secretary-General on the implementation of the Darfur political process," S/2011/252, April 15, 2011, <http://www.unhcr.org/refworld/docid/4db69b16375.html> (accessed May 18, 2011).

<sup>2</sup> African Union Panel on Darfur (AUPD) report, African Union, Peace and Security Council, 207th Meeting at the level of the heads of state and government, October 29, 2009, Abuja, Nigeria, PSC/AHG/2(CCVII), para. 297-316.

<sup>3</sup> "Toward a new strategy to Achieve Comprehensive Peace, Security and Development in Darfur," Office of the Presidential Advisor, September 2010, on file with Human Rights Watch.

<sup>4</sup> For critiques of the domestication strategy, see, e.g., Crisis Group, "Divisions in Sudan's Ruling Party and the Threat to the Country's Future Stability," Africa Report No. 174, May 4, 2011, <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/sudan/174-divisions-in-sudans-ruling-party-and-the-threat-to-the-countrys-future-stability.aspx> (accessed May 16, 2011); The Enough Project, "A roadmap for Peace in Darfur," February 2011, <http://www.enoughproject.org/publications/roadmap-peace-darfur> (accessed May 20, 2011).

<sup>5</sup> In 2009, the Sudanese government prevented civil society members from traveling to Addis Ababa, Ethiopia, for a conference, Mandate Darfur, resulting in cancellation of the conference. See statement, <http://www.mandatedarfur.org/en/> (accessed May 16, 2011).

even more expeditiously inside Sudan, where it routinely uses security forces to harass and arrest civil society and political party activists, journalists, and perceived opponents.

With many questions about the DPP still pending, UNAMID has set up a secretariat to oversee the process, while the UN and AU, and a group of special envoys to Sudan, have stressed the need for the Sudanese government to create the “enabling environment” for the process to be credible.<sup>6</sup>

The conditions outlined by the UN include respect for civil and political rights, freedom of speech, assembly, and of movement of participants and UNAMID, freedom from harassment, arbitrary arrest, and intimidation, and freedom from interference by government or armed movements. The UN has also called on Sudan to release political detainees, allow free expression, and undertake effective efforts to ensure accountability for serious violations of international human rights and humanitarian law.<sup>7</sup>

Sudan has not yet responded to these calls. President Omar al-Bashir pledged to abolish the emergency laws applicable in Darfur as an initial step, but has yet to do this or make any other recommended reforms.<sup>8</sup> In March, the government announced it will hold an administrative referendum in July to determine whether Darfur should be administered as one region or remain three states. Rebel movements and the US argued that this interferes with the Doha peace talks, where the status of Darfur is a key issue. Nevertheless, on May 14 the governor of North Darfur inaugurated the referendum offices in El Fasher.

In a further controversial move in May, the government created two additional states in central and southeast Darfur – which rebel groups and some observers view as an attempt to further weaken ethnic power bases through divide-and-rule tactics.<sup>9</sup>

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<sup>6</sup> UN Security Council, “Report of the Secretary-General on the implementation of the Darfur political process,” April 14, 2011, para. 18, 21.

<sup>7</sup> UN Security Council, “Statement by the President of the Security Council,” S/PRST/2011/8, April 21, 2011, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/PRST/2011/8](http://www.un.org/ga/search/view_doc.asp?symbol=S/PRST/2011/8) (accessed May 18, 2011); African Union Peace and Security Council Communiqué, PSC/PR/COMM. (CCLXXI), April 8, 2011, [http://www.au.int/fr/sites/default/files/FINAL%20%20PSC%20Communique%20-%20Sudan%208%20April%202011%20EN%20\\_2\\_.pdf](http://www.au.int/fr/sites/default/files/FINAL%20%20PSC%20Communique%20-%20Sudan%208%20April%202011%20EN%20_2_.pdf) (accessed May 18, 2011).

<sup>8</sup> UN Security Council, “Report of the Secretary-General on the implementation of the Darfur political process,” April 15, 2011, para. 22, 21.

<sup>9</sup> See, e.g., Small Arms Survey’s Sudan Human Security Baseline Assessment, “Darfur Peace Process,” March 2011, <http://www.smallarmssurveysudan.org/facts-figures-darfur-peace-process.php> (accessed May 20, 2011).

## Demise of the Darfur Peace Agreement

In December 2010, the Sudanese government and Sudan Liberation Army (SLA) rebels loyal to Minni Arko Minawi resumed armed conflict after four years of restive partnership. The SLA and the Justice and Equality Movement (JEM) had taken up arms against the government in 2003, opposing the government's marginalization and repression of Darfur's non-Arab communities.

Minawi, an SLA commander at the time, formed a new faction (SLA/Minawi) in 2004 when he split with SLA leader Abdel Wahid el-Nur. He was the only major rebel leader to sign the DPA in 2006. Under the terms of the DPA, Minawi has nominally participated in government since then as head of the Transitional Darfur Regional Authority (TDRA), the body established to implement the DPA, and as a senior assistant to President al-Bashir. Yet relations were often tense between Minawi and the government, particularly when he supported the call for a hybrid UN /AU peacekeeping mission in 2007, and on at least one occasion his forces clashed with government forces in Khartoum.<sup>10</sup>

Relations deteriorated even more after the April 2010 elections, particularly in November when Minawi refused to integrate his forces into the Sudan Armed Forces as required by the security accord of the DPA, which his faction signed in October 2010 after a four-year delay.<sup>11</sup> On December 3, a Sudan Armed Forces spokesperson declared Minawi an "enemy of the government," and on December 8, al-Bashir dismissed Minawi as chair of the TDRA, replacing him with the West Darfur governor.<sup>12</sup> Around the same time, security officials arrested 18 of the TDRA's staff, detaining five people for three weeks.<sup>13</sup>

On December 10, the government attacked an SLA-held area in South Darfur, triggering weeks of armed clashes between government and allied rebel forces that had a devastating impact on civilians. Minawi announced his withdrawal from the DPA on February 4, and called on armed forces to topple the government.<sup>14</sup> The fighting appears to have reunited

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<sup>10</sup> "Khartoum police, Darfur former rebels clash, 10 dead," *Sudan Tribune*, March 25, 2007, <http://www.sudantribune.com/Khartoum-police-Darfur-former,20953> (accessed May 18, 2011).

<sup>11</sup> UN Security Council, "Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur," S/2011/22, January 18, 2011, paras 12-14. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/205/51/PDF/N1120551.pdf?OpenElement> (accessed May 18, 2011).

<sup>12</sup> *Ibid.* para 14; "Bashir removes Minnawi from chairmanship of Darfur Transitional Authority," *Sudan Tribune*, December 5, 2010, <http://www.sudantribune.com/Bashir-removes-Minnawi-from,37181> (accessed May 9, 2011).

<sup>13</sup> Human Rights Watch interview with released detainee, El Fasher, North Darfur, January 2011.

<sup>14</sup> "Minawi announces withdrawal from Abuja Agreement," *Radio Dabanga*, February 4, 2011, <http://www.radiodabanga.org/node/9223> (accessed May 18, 2011).

some Darfur rebel groups. In mid-May, the two main SLA factions signed a pact stating their common goals of overthrowing the government.<sup>15</sup>

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<sup>15</sup> “Two rebel leaders sign alliance pact, vow to bring down Bashir’s regime,” *Sudan Tribune*, May 14, 2011, at <http://www.sudantribune.com/Two-rebel-leaders-sign-alliance,38905> (accessed May 18, 2011).

## II. Renewed Fighting and Attacks on Civilians

The deterioration of relations between the government and Minawi's SLA brought renewed clashes between their forces in mid-December. At the time of writing, the fighting continued intermittently and has featured ground attacks by soldiers, militia, and rebels, and an ongoing government campaign of aerial bombing.

All parties to the armed conflict in Darfur, including government forces and its allied militias and rebel armed groups, are obligated to abide by international humanitarian law, or the laws of war. The laws of war applicable in Sudan include the 1949 Geneva Conventions and its Additional Protocols, and customary international law. The laws of war require the humane treatment of all persons in custody and prohibit deliberate or indiscriminate attacks on civilians and civilian property. Prohibitions also include summary executions, torture, rape, and looting.

Recent fighting has killed scores of civilians, destroyed property and displaced an estimated 70,000 people from dozens of towns and villages between El Fasher and Nyala, and some ethnic Fur areas of eastern Jebel Mara, the mountainous rebel stronghold in central Darfur that has been the target of Sudanese government attacks for much of the past year.<sup>16</sup>

There has been an upsurge in abuses by government security forces, including assault, sexual violence, looting and arbitrary arrests, often based on ethnicity. Rebel groups have been responsible for retaliatory attacks. The patterns of attack show that the Darfur conflict continues to play on ethnic divisions, with government forces targeting the communities associated with rebels and rebel groups retaliating against those communities from which the government has recruited its security forces.

### **Khor Abeche, South Darfur, December 2010**

Renewed fighting began on December 10, when government forces carried out large-scale attacks on the SLA-controlled area of Khor Abeche and surrounding villages in the Shearia locality of South Darfur. The area is populated largely by ethnic Zaghawa, whom the government accuses of supporting Minawi.

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<sup>16</sup> "Sudan: Halt Waves of Attacks on Civilians in Darfur," Human Rights Watch news release, November 11, 2010, <http://www.hrw.org/en/news/2010/11/11/sudan-halt-wave-attacks-civilians-darfur>.

One eyewitness, Adam A., 50, told Human Rights Watch that on December 10 he saw an Antonov airplane flying over the village, followed by 15 military vehicles carrying uniformed soldiers and accompanied by militia members on horse and camel. He said the soldiers went to an SLA police post in the center of town and encountered one rebel, then proceeded to the market, looting shops and beating civilians with sticks. Among those injured were his wife, who sustained injuries to her head, and many other women, children, and elderly people.<sup>17</sup>

A 30-year-old mother of four gave a similar account: “The soldiers went to the market and started beating people, including women and old men, with sticks and the butts of their guns. I was able to take my children and some clothes and flee. All our remaining things were completely burned.”<sup>18</sup>

Witnesses told Human Rights Watch that approximately 20 SLA rebels were present in the market at the time of the attack, but that most of the forces had left the area in November when Minawi’s relations with the government began to sour.

The following day, December 11, a convoy of government soldiers again arrived on the outskirts of town, and shot into populated areas with mounted machine guns. During this attack, they killed two civilians and injured more than a dozen others. Witnesses said the army was accompanied by Popular Defense Forces, an auxiliary force that has absorbed many of the so-called “Janjaweed” militia.

The attacks and clashes also caused massive damage to civilian property, with more than 60 homes reported burned in Khor Abeche, including that of the *umda*, or community leader.<sup>19</sup> Government and rebel forces again clashed on December 17 and 18, causing more property destruction and displacement of the population.

Around the same time, SLA and JEM forces reportedly counter-attacked a Popular Defense Forces base. Rebel attacks on Nigaa and Jaghara and surrounding villages in southern North Darfur killed 16 men and injured several others, according to people from the Birgid community and government sources interviewed by Human Rights Watch in January. Attackers reportedly burned homes and destroyed farming equipment and water sources.

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<sup>17</sup>Human Rights Watch interview with displaced persons in Manawashi, South Darfur, January 5, 2011.

<sup>18</sup>Human Rights Watch interview with displaced persons in Manawashi, South Darfur, January 3, 2011.

<sup>19</sup>Human Rights Watch interviews, Nyala, South Darfur, February 2, 2011, and at Direig displaced persons camp, South Darfur, on March 29, 2011.

The fighting displaced an estimated 12,000 people from the area, with about 10,000 taking refuge near the UNAMID compound in Khor Abeche. Some villagers told Human Rights Watch they fled initially to Wadi Hiraz, but government aerial bombardments drove them back to the UNAMID compound at Khor Abeche until they made their way to other camps.<sup>20</sup>

Human Rights Watch also received credible reports that government forces shot at civilians moving toward the UNAMID compound, presumably to prevent them from entering, and that government troops positioned themselves in front of the camp, also in an apparent effort to block civilians seeking safety.<sup>21</sup>

### **Shangil Tobayi and Dar el Salaam, North Darfur, December 2010**

Shortly after the December attacks on Khor Abeche, rebels ambushed a government convoy carrying the governor of North Darfur, Ismail Kibir, near Shangil Tobayi, North Darfur. In response, the government declared the area a military operational zone and sent forces to Shangil Tobayi and Dar el Salaam – both of which host largely ethnic Zaghawa communities, and have also been under the control of SLA since the beginning of the Darfur conflict.

Starting December 17, government and allied militia attacked civilians, including displaced persons living in settlements around Shangil Tobayi. They burned down houses in the predominantly ethnic Zaghawa part of the town on December 22.<sup>22</sup> From December 23 to 25, government forces also attacked villages around Jebel Ateen, an area south of Shangil Tobayi.<sup>23</sup>

Residents reported to UNAMID staff and community leaders dozens of cases of arbitrary arrest, rape and sexual violence, and looting targeting Zaghawa populations, both during and after the December violence.<sup>24</sup> A 25-year old Zaghawa man told Human Rights Watch that on January 27 soldiers arrested him at his home in Tabeldiat village, east of Shangil Tobayi. He said they took him to a military camp, held him for four days, before being

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<sup>20</sup> Human Rights Watch interviews at Direig displaced persons camp, South Darfur, on March 29, 2011.

<sup>21</sup> Human Rights Watch interviews at Menawashi displaced persons camp, South Darfur, on January 3, 2011.

<sup>22</sup> African Centre for Justice and Peace Studies, “Rendered Invisible: Darfur Deteriorates as International Pressure Shifts to the Referendum Process,” February 2011, [http://www.acjps.org/Publications/Reports/2011/Rendered%20Invisible\\_DarfurDeterioratesasInternationalPressureShiftstoReferendum%20Process.pdf](http://www.acjps.org/Publications/Reports/2011/Rendered%20Invisible_DarfurDeterioratesasInternationalPressureShiftstoReferendum%20Process.pdf) (accessed May 18, 2011).

<sup>23</sup> Confidential UNAMID reports, December 2010, seen by Human Rights Watch.

<sup>24</sup> Ibid.

transferred to El Fasher, where they interrogated him repeatedly and held him along with more than 80 other young men until February 6, when they released him and 20 other men.<sup>25</sup>

On December 21, according to a *sheikh*, or community leader, in New Shangil Tobayi, a group of about 20 soldiers surrounded and ransacked his home, demanded to know his tribe, and threatened to “kill all of them [Zaghawas] and rape all their women.”<sup>26</sup> As they left, the soldiers stole his farming equipment and abducted his 22-year-old cousin whom they suspected to be an SLA/M member.

On December 22, three government soldiers forcibly entered a civilian home in Shangil Tobayi, stole money and raped a 17-year-old girl, requiring her to seek medical attention.<sup>27</sup>

Human Rights Watch also received reports of armed clashes on December 23 between rebels and government forces at Dar el Salam, followed by more fighting and government bombing in the area.<sup>28</sup> A UNAMID convoy visiting areas east of Shangil Tobayi in January found unexploded ordnance from aerial bombing.<sup>29</sup>

The December fighting and attacks on towns in North and South Darfur killed more than 20 civilians, possibly many more. The attacks also displaced more than 40,000 people, many of whom were already living in displacement. Thousands of civilians took refuge near UNAMID team sites in Khor Abeche, Shangil Tobayi, and Shaeria before moving on to other camps.<sup>30</sup>

### **Continued Clashes and Attacks on Civilians in 2011**

Through early 2011, government forces continued to clash with rebels and attack civilian areas in North and South Darfur. Government airstrikes in dozens of locations killed and wounded civilians and destroyed civilian property. Government forces also struck further

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<sup>25</sup> Human Rights Watch interview with detainee, El Fasher, North Darfur, March 4, 2011.

<sup>26</sup> Confidential UNAMID reports, December 2010, seen by Human Rights Watch.

<sup>27</sup> Confidential UNAMID reports, December 2010, corroborated by Human Rights Watch interviews conducted in El Fasher, January 3, 2011.

<sup>28</sup> United Nations Security Council, “Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur,” January 18, 2011.

<sup>29</sup> Government Searches IDP Camp in El Fasher,” UNAMID press release, January 23, 2011, <http://unamid.unmissions.org/Default.aspx?tabid=899&ctl=Details&mid=1072&ItemID=12090> (accessed May 18, 2011).

<sup>30</sup> UN Security Council, “Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur,” January 18, 2011.

west toward Jebel Mara, the rebel-held stronghold in central Darfur, which the government had repeatedly attacked in 2010.<sup>31</sup>

On January 24 and 25, government and rebel forces battled severely at Tabit, a town 45 kilometers west of El Fasher, and surrounding areas. The fighting there included ground clashes and airstrikes, and reportedly destroyed eight villages and caused thousands of civilians to flee the area. UNAMID was not able to access the area to assess the impact on civilians in following days because of the government's continual aerial bombing.<sup>32</sup>

In early February, a large military convoy carrying about 100 soldiers stopped in Eid el Beda, near Dar el Salaam in North Darfur, interrogated villagers about the locations of SLA forces, and carried out a house-to-house search. Witnesses told Human Rights Watch that about half an hour after the convoy left the village, pro-government armed militia arrived.

Ahmed M., 60, told Human Rights Watch how on February 3 the militia forces surrounded his village, looted property, arrested a group of Zaghawa men, and shot six of them dead:

They surrounded the village and some of them started arresting the Zaghawa men and took them under the trees while others began collecting animals and valuable things from inside the houses... Three were released after one hour and six others were shot to death in front of their relatives.<sup>33</sup>

Human Rights Watch has not independently confirmed the killings. Displaced persons living near Abu Delek told a UN assessment team in mid-April that they had fled the February 3 attack on Eid el Beda and surrounding areas, and that the militia had burned two villages.<sup>34</sup>

The witnesses described the militia as comprising ethnic Berti, Birgid, and Mima – all groups recruited by the government into its security forces, underscoring the ethnic dimension of the conflict.<sup>35</sup> Witnesses to other attacks in this area in February and March gave similar accounts of attackers including militiamen drawn from ethnicities aligned to the government.

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<sup>31</sup> “Sudan: Halt Waves of Attacks on Civilians in Darfur,” Human Rights Watch news release, November 11, 2010, <http://www.hrw.org/en/news/2010/11/11/sudan-halt-wave-attacks-civilians-darfur>.

<sup>32</sup> UNAMID Briefings and Statements, January 27, 2011, <http://unamid.unmissions.org/Default.aspx?tabid=900&ctl=Details&mid=1073&ItemID=12139> (accessed May 18, 2011).

<sup>33</sup> Human Rights Watch interview with displaced community leaders, El Fasher, February 24, 2011.

<sup>34</sup> UNOCHA, Sudan Weekly Humanitarian Bulletin, April 8 – 14, 2011, <http://ochaonline.un.org/Default.aspx?alias=ochaonline.un.org/sudan>. (accessed May 18, 2011).

<sup>35</sup> Human Rights Watch interviews with displaced community leaders, El Fasher, North Darfur, February 24, 2011.

In the second half of February, more clashes and bombing were reported at Wadi Mora, north of Shangil Tobayi, and surroundings, and in locations near Jebel Mara and in South Darfur.<sup>36</sup> In late February, government ground and air forces reportedly attacked many Zaghawa villages in the area, including Linda, Hillet Disha and Abu Hamra.

Ibrahim K., a 35-year-old man from Linda, told Human Rights Watch that on February 23:

I heard two gunshots at the northeastern side of the village, then five minutes later more shooting from all directions. We saw large numbers of troops surrounding the village, most of them dressed in green military uniforms and riding in small pickup trucks mounted with machine guns.

The soldiers and allied militia went house-to-house asking people their tribes, looting their livestock and destroying homes. They arrested three people, one of whom, a 16-year-old shepherd boy, was found beaten to death outside of the village.<sup>37</sup> One woman was seriously injured on the head when she tried to prevent militia from stealing her sheep.<sup>38</sup>

The government also dropped bombs in the corridor between Tabit and East Jebel Mara, such as on Tadarni, Tukumare, Nimraya and Korofulla, killing and wounding an unknown number of civilians.<sup>39</sup> A UNAMID patrol to Kushiny, southeast of Tawilla, found unexploded ordnance from the bombing, and on March 2, a UN mine action team cleared more than 50 unexploded munitions in the area.<sup>40</sup>

The fighting in early 2011 displaced tens of thousands of civilians. On March 17, the UN's humanitarian coordinator, Georg Charpentier, stated that since December more than 70,000 people had fled to about 10 different displaced persons camps or settlements, the majority

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<sup>36</sup> United Nations Mission in Sudan, "Report of the Secretary-General on the Sudan," S/2011/244, April 14, 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/298/91/PDF/N1129891.pdf?OpenElement> (accessed May 18, 2011), para 15.

<sup>37</sup> Human Rights Watch interview with witnesses, Abu Hamra village, North Darfur, March 2, 2011.

<sup>38</sup> Ibid.

<sup>39</sup> UNAMID Briefings and Statements, March 3, 6, 7, 14, 2011, <http://unamid.unmissions.org/Default.aspx?tabid=900&currentpage=8> (accessed May 18, 2011).; See also, "Sudanese army attack rebel positions in Darfur Jebel Marra" Sudan Tribune, March 10, 2011, <http://www.sudantribune.com/Sudanese-army-attack-rebel,38242> (accessed on May 8, 2011).

<sup>40</sup> UNAMID Briefings and Statements, February 27 and March 3, 2011, <http://unamid.unmissions.org/Default.aspx?tabid=900&ctl=Details&mid=1073&ItemID=12431> and <http://unamid.unmissions.org/Default.aspx?tabid=900&ctl=Details&mid=1073&ItemID=12496> (accessed May 18, 2011).

to Zamzam camp, placing a strain on basic services.<sup>41</sup> Many of the displaced had already been living in camps as a result of earlier conflicts.

Since late March, more fighting has been reported in northern North Darfur, eastern Jebel Mara, and in South Darfur at Khirwajed near Labado, where government aerial bombing on March 26 injured 13 people.<sup>42</sup> Witnesses told Human Rights Watch that a white aircraft dropped bombs on the village, which burned some homes and killed livestock.<sup>43</sup> In late April, a Darfur radio station reported more than 20 additional civilian deaths resulting from air strikes in Jebel Mara.<sup>44</sup> In mid-May, credible sources told Human Rights Watch eight more civilians were killed by aerial bombings in South Darfur.<sup>45</sup> UNAMID peacekeepers were denied access to the areas to assess the impact of the bombing.<sup>46</sup> In late May, the peacekeepers reported ten more people had been killed by bombing in North Darfur. Overall, the full impact of the air strikes and fighting on civilian populations remains unknown.

### **Lack of access and information**

Sudan continues to restrict UNAMID peacekeepers and humanitarian organizations from accessing large swathes of territory in Darfur, seriously undermining efforts to protect and monitor civilians affected by the fighting.

Despite its efforts to increase patrols, the government has kept UNAMID out of conflict zones, usually on the pretext that the affected areas are insecure. On average this year, and depending on the number of attempts made by UNAMID, the government blocked more than a dozen ground patrols per month (more than 20 in January) in defiance of the Status of Forces Agreement granting the peacekeepers access to the whole area.

These restrictions persist in spite of temporary access granted to some locations, including in Jebel Mara where after more than a year of international pressure the government allowed

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<sup>41</sup> UNOCHA Sudan Weekly Humanitarian Bulletin, March 11-17, 2011, <http://ochaonline.un.org/Default.aspx?alias=ochaonline.un.org/sudan> (accessed May 18, 2011).

<sup>42</sup> UNAMID Briefings and Statements, March 28, 2011, <http://unamid.unmissions.org/Default.aspx?tabid=900&ctl=Details&mid=1073&ItemID=12884> (accessed May 18, 2011); Human Rights watch interviews with victims of bombing, Nyala, South Darfur, April 1, 2011.

<sup>43</sup> Human Rights watch interviews with victims of bombing, Nyala, South Darfur, April 1, 2011.

<sup>44</sup> “18 women and 9 children killed in air strike in Jebel Mara, Darfur,” *Radio Dabanga*, April 28, 2011, <http://www.radiodabanga.org/node/13722> (accessed May 18, 2011).

<sup>45</sup> Human Rights Watch telephone interview with researcher in South Darfur, May 16, 2011.

<sup>46</sup> UNAMID Briefings and Statements, “Peacekeepers denied access to air strike locations,” May 17, 2011, <http://unamid.unmissions.org/Default.aspx?tabid=900&ctl=Details&mid=1073&ItemID=13628> (accessed May 20, 2011).

access for a three-week trial period.<sup>47</sup> The restrictions not only prevent UNAMID from effectively carrying out its protection of civilians mandate in areas most affected by conflict, but also from being effective monitors.

Other humanitarian organizations also face restrictions through often more hostile means, such as arrest and detention of national and international staff, and expulsion of the latter. In March 2009, shortly after ICC issued an arrest warrant for President Omar al-Bashir, the government expelled 13 aid groups and closed down three Sudanese human rights groups.

In 2010, the government expelled key staff of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees who were involved in overseeing programs to facilitate the return of displaced persons. In February 2011, the government expelled, Médecins du Monde, the only medical organization providing services in Jebel Mara, and has repeatedly threatened to expel another group from West Darfur involved in food distribution.<sup>48</sup>

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<sup>47</sup> UNAMID news release, “UNAMID announces major humanitarian initiative to expand humanitarian access in North and West Darfur,” May 1, 2011, <http://unamid.unmissions.org/Default.aspx?tabid=899&ctl=Details&mid=1072&ItemID=13420> (accessed May 8, 2011).

<sup>48</sup> UNOCHA Weekly Humanitarian Bulletin, February 11-17, 2011, <http://ochaonline.un.org/Default.aspx?alias=ochaonline.un.org/sudan> (accessed May 18, 2011).

### III. Other Human Rights Violations

#### Attacks on displaced persons camps

In the context of the renewed hostilities, government security forces conducted search-and-cordon operations in displaced persons camps at Shangil Tobayi, Tawilla and Zamzam in North Darfur whose residents are mostly Zaghawa and considered supporters of Minni Minawi.<sup>49</sup>

During a security operation on January 23 in Zamzam camp, police and security forces entered civilian homes, looted property and beat people, killing one man. They also detained more than 37 people, holding many for a period of two weeks before releasing them without charge.

In March, government forces carried out another operation, arresting 19 people and releasing most the same day.<sup>50</sup> One camp resident told Human Rights Watch that a group of soldiers and central reserve police drove into the camp on March 24 and arrested him, dragging him into their Land Cruiser where they interrogated him for several hours and seriously beat him, requiring him to seek medical treatment.<sup>51</sup>

In Shangil Tobayi on January 27, approximately 200 soldiers in 40 vehicles surrounded UNAMID camp's exit and an adjacent camp where thousands of displaced persons settled after the December clashes. They arrested four people and threatened to burn down the camp and UNAMID's team site.<sup>52</sup>

The abuses by the security forces against the displaced persons camps recall past incidents in South Darfur's Kalma camp, most notably in 2008 when government forces carried out a violent disarmament operation that resulted in the death of more than 30 displaced persons.<sup>53</sup> Beyond the illegality of these raids, they violate the Status of Forces Agreement

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<sup>49</sup> United Nations Mission in Sudan, "Report of the Secretary-General on the Sudan," April 14, 2011, para 17.

<sup>50</sup> Ibid., para. 33.

<sup>51</sup> Human Rights Watch interview with victim, El Fasher, April 5, 2011.

<sup>52</sup> UNAMID Briefings and Statements, Jan. 27, 2011, <http://unamid.unmissions.org/Default.aspx?tabid=900&ctl=Details&mid=1073&ItemID=12139> (accessed May 18, 2011).

<sup>53</sup> United Nations Office of the High Commissioner on Human Rights, Eleventh periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan, "Killing and injuring of civilians on 25 August 2008 by government security forces: Kalma IDP camp, South Darfur, Sudan," January 23, 2009, <http://www.ohchr.org/Documents/Countries/11thOHCHR22jan09.pdf> (accessed May 19, 2011).

between the government and the UN requiring the government to give notice of actions related to displaced persons camps.

## **Sexual violence**

Since the renewed fighting started in December 2010, government forces were responsible for rapes and other sexual violence, especially against displaced women and girls.

On December 22, in the context of attacks on Shangil Tobayi area, three soldiers raped a 17-year-old girl.<sup>54</sup> On February 18, two soldiers from Abu Zerega military camp abducted and raped a 10-year-old girl while she was herding sheep with her uncle to Zamzam displaced persons camp. They were fleeing fighting in the area of Wadi Mora.<sup>55</sup>

On March 22, armed police forcibly abducted four women from their home in Hillet Jedeed, near Shangil Tobayi, and detained them overnight. Two of the men raped the youngest, a 25-year-old women, and tied her and one of the others with rope and subjected all of them to beatings. The women had returned to their village from Zamzam displaced persons camp to collect belongings after fleeing fighting in January.<sup>56</sup>

The government has not arrested any of the perpetrators of these attacks. As Human Rights Watch has extensively documented, the government has not taken steps, such as lifting legal immunities for crimes by soldiers and police, that are needed to hold soldiers or allied militia criminally accountable.<sup>57</sup>

## **Repression of free expression and assembly**

In Darfur, as throughout northern Sudan this year, authorities have violently repressed various demonstrations and pro-democracy protests organized by student groups inspired by the uprisings in Egypt and Tunisia. The government crackdown has violated the basic rights of Sudanese to freedom of expression, association and peaceful assembly.

In one example, on March 16, security forces surrounded El Fasher University and fired at students who were peacefully protesting a ban on political activities, killing at least one

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<sup>54</sup> Confidential UNAMID reports, December 2010, corroborated by Human Rights Watch interviews conducted in El Fasher, January 3, 2011.

<sup>55</sup> Human Rights Watch interviews with witnesses, El Fasher, March 4, 2011.

<sup>56</sup> Confidential UNAMID report, dated March 29, seen by Human Rights Watch.

<sup>57</sup> Human Rights Watch, *Five Years On: No Justice for Sexual Violence in Darfur*, ISBN: 1-56432-303-X, April 2008, <http://www.hrw.org/en/reports/2008/04/06/five-years-o>.

student and arresting several others.<sup>58</sup> In an earlier incident in January, central reserve police in El Fasher used excessive force to disperse student protesters, wounding three high school students seriously.<sup>59</sup>

Government security forces have frequently arbitrarily arrested protesters and detained them for days or weeks, ill-treating and torturing them before releasing them without charge. For instance, national security authorities arrested more than 100 protesters in the last three days of January in Khartoum and Omdurman, and detained several dozens for weeks in the Bahri office compound and subjected them to beatings, sleep deprivation, electric shock, and other forms of physical and mental abuse including death threats and threats of rape.<sup>60</sup>

On April 20, security forces surrounded Nyala University and arrested more than 100 people, mostly students, who were calling for an end to the conflict in Darfur and justice for President al-Bashir, who is wanted for war crimes by the ICC. Although the authorities released most of the protesters the same day, they held five students without charge, releasing four on May 7. One of the released detainees told Human Rights Watch the authorities beat him severely on the head and hands during interrogations.<sup>61</sup>

In late April, security and military forces in Nyala again arrested and detained peaceful protesters. They used tear gas and batons to disperse similar protests inside displaced persons camps in West and North Darfur, resulting in scores of injuries and arrests.<sup>62</sup> National security officials arrested six people, including three youth, in camps in El Fasher, North Darfur, on April 28, charging them with crimes of “rioting” and “disturbing the public order.”<sup>63</sup>

### **Arbitrary arrests, detention and torture of Darfuri activists**

One of the primary tools of government repression in Sudan is the National Security and Intelligence Service (NISS), which uses its broad powers to harass, intimidate, arrest and

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<sup>58</sup> Human Rights Watch interviews with lawyers and witnesses in El Fasher, April 5, 2011.

<sup>59</sup> Confidential UNAMID reports, January 2011, corroborated by Human Rights Watch interviews in El Fasher in February 2011.

<sup>60</sup> “Sudan: Violent Response to Peaceful Protests,” Human Rights Watch news release, February 3, 2011, <http://www.hrw.org/en/news/2011/02/03/sudan-violent-response-peaceful-protests>.

<sup>61</sup> Telephone interview with victim in South Darfur, May 9, 2011.

<sup>62</sup> “Thousands protest across Darfur demanding downfall of regime,” *Radio Dabanga*, April 29, 2011, <http://www.radiodabanga.org/node/13757>; “22 people wounded in protests in Zalingei and Abu Shouk camps in Darfur,” *Radio Dabanga*, April 30, 2011, <http://www.radiodabanga.org/node/13796> (accessed May 8, 2011).

<sup>63</sup> Amnesty International, Urgent Action, “Children Detained, Tortured, After Protest,” May 9, 2011, <http://www.amnesty.org/en/library/info/AFR54/013/2011/en> (accessed May 18, 2011).

detain human rights activists, journalists, and those who speak out against the ruling National Congress Party or those who are suspected of links to rebel movements.

Other security forces, such as military and police officials, also carry out arrests, then transfer detainees into NISS custody. NISS is well-known for ill-treating and torturing political detainees, documented in many cases by Human Rights Watch including the January crackdown on peaceful protesters.<sup>64</sup>

The security forces have targeted Darfuri activists for detention and torture. In late October and early November 2010, for example, NISS arrested a group of 13 Darfuri journalists and human rights activists and detained them in their Khartoum offices before transferring them to Kober prison. Authorities released 10 of the group in January but then re-arrested others; six currently remain in detention. Those who were released reported being subjected to beatings and other ill-treatment and torture while in detention.<sup>65</sup> One former detainee, who was released in January, recounted:

“They beat us all over our bodies with water pipes. They put us in a room and continued to beat us for two days. They told us, ‘You will never see the sun and we will kill you.’ [...] They asked me about my address, my tribe and when I told them Zaghawa they used very abusive racist language. They said to me, ‘You think you want to rule this country, have you ever seen someone from western Sudan become a president?’ and they accused me of being a spy.”<sup>66</sup>

Inside Darfur, security officials have targeted activists in the displaced persons camps. For example, in the evening of May 6, security officials arrested a young community activist, Hawa Abdallah, for unknown reasons and have since transported her to Khartoum where she remains without access to family members or legal counsel.<sup>67</sup>

Security officials also arrested those who criticized the government during a visit by the UN Security Council delegation to the Abu Shouk camp in October 2010. Two of them –

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<sup>64</sup> “Sudan: Protesters Describe Torture by Security Officers,” Human Rights Watch news release, March 4, 2011, <http://www.hrw.org/en/news/2011/03/04/sudan-protesters-describe-torture-security-officers>.

<sup>65</sup> Human Rights Watch interviews with former detainees, Khartoum. March and April, 2011.

<sup>66</sup> Human Rights Watch interview with former detainee, Khartoum, March 18, 2011.

<sup>67</sup> “Sudan: Free Female Activist,” Human Rights Watch news release, May 11, 2011, at <http://www.hrw.org/en/news/2011/05/11/sudan-free-female-activist>

Mohammed Abdallah Mohammed Alhaj and Abdallah Ishag Abdelrazik – remain in detention in Shalla prison, El Fasher.<sup>68</sup>

In South Darfur, security officers arrested two women on December 5 and 6, and charged them with crimes against the state. The evidence against them included a doctored photograph of al-Bashir in handcuffs, and notes about the conflict in Darfur, including witness testimonies. The authorities released the women in February 2011, but their cases are still pending.<sup>69</sup>

According to the Darfur Bar Association, 64 Darfuri civilians are currently detained in prisons in Darfur and Khartoum arbitrarily without charge, some for prolonged periods in violation of Sudan's own National Security Act of 2010, which allows for detention without judicial review for up to four and a half months.<sup>70</sup> The Darfur lawyers alleged that one detainee, a 30-year-old pro-democracy activist from Zalingei has been arbitrarily detained since July 2008 during a peaceful protest following the Justice and Equality Movement attack on Omdurman in May 2008, and is in urgent need of medical treatment.<sup>71</sup> In May 2011, the minister of justice appointed a representative to investigate allegations of unlawful detentions of Darfuris.<sup>72</sup>

The 1997 Emergency and Public Safety Act, which authorizes the executive branch to detain people indefinitely without any judicial review, is used in Darfur. Since August 2009, authorities in North Darfur have held a group of displaced persons who were initially arrested in connection with the murder of a sheikh, then re-arrested under the emergency laws, without charge for long periods; four remain in detention. Detainees in El Fasher's Shalla prison told Human Rights Watch that more than 20 people are being held there under emergency laws, some without access to family members or legal counsel.<sup>73</sup>

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<sup>68</sup> Human Rights Watch interview with detainees, El Fasher, North Darfur, March 5, 2011.

<sup>69</sup> Human Rights Watch correspondence with Darfuri lawyers, May 2, 2011.

<sup>70</sup> Darfur Bar Association Statement in Arabic, on file with Human Rights Watch.

<sup>71</sup> "Arbitrary Arrest and Detention in Sudan," Darfur Relief and Documentation Centre, April 27, 2011, [http://www.darfurcentre.ch/images/oo\\_DRDC\\_documents/SARAH/Arbitrary\\_detention\\_in\\_Sudan.pdf](http://www.darfurcentre.ch/images/oo_DRDC_documents/SARAH/Arbitrary_detention_in_Sudan.pdf) (accessed May 20, 2011).

<sup>72</sup> Announcement on Sudan TV (in Arabic), May 4, 2011, <http://www.sudantv.net/newsdetails.php?zz=NjY1NTA=%20> (accessed May 20, 2011).

<sup>73</sup> Human Rights Watch interview with detainees, El Fasher, North Darfur, March 5, 2011.

## IV. No Accountability for Past or Current Abuses

While the Sudanese government has paid lip-service to justice in Darfur with various declarations and appointments, it has made no real progress in prosecuting war crimes and human rights abuses, or reforming laws and repealing legal immunities present in several relevant laws that shield members of the security forces from prosecution.

Because of Sudan's unwillingness to prosecute serious crimes in Darfur, the UN Security Council in 2005 referred the situation in Darfur to the ICC, which has since issued arrest warrants for three individuals, including President al-Bashir, for war crimes, crimes against humanity, and genocide. Six years on, Sudan still refuses to cooperate with the ICC and has made little progress on the domestic prosecutions.<sup>74</sup>

In September 2010, the Sudanese government expressed commitment for "supporting the work of Sudan's appointed special prosecutor for Darfur and related national tribunals to carry out their mandates."<sup>75</sup> Shortly thereafter, in October 2010, justice ministry officials announced new investigations and appointed high-level justice and security representatives to work in Darfur, replacing special prosecutor Nimer Ibrahim (who was appointed in August 2008, but did not make progress) with a justice ministry undersecretary, Abdul-Dayem Zamrawi.<sup>76</sup>

In late 2010, Zamrawi carried out an investigation into a serious attack by government forces and militia on civilians in Tabarat, an ethnic Fur town in North Darfur on September 2, 2010. According to sources involved in the investigation, the investigation named 23 perpetrators, including a known commander in the border guards unit of the armed forces, as suspects. However, efforts to prosecute them have stalled for reasons that remain unclear. In April 2011, Zamrawi resigned, citing personal reasons.<sup>77</sup>

The UN and AU have endorsed recommendations of the AU's High-level Implementation Panel on Darfur, headed by former South Africa President Thabo Mbeki. The so-called Mbeki

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<sup>74</sup> In May 2010 the ICC judges issued a formal finding of non-cooperation by the government of Sudan in the ICC's cases against Ahmed Harun and Ali Koshayb.

<sup>75</sup> See Sudan's Darfur strategy, on file with Human Rights Watch.

<sup>76</sup> Sudan Media Center, "Ministry started investigation into crimes in Darfur," October 6, 2010, at <http://smc.sd/eng/news-details.html?rsnpid=30262> (accessed May 18, 2011); "Minister of justice appoints new prosecutor for Darfur crimes," October 20, 2010, <http://smc.sd/eng/news-details.html?rsnpid=30414> (accessed May 18, 2011).

<sup>77</sup> "Darfur's special prosecutor asks government to accept resignation," *Sudan Tribune*, April 12, 2011, at <http://www.sudantribune.com/Darfur-s-special-prosecutor-asks,38551> (accessed April 29, 2011).

Panel suggested a range of steps that Sudan should take to improve accountability and strengthen its criminal justice system.<sup>78</sup> These include creation of a hybrid court composed of Sudanese and non-Sudanese judges and other officials to prosecute serious crimes in violation of international law, and broad reforms to the criminal justice system.

Sudanese officials rejected the idea of hybrid courts outright,<sup>79</sup> and the government has not removed legal and de facto immunities that protect soldiers and officials, provided guarantees for fair trial rights, or brought laws, such as the National Security Act, in line with the international standards or its own constitution.

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<sup>78</sup> Human Rights Watch, “The Mbeki Panel Report One Year On: Continued Inaction on Justice for Darfur Crimes,” October 29, 2010, <http://www.hrw.org/en/news/2010/10/27/mbeki-panel-report-one-year..>

<sup>79</sup> “Mbeki softens stance on Darfur hybrid court proposal,” *Sudan Tribune*, December 16, 2009, <http://www.sudantribune.com/Mbeki-softens-stance-on-Darfur,33484> (accessed May 18, 2011).

## V. The Darfur-based Political Process

The Darfur-based Political Process is set to begin pending the conclusion of the Doha talks, which were still ongoing at the time of writing. Yet the Sudanese government is, over objections, preparing for a Darfur referendum in July and it is committing abuses that characterized earlier phases of the Darfur conflict. These include attacks against civilian populations who share the same ethnicity as rebel groups, killings, rapes, arbitrary arrests, looting and massive displacement.

The UN Security Council has urged the Sudanese government to create an enabling environment that ensures respect for civil and political rights of participants in the DPP including freedom of movement, speech and assembly; freedom from harassment, arbitrary arrest, and intimidation; and freedom from interference by the government or armed movements.<sup>80</sup> The UN has also called on Sudan to release political detainees, allow free expression, and take effective measures to ensure accountability for serious violations of international human rights and humanitarian law.<sup>81</sup>

In March, President al-Bashir announced he would end the state of emergency in Darfur. And the minister of justice announced in early May that his staff would review a petition for release of 64 Darfuris detained without charge. These announcements have not been followed by action, nor do they address the broad range of serious abuses taking place in Darfur.

At this critical juncture, coinciding with the political reconfiguration of northern Sudan, the UN, AU, US, and other concerned governments should take a unified position and strenuously press the Sudanese government to bring about significant changes in Darfur, starting with an end to attacks on civilians. They should all endorse the UN's demand for an enabling environment and require UNAMID to monitor and report on Sudan's progress toward those conditions.

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<sup>80</sup> These conditions also appeared in the communiqué of the consultative meeting between the AU's Peace and Security Council and the UN Security Council on May 21, 2011, [http://au.int/en/dp/ps/sites/default/files/Communiqué%20AUPSC-UNSC%20\\_Eng.\\_%20Final.pdf](http://au.int/en/dp/ps/sites/default/files/Communiqué%20AUPSC-UNSC%20_Eng._%20Final.pdf) (accessed May 24, 2011).

<sup>81</sup> UN Security Council, "Statement by the President of the Security Council," S/PRST/2011/8, April 21, 2011, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/PRST/2011/8](http://www.un.org/ga/search/view_doc.asp?symbol=S/PRST/2011/8) (accessed May 18, 2011); African Union Peace and Security Council Communiqué, PSC/PR/COMM. (CCLXXI), April 8, 2011, [http://www.au.int/fr/sites/default/files/FINAL%20%20PSC%20Communique%20-%20Sudan%208%20April%202011%20EN%20\\_2\\_.pdf](http://www.au.int/fr/sites/default/files/FINAL%20%20PSC%20Communique%20-%20Sudan%208%20April%202011%20EN%20_2_.pdf) (accessed May 18, 2011).

Participation in any domestic political process should be based on a clear assessment that it will directly protect the rights of the population, not be a tool that further undermines them. And they should act to ensure that any process in which they are involved will provide accountability to the people of Darfur who, eight years on, are still waiting for both peace and justice.

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## Darfur in the Shadows

### The Sudanese Government's Ongoing Attacks on Civilians and Human Rights

As the people of Southern Sudan peacefully voted for secession from northern Sudan in January 2011, the people of Sudan's western province of Darfur struggled to survive an eight-year armed conflict that now commands little international attention. Since December 2010, government-led attacks on populated areas and a campaign of aerial bombing have killed and injured scores of civilians and displaced more than 70,000 people. The fighting has also brought familiar patterns of sexual violence, arbitrary arrests and other abuses by Sudanese state security forces against Darfuri civilians, often based on ethnicity. The extent of human suffering is still not known, as the government continues to restrict access to much of Darfur by African Union/United Nations Mission in Darfur (UNAMID) peacekeepers and humanitarian aid organizations.

While continuing to carry out these abuses, Sudan is embarking on a Darfur-based Political Process (DPP), a "domestic" process of consultations with civil society actors billed as a way for ordinary Darfuris to promote and implement the peace agreement negotiated between the government and rebel leaders at Doha, Qatar. But in the absence of a genuine peace agreement, the goals of this new process are not at all clear. Nor is it clear how the envisioned process will interact with a national political process leading up to the adoption of a new constitution for Sudan after the south's independence on July 9, 2011.

*Darfur in the Shadows: the Sudanese Government's Ongoing Attacks on Civilians and Human Rights*, calls on the African Union, United Nations, United States and other concerned governments to take a firm and unified position, pressing Sudan to immediately end deliberate attacks on civilians, indiscriminate aerial bombing, and arbitrary detention and torture of activists. They should also hold Sudan to its public commitment to repeal emergency laws and press it to reform the National Intelligence and Security Service (NISS) – both key tools of government repression -- and seek measurable progress on accountability for human rights violations, including cooperation with the International Criminal Court on the prosecution of Darfur cases.

*Displaced woman, Ashia Suleiman Abbackar, with her two children Fatna, 2, and Shadia, 7, in their hut in a displaced persons settlement in Tawilla, North Darfur, after fleeing violence in their village in September.*

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