



Report

November 2004

“If We Return, We Will Be Killed”

Consolidation of Ethnic Cleansing in Darfur, Sudan

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Summary

Since February 2003, in the context of a military counter-insurgency campaign against two rebel groups, the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM) Sudanese government forces and government-backed ethnic militias known as "Janjaweed" have committed war crimes, crimes against humanity and "ethnic cleansing" in the Darfur region of Sudan. Government forces and militias have systematically targeted civilian communities that share the same ethnicity as the rebel groups, killing, looting, raping, forcibly displacing and destroying hundreds of villages. For their part, the rebel groups have abducted civilians, attacked police stations and other government institutions, and raided and looted substantial numbers of livestock and commercial goods from trucks and vehicles traveling on roads in Darfur. The rebels have also been responsible for some direct and indiscriminate attacks that have resulted in deaths and injuries to civilians and for the use of child soldiers.

To date, all parties continue to violate the April 8, 2004 humanitarian ceasefire agreement. The government in particular has continued to use helicopter gunships in bombing attacks on civilian objects. Fighting and displacement continue, particularly in South Darfur. The large-scale ground and air attacks on civilian villages by Sudan government forces and militias that marked the early phases of the conflict have diminished. It does not mean that security and protection for civilians has improved-it is a sign that ethnic cleansing has largely been completed in Darfur. Protection for the civilian population in rural areas and outside the displaced camps remains almost non-existent due to the continuing presence of the government-backed Janjaweed militias. Many people who try to return to their homes have been attacked again, often several times, by these militias who continue to operate with full impunity in spite of government pledges to bring to justice all those responsible for atrocities. The increased police presence has not resulted in an increase in civilian protection. The police are too poorly armed, trained, and equipped to defend from Janjaweed or other military attacks, too few to protect farmlands or more than isolated clusters of homes, and in some cases are hostile to returnees.

Neither the government nor the international community has an adequate plan to reverse the ethnic cleansing or to assist those few who have voluntarily returned home. Unless and until displaced persons can voluntarily return in safety to their farms and plant crops, particularly by spring 2005, the economy of Darfur and the region will continue in a downward spiral. This could result in food shortages on a much greater scale than yet seen in Darfur, and international agencies are already forecasting greatly increased need for food in 2005.

The United Nations Security Council has passed two resolutions on Darfur, threatening sanctions against Sudan's government if it does not disarm and prosecute the militias and others responsible for abuses in Darfur. But these resolutions have had little effect in either restraining the Sudanese government, its allied militias or in improving security and protection for civilians. Unless the Security Council backs up its ultimatums with meaningful and strong action, abuses against civilians will continue and ethnic cleansing in Darfur will be consolidated in full view of the international community, and with hundreds of U.N. and other international personnel present on the ground while it happens.

A key element to reversing ethnic cleansing is removing the threat of violence posed to internally displaced persons by the Janjaweed militias. The Sudanese government itself has demonstrated that it is unwilling or unable to control the militias, maintain law and order, and protect civilians. The increased African Union mission, even with the agreed-upon additional troops and slightly more robust mandate to protect civilians under "imminent threat," cannot by itself do all that is necessary to create the conditions for voluntary safe return and reversal of ethnic cleansing. It must have a clear mandate, under Chapter VII of the U.N. Charter and the African Union Charter, to protect civilians; the United Nations must take the lead in developing and implementing a suitable plan to ensure return and reverse the ethnic cleansing in Darfur.

Another key step is prosecution of Sudanese government military and civilian leaders and Janjaweed leaders alleged to be involved in the commission of war crimes and other criminal acts. It is unlikely the Sudanese government will prosecute Janjaweed or government leaders---the Janjaweed represent the only political allies the government has in Darfur, and prosecuting them would raise the possibility that they would provide evidence against higher-level government officials responsible for atrocities. Government efforts to end impunity, such as the creation of a committee to address rape, have been wholly inadequate. The international commission of inquiry established by Security Council Resolution 1564 is a belated but welcome step. However, a Security Council referral of Darfur to the International Criminal Court will be essential to ensure prosecution of those top-level officials responsible for atrocities.

This report documents and analyzes the continuing violence by all parties to the conflict, obstacles to return and to the reversal of ethnic cleansing, the government's efforts to end impunity and the international community's response so far to the ongoing human rights crisis in Darfur. This report is based on two Human Rights Watch research missions: one to North Darfur in July-August 2004, and another to Khartoum and Darfur in September-October 2004. In some cases, the precise locations of incidents and other identifying details have been withheld to protect the security of the victims and witnesses.

Recommendations

To the United Nations

To the U.N. Security Council

- Adopt and implement a plan to ensure the security and protection of civilians at risk and to reverse ethnic cleansing. The plan should promote the creation of an environment conducive to the voluntary return in safety and dignity of all refugees and internally displaced persons to their places of origin.
- Continue to press the Sudanese government to fulfill its commitments referred to in Resolutions 1564 and 1556 to disarm and prosecute members of the Janjaweed militia and all those responsible for human rights abuses and violations of international humanitarian law.
- Authorize the African Union Mission in Sudan (AMIS), under Chapter VII of the U.N. Charter, to protect civilians; support, through technical expertise, logistical, communications, and other assistance, the rapid deployment to Darfur of the expanded African Union mission and urge that such forces be strategically deployed near camps and concentrations of displaced persons, and in small towns and rural areas throughout Darfur to provide civilian protection and security for delivery of humanitarian assistance and the eventual voluntary return of refugees and internally displaced persons to their places of origin.
- Condemn the government of Sudan's forced relocation of civilians and demand that the government cease forcibly displacing civilians including forced returns and forced resettlement of displaced populations and permit those forcibly displaced to move to any other location of their choice.
- Pursuant to paragraph 14 of Resolution 1564, extend the arms embargo imposed on Darfur in paragraphs 7 and 8 of Resolution 1556 to the Government of Sudan, impose travel sanctions and freeze the assets of key civilians and military individuals in the Sudanese government involved in Darfur pending investigation of their role in the commission of crimes against humanity and war crimes and other violations of international humanitarian law in Darfur in 2003-2004.

- Establish a sanctions committee to monitor implementation of sanctions.
- Increase the number of Office of the High Commissioner for Human Rights monitors in Darfur, and ensure that they are deployed in Darfur's cities and smaller towns, in rural areas where internally displaced persons are attempting to return and near camps and concentrations of displaced persons. Extend the monitors' mandate to include the monitoring and investigation of human rights violations committed by the rebel groups in addition to abuses committed by other parties to the conflict, and to regularly publicly report on the human rights situation in Darfur.

To the Special Representative of the Secretary-General

- Together with the African Union Mission in Sudan and United Nations experts, develop and implement a plan to create, vet, train, equip and monitor a new civilian police force in Darfur.
- Provide specialized training to the members of criminal justice system including police in Sudan on techniques and approaches to investigating gender-based violence.
- Ensure that U.N. agencies and African Union personnel are adequately deployed to areas where internally displaced persons have voluntarily returned or have been forcibly returned to monitor and report publicly on security and other conditions of return.
- Deploy U.N. personnel to monitor and publicly report on prosecutions of Janjaweed militia members and others accused of committing crimes in the Darfur conflict.

To the United Nations High Commissioner for Refugees

- Expand responsibilities for protection and voluntary repatriation activities in West Darfur to all parts of Darfur, to ensure the safe and voluntary return of internally displaced persons and refugees in safety and dignity to their places of origin.
- Increase the number of protection staff throughout Darfur.

To the African Union

- Increase the number of troops in Darfur so that sufficient troops can be deployed near camps and concentrations of internally displaced persons, small towns and rural areas in addition to main towns and require them to proactively patrol, investigate, document and publicly report (within and outside Sudan) ceasefire violations, attacks on civilians, and to protect civilians in these areas.
- Map the locations of the key militia camps and post ceasefire monitors at military airstrips, barracks, camps, and offices of all armed entities in Darfur, including the Janjaweed militia, to monitor their activities and their disarmament, disbandment, and withdrawal.
- Secure mass grave sites and other key physical evidence of crimes committed by any armed group, including Sudanese armed forces, Janjaweed or other militia, and rebel groups.
- Work with the U.N. Security Council to adopt an international plan to reverse ethnic cleansing and ensure the eventual voluntary return of internally displaced persons and refugees to their places of origin in safety and dignity.

To the government of Sudan

- Take all necessary steps, including by issuing clear public orders to government forces and police including the Border Intelligence Patrol Guards, and government-sponsored and supplied paramilitary and militia forces including Popular Defense Forces, “fursan,” “knights” or “mujahedeen” internationally known as the Janjaweed, to immediately cease attacks on civilians and civilian property in Darfur.
- Cease providing the above-mentioned militias and recently-formed police and other units with financial, logistical and military support.
- Disband, disarm and withdraw the Popular Defense Forces from all parts of Darfur and all other paramilitary, police or other units created after 2001.
- Work with the African Union and the United Nations to create a civilian police force that is responsive and representative, applies international human rights

standards, has been vetted and that includes international police as trainers and monitors.

- Investigate and prosecute Janjaweed militia members involved in the commission of crimes against humanity and war crimes and other violations international humanitarian law, as well as Sudanese criminal law.
- Investigate, prosecute, and suspend from official duties pending investigation those Sudanese government and military officials alleged to be involved in the planning, recruitment and command of Janjaweed militia or in the commission of crimes against humanity and war crimes and other violations of international humanitarian law, as well as Sudanese criminal law in Darfur.
- Cease any forced return or resettlement of displaced civilians and ensure that civilians only return voluntarily to their places of origin in safety and dignity and are not relocated involuntarily from any displaced camp or settlement.
- Work to create conditions in Darfur which are conducive to voluntary return of internally displaced persons and refugees in safety and dignity.
- Suspend any and all transfers of land and disallow the creation of permanent new communities or settlements until the conflict in Darfur is resolved.
- Provide reparations or compensation to persons who have been victims of international human rights and humanitarian law violations by government forces or government-supported militias such as the Janjaweed.

To the Rebel Groups

- Cease all attacks on civilians and civilian property including livestock and humanitarian aid convoys.
- Immediately release all abducted civilians and cease abducting civilians.
- Demobilize all child soldiers and end the use and recruitment of all children under the age of eighteen.

To U.N. humanitarian agencies and humanitarian nongovernmental organizations

- Promote the protection of civilians simultaneous with the distribution of humanitarian assistance; develop a coordinated plan to promptly respond with necessary relief supplies to those who voluntarily return or move out of displaced persons camps to resume economic activity, to the greatest extent possible within security limits.
- Rapidly increase assessments of need and, where appropriate, distribution of relief to persons in remote rural areas, including in rebel zones.

Context

After more than twenty months of conflict in the Darfur region of western Sudan, the situation is more complex and volatile than it has ever been.¹ Despite an April 2004 ceasefire signed by the two main rebel groups—the Sudan Liberation Army Movement (SLA/M) and the Justice and Equality Movement (JEM)—and the government, and the presence of 136 African Union (A.U.) ceasefire observers, protected by 625 A.U. troops, attacks on civilians and ceasefire violations continue on a daily basis.

Currently, the scale of forced displacement and associated human rights abuses is not as high as it was in the early months of 2004, primarily because the majority of the rural population that was targeted is now displaced in camps and settlements. However, attacks in new areas of Darfur continue to displace thousands of civilians from their homes, and violence against civilians remains a constant factor throughout Darfur. In addition, the recent emergence of two new rebel groups,² and the spread of the conflict

¹ For further detail on the background and evolution of the Darfur conflict, see Human Rights Watch reports: *Darfur in Flames: Atrocities in Western Sudan*, Vol.16, No.5 (A), April 2004, *Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan*, Vol.16, No. 6(A), May 2004; and briefing papers "Darfur Documents Confirm Government Policy of Militia Support," July 20, 2004, and "Empty Promises: Continuing Abuses in Darfur, Sudan," August 11, 2004.

² One group, the National Movement for Reform and Development (NMRD), is a breakaway faction of the JEM, led by Col. Gibril of the Zaghawa Kobe section. This rebel group objected to the long-distance attempts by civilian Islamist leaders to direct military affairs from Europe. Human Rights Watch interviews, NMRD members and sympathizers, North Darfur, August 2004, and Khartoum phone conversation, October 23, 2004. The other group calls itself Al Shahamah Movement (Nobility Movement) and is based in West Kordofan. "New Rebel Group Set Up in Sudan's Kordofan Region," *Al-Sahafah*, October 21, 2004, reprinted in *Sudan Tribune* Khartoum, Sudan, http://www.sudantribune.com/article.php3?id_article=6095 (retrieved November 11, 2004). It is believed to have been organized by the JEM.

to western Kordofan, could threaten the lives and livelihoods of many more communities.³

Each Darfur state—North, South, and West Darfur, constituting the Greater Darfur region—has its own dynamics and insecurity in each state varies from area to area. While the government's overall counterinsurgency strategy of ethnic militia recruitment in joint ethnic cleansing operations with army and airforce backing is evident throughout the past twenty months in Darfur, the conflict in each state has been differently shaped by the distinct ethnic composition of each. The terrain—vast, with minimal infrastructure, from desert to savannah to mountains—has also influenced the course of the conflict, as has the seasonal calendar of rains, livestock migration, and agriculture.

Reversing Ethnic Cleansing

In rural areas under government control, the government-backed Janjaweed militias continue to exert near-total dominance, impeding the movement of people through fear, intimidation and violence that have become a daily feature of these areas. Even where there is no active conflict, displaced villagers are afraid to return to their villages because of the menacing presence of the militias who are above the law. Rebel attacks on convoys and buses traveling along the main roads have also increased insecurity, jeopardizing humanitarian delivery in some areas.

Hundreds of thousands of civilians are currently confined to camps for displaced persons and settlements around the major towns in Darfur. Many perceive the government assault on their villages as an attempt to forcibly evict them from their land; most displaced persons fear losing their land, and some have attempted to return to assess security. However, few are willing to return permanently in the current climate of insecurity.

While there has been growing international pressure on the Sudanese government to disarm the Janjaweed, little or no progress has been made on this front. Instead, militia leaders who participated in atrocities and government officials who directed or sanctioned such abuses remain in place, sometimes in high-level positions. Given this glaring impunity, their emboldened followers continue to rape, loot, and pillage with no fear of sanction or other consequence.

³ Ibid.

The need for safe and voluntary return of displaced communities to their areas of origin, however, could not be clearer, or more urgent. Many communities from North and West Darfur, the vast majority of them farmers, have been displaced for two agricultural seasons, and those of South Darfur have been displaced for more than one season. It is essential to reverse the ethnic cleansing that has occurred as soon as possible to prevent its consolidation caused by institutionalized, protracted displacement. The international humanitarian community, which has rightly insisted on unrestricted access to Darfur to bring life-giving assistance to the victims of the conflict, should not later be judged to have inadvertently used that access to reinforce the displacement, and to have stood by while ethnic cleansing is consolidated in its presence.

Safe and voluntary return is also essential for the overall economy of Darfur which has been devastated by the extensive destruction and robbery of farms, farming implements, and water points. The broader effects of the widespread displacement of farming communities on the annual harvest are becoming evident as projections of a major food crisis next year loom on the horizon.⁴ If at least some farmers do not return to their villages in early 2005 to prepare the land and plant crops before the rainy season, another year's harvest will be lost, and the foreseeable period of humanitarian assistance will be extended until the end of the 2006 agricultural season. It is also possible that some of the nomadic communities may require food aid, since they have also been hard-hit by the economic consequences of the conflict. They complain that their migration routes have been obstructed by rebels, and that livestock prices have been halved in two years, while the cost of grain has risen sharply.⁵

Voluntary return of displaced persons is complicated by several factors:

1) Security: Improved security in the rural areas remains the fundamental prerequisite for any successful return, even in areas where there is no active fighting between the warring parties. Given the extent to which government troops and allied militias have been

⁴ See ICRC, "Sudan: Food Survey in Darfur," Press Release 04/58, October 20, 2004, <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/65XJXS!OpenDocument> and World Food Programme, *Emergency Food Security and Nutrition Assessment in Darfur, Sudan*, October 2004, http://www.wfp.org/country_brief/africa/sudan/assessments/041025_food_assessment.pdf

⁵ Even the nomadic communities benefiting from the looting—believed to be the smaller Arab pastoral tribes which do not have their own homelands, or dars—are experiencing economic difficulties. According to herders of the Aulad Zeid in West Darfur, the price of a female camel has dropped by more than 50 percent in two years: from 1 million Sudanese pounds in 2002 to 350,000 to 400,000 SP in 2004. They complained that no one was buying for export because the routes—to Libya, Egypt and elsewhere—are not secure. At the same time, prices in the market for grain and other items have sharply increased—due to the destruction of harvests and failure to plant. Human Rights Watch interview, Aulad Zeid herders, road from Geneina to Mornei, West Darfur, October 18, 2004.

responsible for the forced displacement, there is no way that security can be ensured by government armed forces. Police, while sometimes marginally better trusted by displaced communities, remain small in number and insufficiently trained or equipped to protect against militia attacks, and in some places the abusive militia have been incorporated into local police forces. Increased international presence, in the form of expanded A.U. presence in key strategic towns, camps, and concentrations of displaced persons and along main roads; international police working alongside local police, and increased international humanitarian presence will be essential to improve security, particularly in the many where there is no active conflict.

2) Government policy: Government plans in July 2004 revealed a strategy of resettling displaced persons from over-crowded displaced sites near the main towns to new camps and settlements.⁶ The government tried to force certain community leaders to lead their people back to villages of origin, even though their security could not be guaranteed. This government initiative was likely motivated by two factors: the timing of the planting season and the desire to alleviate some of the international pressure by presenting a façade of “normalization.”

3) Need for assistance in areas of return: The majority of the displaced and refugees fled with few or no possessions. Most people were unable to plant crops in their home areas during the 2004 season and therefore have little or nothing to harvest. Most returning villagers will require food and other assistance to survive until the harvest of 2005. In addition, the attacks have destroyed much of the village infrastructure, including water points and housing, which will require rebuilding or rehabilitation.

Rural Insecurity and Forced Return

The continuing presence of the Janjaweed militias and other government forces in the rural areas and their ability to commit violence with impunity remain the most important factors in deterring voluntary return to areas, even where there is no rebel presence and little likelihood of active conflict. Human Rights Watch received numerous accounts of people who had attempted to return to their villages during the 2004 planting season starting in May-June; they intended to assess security and try to plant crops. The vast majority of returnees were forced to flee again due to continuing harassment, intimidation, and violence at the hands of government militia or nomads benefiting from the collapse of law and order and the opportunity to graze livestock on the ample farmlands previously denied them. Some nomads began farming, or hiring others to farm, deserted farms.

⁶“Sudan to set up 18 ‘settlements’ for million Darfur Refugees: Report,” Agence France Press, July 2, 2004.

The example of Kokar district, twenty-five kilometers south of Geneina in West Darfur, is compelling. Following two offensives on five villages in the area, one a July 2003 joint government and Janjaweed militia attack, the other a February 2004 army offensive with aerial Antonov support, most of the population fled to Chad or to displaced camps around Geneina. The local police force of seventeen men did not react to either attack and additional protection promised by the state governor and a military representative never materialized.

Human Rights Watch learned that in July 2004 the deputy governor and the state humanitarian aid commissioner went to a displaced camp near Geneina and told these displaced persons that they must return and cultivate the crops, promising to provide security for everyone, and promising seeds. It was late in the planting season but they could still plant *mareg*, a type of sorghum that takes only two months to grow. "We love farming. About forty men went with me," said one leader of the displaced. They walked one day to get back. They found the seventeen police still in the police station, and the returnees set about planting.

I talked to one Janjaweed when I was cultivating in July. They were waiting for our crops to grow. This was a peaceful period. I asked him why they came here to take the property of others and destroy our belongings. "It is not our intention or desire but it's coming from higher up, because the land in Darfur is suitable for animals rather than farming," he told me.⁷

In late August 2004, a group of Janjaweed nomads' animals entered the farms. The farmers went to the police and they took the animals away. The informant continued:

The Janjaweed came and took the animals back from the police. "We want them back, if you refuse, we will take them by force," they told the police. So the police surrendered the animals to the Janjaweed. Two days after this, the Janjaweed came from all directions with their animals and at the end of that day all the farms had been destroyed. The Janjaweed came in one day. They brought all their animals in one group to the fields. They have the whole area as their pasture. . . . We did not do anything. We had no arms, the Janjaweed had the arms. They just stayed. We gathered at the police station and decided to return to Geneina. The police had nothing to do. They were afraid

⁷ Human Rights Watch interview, Masalit community leader, Geneina, West Darfur, October 18, 2004.

themselves. We were told by the Janjaweed, "This land is liberated and you have no land and no right to cultivate on liberated areas."⁸

In some areas of Darfur, people whose remote villages were destroyed have sought shelter in villages along the main roads, such as between Nyala and Kass in South Darfur, hoping that the greater visibility to the international community would provide increased protection. But even in these locations, violence continued, albeit at a less obvious level than the blatant destruction of villages. Villagers who fled to Murai Jenge, on the main Nyala-Kass road, where they now sell firewood to passing lorries for income, told Human Rights Watch: "We didn't want to leave our area but that place became like a prison because if the women went out they would be raped."⁹

The situation was similar in other parts of Darfur, such as in Wadi Saleh province, West Darfur. Dozens of villages in the Wadi Saleh area were repeatedly attacked and destroyed in late 2003 after the SLA launched attacks on police stations and government offices in Mukjar and Bindisi in August 2003. In February and March 2004, following fighting in the Sindu Hills between government/Janjaweed forces and the SLA, the government and Janjaweed rounded up dozens of community leaders and other men in Deleig and Mukjar, most of who were summarily executed outside the towns.¹⁰ Human Rights Watch spoke to one farmer from a village near Garsila who had fled his village for Deleig following its destruction by government forces and Janjaweed militias.

The farmer and his family were among a dozen or so people who had returned to the village, located near the main road between Zalingei and Garsila. Most of the villagers remained in Deleig, afraid of the still-rampant militia members roaming the area. He told Human Rights Watch: "They [the government] forced us to come here and they say they will give security from the Arab people but I say there is no security here except God." After the killings in Deleig in March 2004, he said, government officials called a meeting of local leaders. "The government said everyone should return to their villages. All the sheikhs and omdas were in the meeting and you couldn't say no. The meeting was in Deleig but the orders came from above."¹¹ When asked why the government wanted people to return to his village, the farmer, who returned in May 2004, said, "My idea is

⁸ Human Rights Watch interview, Geneina, West Darfur, October 18, 2004.

⁹ Human Rights Watch interview, Kass, South Darfur, October 5, 2004.

¹⁰ *Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan*, Vol.16, No. 6(A), May 2004 and Human Rights Watch interviews, Wadi Saleh, West Darfur, October 2004.

¹¹ Human Rights Watch interview, Wadi Saleh, West Darfur, October 2004.

this, the government wants people to return so that when international organizations pass the villages they will think things are fine.”¹²

Displaced persons voluntarily returned to eek out a living on the edge of the road near their farms in Menj Merrah, on the road that runs between Geneina and Mornei in West Darfur. The rebels attacked in September 2003, killing one policeman; the police were withdrawn. No civilians were killed and no property was stolen. The uniformed Janjaweed (referred to locally as the Pesh Merga) attacked Menj Merrah on February 6, 2004, stealing, burning, killing people, and stealing their belongings. The shops, which line the road, were looted then burned. Everything else, including the eight-grade school and the health post, was burned, also. The 2,000 residents of the village fled, mostly to Geneina.

About 108 families returned to live around the police station and the burned-out shops on the road. The burned villages to the south and north of the road remain empty. A forty-five-year-old village leader said that these families were actually coming to and from Geneina. They take advantage of vehicles passing on the road (mostly between Geneina and the internally displaced camps at Sisi and Mornei) to sell charcoal, wood, and *shergani* (woven walls), made from a grass that grows close to the road. Since the return one month earlier, there has been no attack or other security incident. According to this witness:

No one told us to return. We just decided to return. The foreign organizations bring food: sorghum, oil, sugar. These are the only items which are received, from HAC [the government Humanitarian Assistance Commission]. We received this twice during this month. . . . We were not given any money or incentives to come. . . . We have no crops and no animals. . . . It is now nine months since we have been expelled from our village, and no one here has changed his clothes since then.¹³

The government, however, did post twenty-two police, mostly of Darfurian origin, at the village. This was not much reassurance to the returnees.

We need security to live a normal life. There is no guarantee this will continue and we can recover. . . . Police? There are not sufficient in

¹² Ibid.

¹³ Human Rights Watch interview, community leader, Menj Merrah, West Darfur, October 18, 2004.

number. They could not provide enough for even 25 percent of the area. It is a vast area and the police have no means to move about.¹⁴

The Pesh Merga, or Arab nomadic militias, are present, he said. When the returnees go to collect grass,

We see armed men around. Each one of us has seen them. These are strangers. They were not here before. They have no herds. The people with herds we know, we have no problems with them. The strangers, Pesh Merga, are on horses and camels. . . . When we arrived, they were not here but gradually they appeared in the area. No one talked to them. They are all armed. . . .

I say to you: We will not leave our land. We will not let any foreigners [i.e., Darfurian Arabs] own it. We cannot stop them now. We have to surrender to the situation. . . . We are now weak and exploited but we cannot leave our land. All our things have been taken. We will not forget and leave it [the land]. We will not. We surrender now, but you should know. . . . We want our rights to be regarded. We want compensation for our animals and our rights. We have to start again because the grass will not last forever, or the wood. We need something to begin with.¹⁵

He added:

I am now forty-five and never in my life have I seen such destruction of our country, our place in Darfur. If we speak of death, this is normal for everyone, and we can expect it. But the whole area is destroyed and we cannot forget these bad incidents. People are sad and very desperate. Despite all that, we have a link to the land. We do not want the rest of the world to say we left our land for others. We will continue to stay here and we will not surrender to any foreigner who wants to inherit our land.¹⁶

¹⁴ Human Rights Watch interview, community leader, Menj Merrah, West Darfur, October 18, 2004.

¹⁵ Human Rights Watch interview, Sheikh Yousif Abdulrachman Hassan, Menj Merrah, West Darfur, October 18, 2004.

¹⁶ Human Rights Watch interview, Sheikh Yousif Abdulrachman Hassan, Menj Merrah, West Darfur, October 18, 2004.

In Hashberra village in West Darfur, potential returnees met with armed Janjaweed farming the land. Mansour (not his real name) fled when the government and Janjaweed forces attacked the village with helicopters on March 15, 2004. This Masalit village was burned and looted and Mansour's mother, with fourteen other women and ten men, were killed in the attack.

The government wanted the displaced to move back. Mansour returned with his brother to Hashberra for the first time in July 2004 to investigate the situation. They found a neighbor of the Aulad Zeid Arab tribe, known to them by name, cultivating their dead mother's land with a plough and horse. The armed man, whom he described as a "Janjaweed," told him, "You have no right to this piece of land," and accused Mansour of being "Tora Bora," striking him on the back with a whip.¹⁷ Mansour told Human Rights Watch,

We saw other Arabs from a distance. They were cultivating also. They had goats. They have not rebuilt or built houses. Their families live in the city. They commute in the morning with the women. They protect the women while the women work in the field. They were planting millet. There were Arabs living in the same area before, they know about farming because we gave them land to cultivate on condition that it was still ours. It was Masalit land.¹⁸

Mansour complained to the police that an armed man was on his land. The police transferred the case to the sultan of the Masalit, who formed a committee with Arab and Masalit representatives to solve the case. The committee made a trip to the village, spent the day with the man on Mansour's land and decided that the harvest must be divided between the original occupants and the current occupant. Mansour told Human Rights Watch, "We said that we lost all our property and wanted compensation. We refused the division of the crop. It was our land, we did not give them the right to use it. We wanted the whole crop. We were prevented from planting and it is ours. The committee said that if we did not want half the crop, to just leave it."¹⁹

The committee decided that the original occupants, Mansour and his family, could return. It did not, however, acknowledge that they were owners of the land, and held that the land belonged to the government.

¹⁷ Human Rights Watch interview, Mansour, Geneina, West Darfur, October 17, 2004.

¹⁸ Ibid.

¹⁹ Ibid.

"If we return, we will be killed," said Mansour. "This was not the way that disputes were resolved before. The committee would not agree to taking land by force."²⁰

Forced Relocation

In government-controlled towns such as Nyala and Fashir, where hundreds of thousands of displaced people are now congregated in camps and settlements, people still face arbitrary arrests and detentions by local authorities, and possible beatings, intimidation and sexual violence at the hands of marauding militiamen if they venture beyond the camp peripheries. Despite assertions by the Sudanese government that it would put adequate police in place to protect civilians, the fact that these forces are poorly equipped, ill-trained and sometimes perceived to be recycled militia members has done little to ensure security.

Displaced persons also face the possibility that they will be violently moved, against their will, to another location not their place of origin. The events in El Geer camp in Nyala in November 2004 underscore the precarious situation of the displaced. Even when located within one of the three largest towns in Darfur, under full government control, there has been no guarantee of safety.

Since early October 2004, fears were high in displaced camps around Nyala following radio reports stating that the governor of South Darfur ordered the relocation of displaced people from Kalma, the largest camp near Nyala town, and other areas to a new camp outside Nyala. Some displaced people feared that the relocation was a ruse by the government to forcibly return them to their villages where they would face further militia attacks. Others were suspicious of the role played by Islamic relief organizations in setting up the new camp.

Rumors of impending forced relocations had been circulating in Nyala for weeks prior to November 10, 2004 when government forces entered El Geer displaced camp, destroying shelters, beating people and spraying tear gas in an effort to move displaced people to a new location, Abu Zariif.²¹ The fact that a BBC camera crew actually filmed the events made the only significant difference to a pattern of abuse that had been occurring for some time.

²⁰ Human Rights Watch interview, Mansour, Geneina, West Darfur, October 17, 2004.

²¹ Keane, Fergal, "Eyewitness: Terror in Darfur", BBC News, November 10, 2004, <http://news.bbc.co.uk/1/hi/world/africa/4000705.stm>

This forced, violent relocation of displaced persons from one camp to another and not permitting them to settle, is a familiar pattern in Sudan. The Sudanese government has been pursuing a similar policy for more than a decade with some two million internally displaced persons who fled famine and war in western and southern Sudan to live in Khartoum. Human Rights Watch noted in 1992:

The military government of Sudan has in recent months bulldozed and burned the homes of about 500,000 of its poorest citizens in a forcible and often violent program of expulsions from Khartoum to new camps located outside the city. The relocations are a flagrant violation of the rights of the displaced and squatter communities to live where they choose.²²

In 1997, Human Rights Watch observed that international relief organizations operating in Khartoum were divided over what approach to take to the government's abusive practices which permitted the government to persist in its program.

Despite international uproar over violent evictions and conditions of relocation that were significantly harsher than the demolished shantytowns, the government has literally bulldozed its way to its goal, which appears to be cleansing Khartoum of "undesirable" poverty-stricken, uneducated migrants who arrived because of drought, famine, and war from their rural places of origin²³

The motivation for this ill-treatment of hundreds of thousands of people may be slightly different in Darfur, but the method of removing "unwanted" people on questionable grounds—stating that the land is "owned" by someone else, without any fair trial to judge competing claims—in total disregard for their well-being, is a well established practice by the Sudanese government. Bulldozing the homes of displaced and poor persons without providing alternatives for them, and often without notice, continues in Khartoum: in the last year, the homes, schools, clinics, and latrines of the 120,000 internally displaced persons in Jaborona camp in Omdurman were bulldozed.²⁴

²² Africa Watch (now Human Rights Watch/Africa), "Sudan: Refugees in Their Own Country," *A Human Rights Watch Report*, vol. 4, no. 8, July 10, 1992.

²³ Human Rights Watch/Africa, *Behind the Red Line: Political Repression in Sudan* (New York: Human Rights Watch, 1996), pp. 254-55.

²⁴ "Sudan: Demolitions render thousands of IDPs homeless," IRIN, October 13, 2004.

The special case of Sanideleibo

The case of Sanideleibo, South Darfur, has been presented as a success story of return by the Sudanese government, but the situation remains precarious for the returned population. Sanideleibo has unique elements that would be impossible to duplicate in other areas, chief among them the fact that its leading native son, a Shartai (local Fur leader), is a member of the government, a state minister of North Darfur.

Sanideleibo was composed of two villages, one mainly Fur and some Dajo and one Tarjam, an Arab group. In May, 2004, fighting took place in the village, resulting in the entire destruction of the Fur village, including the Shartai's residence. Human Rights Watch researchers observed that the Tarjam village was left intact. Accounts from both communities of the events of May diverged on most points except the date of the fighting and the number of dead on the Fur side—between eleven and thirteen.²⁵

According to Fur witnesses of the attacks, Sanideleibo was one of several villages, including Tabaldiat and Jabarone, that were attacked in that area on that day in what was a broader government offensive; the government forces attacking Sanideleibo included several pick-up trucks with mounted weapons, Land Cruisers, and a large contingent of several hundred camel- and horse-mounted militiamen known as the Popular Defence Force (PDF). According to one witness, "Eleven of us were killed and the Janjaweed replaced us here in the village. . . . All the handles were taken off the water pumps. There were fourteen pumps and ten were destroyed, the Janjaweed used four while they stayed in the village."

The Fur and Dajo population of Sanideleibo fled to Kalma displaced persons camp near Nyala and to a neighboring village. The attack drew unusual attention from the government, however, because the Fur Shartai was a state minister in North Darfur. Three days after the attack, the Shartai reportedly arrived with a police force from Fashir. When Human Rights Watch visited the area, there were one hundred police stationed in the police post between the villages. Despite this presence, villagers reported that "security needs to be increased because police only go maybe two or three kilometers around the area."²⁶ The farms of many villagers are beyond that zone, rendering them vulnerable to the same types of attacks experienced by other civilians in other areas.

²⁵ Human Rights Watch interviews with Tarjam leaders and Fur representatives in Sanideleibo, South Darfur, October 7, 2004.

²⁶ Human Rights Watch interview, Sanideleibo, South Darfur, October 7, 2004.

One witness stated that in July “a delegation came from Khartoum under the authority of the wali and told us to return. Before the delegation came [between May and July], I tried three times to return but I was chased by the Janjaweed.”

In addition to the large police presence in Sanideleibo, another factor in motivating return appears to have been that those people who fled to neighboring villages were able to plant some crops and received some initial humanitarian assistance to facilitate their return.

At the time of the Human Rights Watch visit, the returned Fur residents lived on the ruins of their village, without any herds next door to the prosperous Arab village with herds where the market (formerly in the Fur area) had been relocated.

Another factor deterring return in various parts of North, West, and South Darfur is the unseasonal presence of massive camel and other herds in numerous areas. In West Darfur, for instance, in late-October, 2004, Human Rights Watch observed large numbers of camel herds passing through areas which would normally be off-limits given that crops were to be harvested in a matter of weeks. Farmers and nomads alike complained that the annual migration cycle had been disrupted—for the nomads, rebel presence has obstructed livestock migration routes at various places, and for the farmers, some of the nomadic communities appear to be taking advantage of the collapse in law and order to move far beyond the traditional routes, provoking friction with farmers in even the limited area of this year’s cultivation. Most of the farmers state that there is little recourse for such incidents, as illustrated above, and that police do not respond effectively.

The international community could play a role in establishing military and police presence in key towns in areas, such as Wadi Saleh, where there is little active conflict and where an international presence could help stabilize the situation and put in place conditions for return.

International response to return issues

Currently, most of the attention of the international community is focused on the delivery of much-needed food, medical, and other assistance, and on prevention of forced return or relocation from the displaced camps in large towns like Nyala and Fashir. While this is an important issue for monitoring and action, it is also vital that the different sectors of the international community consider options for helping to facilitate voluntary, safe return of displaced people to their places of origin where they were

economically self-sufficient. At the moment, there is no coherent strategy agreed upon among the various international actors for facilitating and monitoring returns. The role of the International Organization for Migration (IOM), which was initially highlighted in a U.N. –Government of Sudan agreement as a key partner for facilitating and monitoring the return process, appears to have been partly side-lined, due in part to the hasty manner in which the agreement was negotiated without consultation with the agencies needed to implement any such return plan. In West Darfur, the U.N. High Commissioner for Refugees (UNHCR) will play a role in evaluating protection needs in the context of return of internally displaced persons, as it does for returning refugees. It is hoped that UNHCR will also expand its presence in the other states since IOM has neither the mandate nor the expertise to take on a protection role.²⁷

There is minimal international presence in the rural areas of Darfur, which is a major impediment to any successful return—in the absence of meaningful prosecutions of the leading abusers. If security were sufficient, there is no doubt that most displaced people would be extremely eager to return to their home villages. However, most international emergency relief agencies have focused on the immediate situation in the displaced persons camps, rather than looking to the future or planning long term. Few international agencies are present in the rural areas from which the majority of the displaced population has fled. Even the A.U. forces remain concentrated in just five locations in Darfur,²⁸ visiting rural areas in the course of investigations, but without any permanent presence. This must change if displaced people are to be facilitated in making a safe, voluntary and successful return to their villages, their livelihoods, and their futures.

Impunity

A key reason for continued violence in Darfur is continued impunity for government military and security forces and the Janjaweed. The Sudanese government has not taken any serious steps to halt atrocities committed by anyone. Nor has it altered its manner of waging war against the rebels, which involves attacking those civilian populations it assumes to be rebel supporters. It continues to use ethnic militias whose members are

²⁷ "The International Organization for Migration (IOM) and Human Rights Protection in the Field: Current Concerns," Human Rights Watch submission to the IOM Governing Council Meeting, 86th Session, Geneva, November 18-21, 2003, <http://www.hrw.org/background/migrants/iom-submission-1103.htm>.

²⁸ The A.U. has a presence in five towns in Darfur: Fashir, Nyala, Geneina, Kebkabiya, and Tine. It plans to expand its presence to four new locations and discontinue the base in Tine, where there are few civilians. It will downgrade its presence in Abeche, Chad, at the same time. Human Rights Watch interview, A.U. representative, Geneina, West Darfur, October 19, 2004.

becoming rich by forcibly evicting farmers from their land to claim the land as their own, and by robbing and looting the farmers' property and livestock.

There is substantial circumstantial and documentary evidence that the Sudanese government at the highest levels may be responsible for knowingly directing activities constituting war crimes and crimes against humanity during the conflict in Darfur.²⁹ To date the U.N. Security Council has not adequately responded to the government's failure to protect its own citizens and rein in and prosecute the members of the ethnic militias responsible for abuses.

The key reason the militias continue to rampage and block return of displaced farmers to their land was provided to Human Rights Watch by Musa Hillal, a self-described tribal leader considered by his displaced neighbors in North Darfur to be the Janjaweed leader of Sudan. Hillal told Human Rights Watch that when his tribe became active in the conflict, they were only answering the government's call to arms to fight the Darfurian rebels, and stressed that all his tribe's operations have been conducted under the command of government army officers.³⁰ The implication was that if such tribal leaders and members are tried for atrocities—which they deny committing—they will claim they were acting under orders of government officials.

Yet the Sudanese government has often said in the past year³¹ that it would bring the perpetrators of abuses, and specifically the Janjaweed, to justice. It has not done so. Faced with mounting international pressure over reports of widespread rape and continued attacks on civilians, the government has attempted to create the impression of prosecution. It has set up a number of committees and commissions as a means of evading the rule of law. The government uses these largely powerless committees as a substitute for the judicial system: instead of bringing criminal charges against Janjaweed leaders, they have referred the entire matter to the commission of inquiry. While the commission is deliberating, the government will not investigate the conduct of any members of the army or Janjaweed who are alleged have committed human rights

²⁹ Human Rights Watch, *Darfur Documents Confirm Government Policy of Militia Support*, A Human Rights Watch briefing paper, July 20, 2004, <http://hrw.org/english/docs/2004/07/19/darfur9096.htm>.

³⁰ Human Rights Watch interview, Musa Hillal, Khartoum, September 27, 2004.

³¹ Including the *Agreement on Humanitarian Ceasefire on the Conflict in Darfur*, April 8, 2004, the *Agreement Between the Government of Sudan, The Sudan Liberation Movement, and the Justice and Equality Movement* April 25, 2004, the *Joint Communiqué between the Government of Sudan and the United Nations*, July 3, 2004, and the *Darfur Plan of Action* signed by the Government of Sudan and the U.N. Special Representative of the Secretary-General Jan Pronk, August 6, 2004.

abuses. Often such commissions do not take any action, except possibly to issue a report kept secret and soon forgotten by the minister to whom it reports.

The persistent refusal to prosecute Janjaweed leaders has been tolerated by the international community for too long. Every day that the Janjaweed are allowed to stay on the land they conquered by expelling its long-term inhabitants is a day closer to the final consolidation of ethnic cleansing.

The government has also provided excuses as to why there are few prosecutions. In meetings with government officials in Khartoum and various state capitals of Darfur, Human Rights Watch raised questions about the government's efforts to end impunity. Their responses, discussed below, were disturbing.

The Government's Rape Committee

The government's recently established committees to investigate the crimes of rape against women in the three states of Darfur are a case in point.³² Human Rights Watch interviewed several members of the committees in October 2004 in Khartoum, and one member in Fashir. Their comments made it clear that the three all-female committees, consisting of judges, police officers, attorneys, and other women in the criminal justice system, were convened hurriedly to "prepare a report for the United Nations." The committees were formed on August 8, 2004, and began work on August 13, 2004.³³ The members said they had three weeks to complete the reports. The committee members visited Darfur's state capitals, reviewed police files, and interviewed women victims.

The rape committees were supposed to have doctors as members, but none were appointed, so no medical examinations could be conducted.³⁴ One U.N. representative witnessed an interview by one of the committees, conducted openly in a displaced persons camp in front of many spectators, including children, indicating a lack of familiarity with standard rape interview techniques and a lack of sensitivity for the

³² The committee was established by an order of the Minister of Justice delegating district prosecutor powers to three committees, one for each state, and appointment of three women to each of them. The order states that the committees shall report their work to the minister within two weeks of commencement of work. Ali Mohamed Osman Yassin, Minister of Justice, order "Delegation of district prosecutor powers to investigate crimes of rape against women in the three states of Darfur," Khartoum, July 28, 2004.

³³ Human Rights Watch interview, Al Hadia Ali Abdullah, legal advisor, deputy of Attorney General of North Darfur, Fashir, North Darfur, October 5, 2004.

³⁴ Human Rights Watch interview, rape committee member Judge Hind al Hamo, Khartoum, October 12, 2004.

victim.³⁵ The committees concluded that Darfur had the same, very low, rate of rape as before the conflict. The reports have not been made public.

After the committees delivered report to the Minister of Justice in August 2004, they were, in effect, disbanded—except when summoned to speak to visiting foreigners to put a female face to the official denial of rape. It was clear that the all-female committees were ad hoc and had no budget, no office, no further tasks, meetings, or follow up schedule. The members held full-time positions apart from the committees—and appeared to be qualified and experienced women members of the criminal justice system who under other circumstances might have been able to make a greater contribution. They were “now ready for other demands from the president,”³⁶ one said. “If we have orders to resume our work, we will resume immediately. . . . As a committee, we are ready to execute specific orders.”³⁷

Although they were “given the right to investigate rape cases,” they were not proactive after their initial survey, but waited for complainants to find their way to the correct offices. One committee member said, “I am here [in the Attorney General’s office] and I am ready to receive” complaints from rape victims.³⁸

Government Efforts to Investigate Rape near Zam Zam Displaced Persons Camp

Representatives of the Attorney General and police said they were ready to receive rape complaints from women, but behaved as though the burden were on victims to present an iron-clad case. However, in the context of the government’s direct involvement in atrocities against the population it is absurd to suggest that many women will come forward and file complaints.

The Attorney General’s office in Fashir, North Darfur, told Human Rights Watch that it went to the internally displaced camp Zam Zam outside of Fashir, where six or more rapes in late September were reported to international agencies. More than twenty women and girls (some as young as eleven years), traveling in small groups on donkeys, had been attacked by uniformed men while returning to the Zam Zam camp from the

³⁵ Human Rights Watch interview, U.N. representative, Geneina, West Darfur, October 17, 2004.

³⁶ Human Rights Watch interview, Al Hadia Ali Abdullah, legal advisor, deputy of Attorney General of North Darfur, Fashir, North Darfur, October 5, 2004.

³⁷ Human Rights Watch interview, Al Hadia Ali Abdullah, legal advisor, deputy of Attorney General of North Darfur, Fashir, North Darfur, October 5, 2004.

³⁸ Human Rights Watch interview, Al Hadia Ali Abdullah, legal advisor, deputy of Attorney General of North Darfur, Fashir, North Darfur, October 5, 2004.

market in Fashir. Three women and two girls told Human Rights Watch that they were sexually assaulted; others said they were beaten and robbed but managed to escape sexual attack. They had returned to Zam Zam later that night or the next morning, on foot, separately. Several were treated for injuries.

A few days after an angry confrontation between agitated displaced men and the police at the camp, which was defused by the timely intervention of the African Union ceasefire monitors, Attorney General office representatives spent all day in the Zam Zam camp but claimed that no women stepped forward to file rape complaints.³⁹ Furthermore, what these members of the Attorney General's office omitted to say, and Human Rights Watch learned later, was that a relative of one of the victims, who attempted to report the crimes to a police acquaintance, was arrested for filing a false complaint. He remained in jail for two days until an international human rights representative succeeded in securing his release.⁴⁰

The representatives of this Attorney General's office, in addition, displayed a hostile attitude to the allegations of rape in the Zam Zam case. While admitting that they had not investigated the cases, they nevertheless said they did not believe that any rapes had occurred. They also noted that uniforms are worn by many: army, Popular Defence Forces, Janjaweed, even armed robbers.

The Attorney General's office also said that the victims must provide the names of individuals accused of crimes—and in the cases at Zam Zam, as in most other cases of rape, the assailants were unknown.

Still, the government has conducted few prosecutions of accused rapists, or anyone else. According to the Attorney General of West Darfur, there were seven cases of rape pending in early October 2004, and a conviction on October 4 of a group of Aulad Zeid Arab nomads led by Mohamed Berberi for burning and looting cattle of Erenga and Masalit (African) farmers in January 2004. Those convicted were sentenced to three years imprisonment and required to pay a fine equivalent to the value of the stolen cattle.⁴¹ These few cases against individuals will not restore security to Darfur,

³⁹ Human Rights Watch interview, Hamid Yacoub Hasab al Kerin Shatta, legal advisor, deputy of Attorney General of North Darfur, Fashir, North Darfur, October 5, 2004.

⁴⁰ Human Rights Watch interview, international human rights official, Fashir, North Darfur, October 5, 2004.

⁴¹ Human Rights Watch interview, Sherhadin Gibril, Chief Attorney General of West Darfur, Geneina, West Darfur, October 17, 2004. This prosecutor had only been in this office for six months. He noted that, compared to other parts of Sudan where he had served, there were many more murder cases in Darfur. Tribalism was the reason for many kinds of crimes, he said, and made convictions difficult because a member of a tribe would never testify against another member of the same tribe, whether Arab or African.

however—although they should be pursued and the government should be encouraged to continue along this path.

Government Refusal to Prosecute Janjaweed Leaders

In the context of the large scale of abuses in Darfur, the prosecutions necessary to achieve justice must be prosecutions of those responsible at the highest levels. The international community has pushed for prosecutions of leaders. But the Sudanese government has so far refused to prosecute them—although it has promised several times to bring them to justice.

In meetings with Human Rights Watch, when the issue of the promised prosecution of Janjaweed was raised, government officials said that an obstacle to prosecution, both of rape and of Janjaweed leaders, was that names of the attackers were not known as the victims were not able to identify them. When asked if they had seen the list of alleged Janjaweed leaders the U.S. government had asked Sudan to prosecute, officials said they had not seen it, but some had heard of it.⁴² When asked about a specific leader, such as Janjaweed leader Musa Hillal, who has been directly implicated in a commanding role in attacks on civilians, such as the attack on Tawila in February 2004,⁴³ officials said they had no evidence or complaint against him personally, but “if there were reasonable evidence,” they would proceed.⁴⁴

The Sudanese commission of inquiry was created by presidential decree in May 2004 to investigate all human rights violations by armed militia, assess damage to property and people, and find the root causes of the conflict in Darfur. It has reached no conclusion despite its several months of existence. Its members, all apparently well qualified individuals, told Human Rights Watch that they were not close to finalizing a report.⁴⁵

This presidential commission of inquiry went to Wadi Saleh, West Darfur, to look into reports that several hundred people were arrested, detained and then taken from Deleig and Mukjar in March 2004 and extrajudicially executed outside the towns by government and militia forces. A police officer who had been in one of the towns during the events

⁴² Human Rights Watch interview, Attorney General of North Darfur, Fashir, North Darfur, October 5, 2004.

⁴³ See “Militia chief scorns slaughter charge,” *The Guardian*, July 16, 2004 and Human Rights Watch, *Darfur Documents Confirm Government Policy of Militia Support*, July 20, 2004.

⁴⁴ Human Rights Watch interview, Under-Secretary of Justice Abd Elbaïem Mohamed Zumrawi, Khartoum, October 11, 2004.

⁴⁵ Human Rights Watch interview, five Committee of Inquiry members, led by Al Haj Dafallah, Khartoum, October 11, 2004. The committee conducted a survey of the literature, including on the internet, visited twenty-four locations in Darfur and interviewed victims and reviewed court records.

gave testimony to the commission that people were indeed taken away and have "disappeared." Shortly after giving his testimony, however, the police officer was dismissed from his post and is now in hiding.⁴⁶

A Mukjar resident whose brother was among these dozens of men extrajudicially executed told Human Rights Watch that a woman who went out collecting firewood saw twenty-nine of the bodies near the Mukjar airstrip. He then went to the police to request permission to bury the bodies: "The commissioner of Mukjar was present but he said nothing. The police said they would send military intelligence and get back to him. Until now there has been no response. Aside from the police there is no other option, no court, even the commissioner is with them."⁴⁷

Government Abuses

The Sudanese government has conducted its campaign against rebel forces in Darfur by marshalling Arab nomadic ethnic militias to forcibly displace the rural population assumed to be supporting the rebel insurgency. For many of the nomadic groups involved in the militias—many of whom are smaller landless tribes—responding to the government's call has provided an opportunity to obtain access to land, loot and livestock.

Looting on a massive scale and rape are continued problems for those who have been displaced and those who are not yet forced from their villages—including in rebel-held areas where the government/Janjaweed forces make periodic forays to loot the remaining or sequestered livestock. The Janjaweed may have conducted the majority of the looting and rape but the government, through its police and judiciary does not punish or prevent either crime when committed against civilians who come from the same ethnic group as the rebels, or who live in or come from the same areas as the rebels.

The fear of rape continues to stalk the displaced women of Darfur yet they have no protection against the roving militias emboldened by impunity enjoyed by the government-sponsored forces. When they brutalize displaced women and women of the same ethnicity as the rebels, they often excoriate them for being "women of Tora Bora,"

⁴⁶ Human Rights Watch interviews, Wadi Saleh, October 2004.

⁴⁷ Human Rights Watch interviews, Mukjar, October 16, 2004. Human Rights Watch denounced the killings in April. Human Rights Watch, "Sudan: Government and Militias Conspire in Darfur Killings," April 23, 2004, <http://hrw.org/english/docs/2004/04/23/sudan8487.htm> (retrieved November 8, 2004).

the slang term for the rebels,⁴⁸ making it clear that this is another form of attack on these communities as a whole.

Attacks by government forces, some backed by helicopter gunships and Antonovs, have continued long after the April 8 humanitarian ceasefire agreement signed by the government and the two Darfurian rebel groups, the SLA and the JEM, and mediated by the African Union. The parties agreed to A.U. monitoring of the ceasefire and the Sudanese government agreed to “neutralize” the Janjaweed.⁴⁹

Continuing attacks and displacement

In South Darfur in particular, attacks on villages continued to displace thousands of civilians as recently as October 2004. Over the past six months, the areas north and southeast of the state capital, Nyala, have become the latest zone for displacement as government-backed militias, acting in tandem with government forces as well as independently of government troops, continued to target civilians and force people from their homes. The expansion of the conflict to South Darfur has also drawn more ethnic groups into the conflict, on both sides.

Northeast of Nyala, in Shariya province, where there is an SLA presence, civilians have suffered violent attacks by joint forces of government troops and militias. Displaced people from Fasha, a Dajo village twenty-eight kilometers from Nyala, told Human Rights Watch that Fasha had been attacked three times over the last year, but that in the third attack, in early October, 2004, “they came with so many cars and they surrounded the village with cars. They were far from us and just started shooting so we couldn’t see faces, we just saw they were army.”

According to witnesses, fifteen civilians were killed in the attack on Fasha. It was one of about fourteen villages, all within the same region, that had been attacked in the previous weeks.

The deaths in Fasha included a seventeen-year-old boy named Mohammed Daoud who was first shot in the leg and then shot in the chest at close range after he fell to the ground. An eyewitness said, “Mohammed fell on his back and they shot him point

⁴⁸ Those interviewed said that the name was used for the Darfurian rebels because they hid in caves in Jebel Marra, reminiscent of the Islamist mujahedeen of Afghanistan and al Qaeda who hid in caves—made famous by continued U.S. airstrikes—in the region of Afghanistan called Tora Bora. There is no suggestion that the rebels in Darfur have any connection with al Qaeda.

⁴⁹ See Article 6 of the *Agreement on Humanitarian Ceasefire on the Conflict in Darfur*, April 8, 2004.

blank in the chest. I was maybe two hundred meters away. The man who shot him was wearing military khaki and a cap. We went back the day after and buried him.”⁵⁰

The Yassin area, located, east and southeast of Nyala, along the railroad, was particularly hard-hit by attacks beginning in June 2004. The ethnic composition of the area is diverse, with Gimr, Bergit, Bergou, Dajo and Dinka⁵¹ African tribes represented among the settled farming population, and Arab pastoral tribes, including the Beni Hussein and Misseriya, also present. Witnesses said that rebel forces attacked the police station, and other government offices in Yassin town in January 2004, looting money and supplies and temporarily detaining policemen.⁵²

Following the attack, the government withdrew the twenty-one police stationed in Yassin. Residents of Yassin expected that the government would send troops to protect the area after the rebel attack, but none arrived.

We just stayed in our places and thought the government would bring more reinforcements, but they didn't come. The community leaders talked to the government and asked for troops but the government said the area was peaceful and that we didn't need them.⁵³

Until July, the situation remained relatively quiet, but then, “the Janjaweed came into the area and began to shoot people and burn the villages.”⁵⁴

Residents of nearby Heglig finally fled their homes in early October 2004 just before the harvest, after a succession of attacks on Heglig and other villages. A witness told Human Rights Watch, “The Janjaweed are around us now, we have no security but the Janjaweed are free and comfortable in our places. A local leader who returned to the

⁵⁰ Human Rights Watch interviews, IDP camp, South Darfur, October 2, 2004.

⁵¹ Many of the Dinka have been living in South Darfur for more than a decade, following their flight from the war in southern Sudan. Some of their displaced camps and settlements in South Darfur were also attacked in 2004.

⁵² Human Rights Watch interviews, Kalma camp, Nyala, October 4, 2004. Under international humanitarian law, it is unlawful to attack civilian objects such as police stations and government offices (that are presumed to be civilian objects under international humanitarian law) unless they are being used for military purposes, such as if the police present were engaged in “direct participation in the hostilities” or were stockpiling military weapons and materiel.

⁵³ Human Rights Watch interview, Kalma camp, South Darfur, October 4, 2004.

⁵⁴ Human Rights Watch interview, Kalma camp, October 4, 2004

village saw and heard the Janjaweed in the village. They are using our fields as grazing for their cattle.”⁵⁵

The Heglig villagers said that many of their attackers were members of the Shattiya Rizeigat, a sub-clan of the Riziegat, one of the larger tribes of Arab pastoralists in South Darfur. The Rizeigat, headed by Said Madibo, refused to provide recruits for the government sponsored militia to use in the Darfur conflict.⁵⁶ The Rizeigat had participated in government militia in the southern conflict, where they were armed to attack the communities of their southern neighbors, the Dinka, considered the mainstay of the southern rebel SPLM/A. But although they benefited from the looted cattle of the Dinka, they received a bad reputation internationally for taking Dinka women and children to use as forced labor, or slaves.⁵⁷ They later participated in reconciliation meetings with the Dinka, and were said to be unhappy that the government had used them while leaving their area completely undeveloped.⁵⁸

Credible sources told Human Rights Watch that motives for the participation of the Shattiya Rizeigat in the conflict are two-fold. Several of the usual migration routes from South Darfur northwards have been obstructed by the rebel presence in areas northeast of Nyala and nomadic groups are seeking alternate grazing land for their livestock. In addition, Musa Kasha, a government minister from the sub-clan, is from a leading Rizeigat family rival to the Madibo family. By arming this sub-clan, further pressure is put on the head of the Rizeigat to join the government forces.⁵⁹

In other areas of South Darfur, some attacks also appear to be partly motivated by the prevailing impunity of the nomadic groups who feel empowered by the collapse of law and order and the opportunity to graze animals on farmers' lands. A sixty-seven-year-old Dajo farmer, who fled his home in early October, lost his harvest after armed camel nomads brought all their animals onto his land. “I tried to chase them but the owners

⁵⁵ Human Rights Watch interview, Nyala, October 2004.

⁵⁶ Despite the efforts of the Riziegat leader, Said Madibo, to keep the Riziegat from entering the conflict, it appears that the Shattiya sub-clan led by Musa Kasha, a minister in the central government, has been participating in these attacks. Human Rights Watch interviews, Nyala, October 2004, and see also Sudarsan Raghavan, “Tribal leaders's actions underscore complexity of Sudanese conflict,” Knight-Ridder, November 2004.

⁵⁷ See Human Rights Watch, *Famine in Sudan, 1998: The Human Rights Causes* (New York: Human Rights Watch, 1999).

⁵⁸ Human Rights Watch interviews, North Darfur, October 2004.

⁵⁹ Human Rights Watch interviews, Nyala, South Darfur, October 2004.

told me, 'If you chase them we will kill you.' So I went to the police but they didn't come. So I held up my hands, what could I do? All my grain was eaten, all my fields."⁶⁰

Attacks with Air Support

Use of airpower in attacks is occurring despite promises by the Sudanese government to E.U. countries, including a promise to British Prime Minister Tony Blair in his visit to Khartoum in early October and others, to limit such use in Darfur. Following are two examples of recent gunship attacks in which the civilian population and civilian objects were directly or indiscriminately attacked in violation of international humanitarian law (the laws of war).

Labanti village, South Darfur, bombed by helicopter gunship, October 7, 2004

On October 7, 2004, government forces conducted a helicopter gunship attack on Labanti, an inhabited village approximately two kilometers west of the Nyala-Fashir road, near the village of Douma,⁶¹ South Darfur. According to eyewitnesses, Labanti had been attacked earlier that day, at 6:00 a.m. by an unknown number of armed Janjaweed, who wore khaki/green military uniforms and military caps.⁶² The Janjaweed stole some fifty cows and looted other property, and killed one person and wounded three others. The area had no police or military protection at the time of the attack. The police were withdrawn in July and the military forces left following a September 27 rebel attack on their camp in Douma.

When men and boys from Labanti and surrounding villages gathered to track and retrieve the stolen cattle, apparently armed only with spears and sticks, they encountered a Sudanese government military convoy on the main road. The government troops lashed and detained eleven men and boys from the group. One person was released after "confessing."⁶³

⁶⁰ Human Rights Watch interview, Otash camp, Nyala, October 6, 2004.

⁶¹ Douma is on the main tarmac road running north from Nyala to Fashir, forty kilometers north of Nyala.

⁶² Labanti is one of twenty villages on both sides of and close to this tarmacked Nyala-Fashir road that have been attacked, with resulting displacement. These villages are ethnically mixed, with Bergid, Dajo and Fur residents.

⁶³ Four of the ten detainees were between the ages of twelve and fifteen. Six more were released and as of October 12, four were still in police custody in Nyala, two of whom were underage. Hamid Abdullah Majid Ateem, fifteen; Mohammed Mahmoud Abdalla, twelve; Musa Mohammed Hamis, thirty; and Yacoub Abdullah (Yacoub) Adem, twenty.

Shortly after, two green helicopter gunships appeared, circled twice, low over Labanti. On the third flyover, one dropped three bombs at the southern edge of the village, apparently targeting a lone man in civilian clothes (*jellabiya*, a white robe) on a horse. According to villagers in Douma, a soldier telephoned in a report that the convoy had captured some SLA members immediately after they were taken into custody.

There was SLA presence further east of the road and also northwest of Douma, but, according to an eyewitness, other villagers and the *omda* (village head) of Douma, SLA members were not in or around Labanti or adjacent villages on October 7.

Residents reported the capture and bombing incident to the African Union ceasefire observers the same day. The AU observers immediately investigated and filed a report.

A high-level military intelligence officer in Nyala denied to Human Rights Watch on October 12 that gunships had participated in the October 7 attack. The officer noted that helicopter gunships routinely accompany or are in the vicinity of military convoys; they help the troops and are called in when there is trouble, but only to secure the troops. He stated that a military convoy traveling to Malam on the main road had been ambushed by the SLA, with five soldiers shot.⁶⁴

Air attack on Abu Dileig, North Darfur, September 7, 2004

Abu Dileig is a mostly Zaghawa and Berti town of 1,200 residents south of Nyala.⁶⁵ On September 7, 2004, before sunset, government forces, which had withdrawn without a fight from Abu Dileig months earlier when the SLA entered, returned in September with more than one hundred soldiers in three small trucks and one large truck carrying Janjaweed. These forces looted the town and withdrew, and an hour later two attack helicopters appeared and fired into the town. This was the first time any helicopters or aircraft were used to strike inside the town. Four people were killed and eleven wounded during the attack. One elderly man was burned inside his house when the helicopter set fire to it; the others reportedly killed were two children and one woman.

Villagers fled when the military vehicles arrived, so they were scattered in the plains outside by the time the helicopters arrived an hour later. The helicopters appeared to target Zaghawa houses and shops. Ninety houses with thatched roofs were burned, most by rockets fired from the helicopters, although the soldiers shot at the houses also.

⁶⁴ Human Rights Watch interview, military intelligence official, Nyala, South Darfur, October 12, 2004.

⁶⁵ Zaghawa and Berti are two African groups which both have *dars* (or homelands) in Darfur. Zaghawa men are prominent among rebel fighters and Berti men also joined.

Helicopter fire also burned three classrooms in the school and the school offices, the water tank, the bore hole engine, and the pump.

It appeared to the local population that the houses were targeted for ethnic reasons. A local leader told Human Rights Watch:

It was as if the government had a map. They concentrated on certain parts of town, deliberately, as if they had information. They were aiming at Zaghawa houses because the Zaghawa are accused of being Tora Bora [rebels]. All ninety houses destroyed were Zaghawa.⁶⁶

The SLA was not present at the time of the attack, according to the local leader. After an hour of looting, the soldiers and Janjaweed left in their vehicles, together.

Rebel Abuses

The rebel groups in Darfur consist of two main groups, one new faction emerging in 2004. The SLA rebels, drawing mainly from the Zaghawa, Fur, Masalit and several smaller Darfurian tribes, are the largest single rebel group and control the largest territory, including the northern band of North Darfur and areas in South and West Darfur.⁶⁷ The JEM, formed in 2002, has the stronger diplomatic presence and smaller army, drawing mostly on the Zaghawa group; many of its leaders were originally members of the Islamist political party, the Popular Congress.⁶⁸ The National Movement for Reform and Development (NMRD) is a splinter group of the JEM, formed in 2004 of non-Islamists. Unless specifically cited, most of the abuses described below are the responsibility of the SLA.

Attacks on civilians

The rebel movements have been responsible for direct attacks on civilian objects in violation of international humanitarian law, and for causing deaths and injuries to civilians. Malam, located on the eastern side of Jebel Marra,⁶⁹ was a town of many ethnic

⁶⁶ Human Rights Watch interview, IDP camp, North Darfur, October 1, 2004.

⁶⁷ The SLA began low-level activities in 2001, but emerged as a movement demanding power-sharing and an end to the perceived political, economic and social marginalization of Darfur in early 2003.

⁶⁸ The Popular Congress was formed after their leader, Dr. Hassan al Turabi, was expelled from government by the ruling party, the National Congress.

⁶⁹ Malam is approximately one hundred kilometers north of Nyala, South Darfur.

groups, with both Fur and Beni Mansour pastoralists living there prior to the conflict.⁷⁰ SLA forces attacked the town of on Saturday, October 2, 2004, a market day, at around 5:30 p.m., apparently to loot.

At least three civilians were killed and five others, including at least one woman, were injured after being shot by rebel fighters. Several eyewitnesses said the attackers entered the northern part of the town and moved from house to house before retreating east into the Jebel Marra mountains.⁷¹ A sixty-year-old Beni Mansour man injured in the attack told Human Rights Watch:

I was in the market when I heard some gunfire. The women and children were in the houses and there was a panic of people running back to their homes. I was running towards my home when I was shot in the leg. I saw the attackers: they wore green trousers, shirts and sweaters. Some had their heads covered. They were running from house to house and shooting people. I tried to run into the mosque and that's when they shot me.⁷²

An eighteen-year-old woman who was injured in the attack also described it to Human Rights Watch:

There were a lot of women and children in the house, maybe twenty in total. The attackers opened the door [of my house] and started shooting towards us as soon as they entered. There were a lot of them, I can't say the number, but they were about fifteen meters away. . . . One of my neighbors was killed, a twelve-year-old girl named Nima.⁷³

Human Rights Watch received credible allegations of other, earlier SLA attacks in the Malam area, including on a nomadic settlement on April 21, 2004, in which ten civilians were reportedly killed, and an attack on Um Dashur on June 6, 2004, in which six civilians were reportedly killed.

⁷⁰ Much of the Fur population fled to displaced persons camps east of Malam earlier in 2004.

⁷¹ Human Rights Watch interviews, Nyala, October 7-8, 2004.

⁷² Human Rights Watch interview, Nyala, South Darfur, October 8, 2004.

⁷³ Human Rights Watch interview, Nyala, South Darfur, October 8, 2004.

Additional serious allegations were made which Human Rights Watch was not able to verify, including an incident on June 15, 2004 in which eight unmarried Beni Mansour women were allegedly raped by SLA fighters near Malam.⁷⁴

In a separate incident, SLA forces are alleged to have fired within Buram hospital in March 2004, injuring at least one child in the building.⁷⁵

Abduction of civilians

Rebel abduction of civilians in violation of international humanitarian law has occurred in different parts of Darfur. Some of the targets of these abductions have been people of wealth, such as businessmen, but other individuals, including aid workers, have also been targeted. Others seem to have been targeted on account of their ethnic origin, i.e., membership in groups from which the Janjaweed draw their forces, including leaders considered to be responsible for Janjaweed abuses. In addition, some young boys are alleged to have been abducted while trying to protect their cattle, camels and other livestock from looting by the rebel groups. Others have been abducted when they encountered SLA forces by chance in rural areas.

While some people—particularly aid workers who the rebels hold to emphasize their control of an area—have been released following their abductions and intervention from international agencies, the fate of many abductees is unknown.

A serious incident of multiple abductions and possible summary executions, allegedly by SLA forces, took place along the Nyertite-Thur road, on the southern side of Jebel Marra, in West Darfur. Eighteen passengers, including University of Nyala students of nomadic Arab origin, were removed from the bus and taken away by an SLA commander. According to credible reports, some of those detained were killed while under his authority.⁷⁶ This incident has provoked clashes between SLA and nomadic militias in the Jebel Marra area and the withdrawal of aid workers from towns such as Nyertite in early November 2004.

⁷⁴ Human Rights Watch received a list of sixty names of Beni Mansour women and girls who have allegedly been raped and/or assaulted by members of rebel movements in the Malam area between February 10, 2004 - July 7, 2004, and another list of thirty-three names of individuals who had been injured in attacks between April 21, 2004 - October 2, 2004, but was not in a position to verify these allegations. Lists on file with Human Rights Watch.

⁷⁵ Human Rights Watch interview, Nyala, South Darfur, October 19, 2004.

⁷⁶ Human Rights Watch email exchange with an investigator, Nairobi, November 4, 2004. This source received a report that the Janjaweed attacked a rebel column in the process of returning the abductees to government territory, and some of the abductees died as a result.

In another case, a member of the Aulad Mansour Arab nomadic tribe told Human Rights Watch that one of his relatives, a man named Toreen, was abducted from a commercial truck in June 2004. He believed the abduction was a case of mistaken identity and that the SLA thought Toreen was in fact the omda of the Aulad Mansour.⁷⁷ The whereabouts of Toreen remain unknown. Human Rights Watch received a list of thirty-nine people, including two children, rebel forces allegedly abducted in the Malam area between August 2, 2003 and July 10, 2004. Their whereabouts also remain unknown.⁷⁸

Killings of civilians

Human Rights Watch received a report of what appears to have been a summary execution of a civilian by rebel forces. In early October 2004, people who identified themselves as SLA took Hussein into custody in the middle of the night from his residence in Labado, an SLA-controlled town in Shariya locality, South Darfur. The SLA apparently held him in the Labado police station that night. Hussein was found dead the next day near the railroad tracks, near Labado town. One of his relatives said,

People came in the middle of the night to arrest Hussein. They said they were SLA, and it wasn't the first time he had been arrested. The next morning one of his wives brought tea to the police cell. Then she found out that he was not there. A search started. They found Hussein dead, with hands tied, and showing a gunshot wound and several knife injuries.⁷⁹

SLA authorities do not appear to have investigated this case.

Looting of Animals and Attacks on Civilian Objects

Rebels have been involved in the looting of substantial numbers of cattle, other livestock, and commercial goods from trucks and vehicles in Darfur. These attacks on civilian property are a violation of international humanitarian law. Given the importance of livestock as the primary family asset, looting of cattle and camels can render the owners destitute. This is particularly true for nomads who depend almost entirely on livestock for their income.

⁷⁷ Human Rights Watch interview, Nyala, South Darfur, October 4, 2004.

⁷⁸ The list was compiled by a Beni Mansour tribal leader. List on file with Human Rights Watch.

⁷⁹ Confidential communication to Human Rights Watch, October 14, 2004.

Human Rights Watch received reports of armed attacks on convoys of camels that were being taken across traditional trade routes in North Darfur that appear to have been the responsibility of the SLA. One nomadic leader in South Darfur complained that since 2003 rebel forces stole more than 2,500 camels belonging to the Mahariya tribe; most were stolen while moving towards Wadi Hower in North Darfur en route to the livestock markets of Libya.⁸⁰

In late May 2004, a convoy of forty men taking 1,100 camels north of Atrun, North Darfur was attacked by a group of armed SLA fighters in Land Cruisers. Of the forty men, two escaped and returned to Nyala. The whereabouts of the others, and of the camels, remains unknown, but all are believed to be under the authority of the SLA.⁸¹

The rebels have prevented Arab nomads from using some routes, including through Dar Zaghawa in North Darfur, for several years on the grounds that the nomads/Janjaweed of the same tribes have attacked and looted civilians living there.⁸²

Members of the nomadic Aulad Zeid tribe told Human Rights Watch that the rebels had stolen 4,000 female camels (*nagab*) from their tribe in 2003, from different locations. Some of them belonged to an eyewitness who said that the SLA attacked early on three consecutive mornings during October 2003 when he and others were with their camel herds in the Abu Gamra area, North Darfur. The rebels arrived in trucks; the witness saw the rebels shooting Kalashnikov assault rifles, rocket-propelled grenades, and machineguns. They also had weapons mounted in the flatbed of the trucks, and he said that the rebels used cars, mostly Land Cruisers.⁸³ They took 150 female camels from him, leaving him with only forty-five. The attack lasted four hours on the first day, with the herders defending their animals. Many of the herders were killed defending their animals, including two relatives named by the witness.

Another man from the same group of nomadic herders said that the rebels took many looted camels to their position at Jebel Mun in West Darfur, where they sometimes slaughter them for food. The rebels also use the camels to carry goods.

⁸⁰ Human Rights Watch interview, Nyala, South Darfur, October 4, 2004. A camel's value can vary between U.S. \$500 - \$1000.

⁸¹ Human Rights Watch interviews, Mahariya, Saada, Habbaniya and Auled Mansour nomadic leaders, Nyala, South Darfur, October 4, 2004.

⁸² Human Rights Watch interviews, North Darfur, July 2004. Under international humanitarian law, a violation by one side never justifies a violation committed by the other side.

⁸³ It is unlikely the rebels had so many vehicles, in 2003 or at any time to date.

The rebel groups have also attacked government offices and some private commercial locations in Darfur, generally seeking weapons and ammunition stocks, money and other supplies. In Yassin, South Darfur, rebel forces attacked the police station, *zakat* (Islamic charity) and other government offices in Yassin town in January 2004, looting money and supplies from the offices, according to witnesses. The rebels temporarily detained three policemen who were later released unharmed.⁸⁴

Attacks on civilian objects, including civilian administrative and private business offices, are violations of international humanitarian law. However, such objects become valid targets under international law when they serve a military purpose, such as being used to store weapons or ammunition. The civilians in such offices who do not take an active part in the hostilities may not be attacked. Incidental injuries such civilians suffer are not violations of international rules of war unless the attackers used indiscriminate or disproportionate force. With some exceptions, the rebel forces appear to have targeted objects such as buildings and weapons stockpiles, and not civilians in these attacks.

Rebels have attacked many police stations and posts in Darfur. Police stations and posts being used for military purposes, as well as police taking an active part in the hostilities, are valid military targets under international humanitarian law and may be attacked (though armed rebel attacks remain violations of Sudanese law). Police forces include not only the regular police but sometimes also the Popular Police and newly constituted units such as the Nomadic Police.⁸⁵ Even the regular police have been militarized in Darfur, often are armed with military weapons, and have participated under army command in joint operations with the army. In mid-2004, the deployment of newly recruited police forces in with military functions in many parts of Darfur further blurs their status as to whether they are subject to attack as military targets.

Human Rights Watch researchers traveling in Darfur in September and October 2004 noted that units of the Sudanese armed forces and police were often not clearly identifiable through their uniforms or insignia, and that Sudanese police and army forces were often mingled, sometimes even traveling together in military convoys and

⁸⁴ Human Rights Watch interviews, Kalma camp, Nyala, October 4, 2004. Under international humanitarian law, it is unlawful to attack civilian objects such as police stations and government offices (that are presumed to be civilians objects under international humanitarian law) unless they are being used for military purposes, such as if the police present were engaged in "direct participation in the hostilities" or were stockpiling military weapons and materiel.

⁸⁵ Another new unit, the Border Intelligence Guards, is believed to be one of the units into which many Janjaweed militia have been incorporated. According to an identity card of one of the members of the Border Intelligence Guards obtained by Human Rights Watch, this unit is organized under the army.

individual vehicles along the roads of Darfur. It is the responsibility of the Sudanese government to distinguish clearly between the police and the army in Darfur.

Recruitment and use of children as soldiers⁸⁶

Since early 2004, eyewitnesses have observed boys apparently under the age of eighteen among both the SLA and JEM rebel movements.⁸⁷ While it does not appear that the rebel movements are forcibly recruiting children, it is clear that some children who “voluntarily” join the rebel movements have been given arms. It is unlawful for state armed forces or rebel groups to deploy children as combatants, whether or not they were forcibly recruited or joined on their own accord.

Human Rights Watch researchers traveling in North Darfur observed and photographed child soldiers with the SLA in July and August 2004. Human Rights Watch researchers often saw SLA rebels at checkpoints who appeared to be under the age of eighteen. The youngest child soldier observed with the SLA was approximately twelve. No female child soldiers were observed.

Human Rights Watch discussed the child soldiers issue with several SLA leaders, and urged that they release the boys. SLA leaders responded that the minimum age of recruitment for the SLA was eighteen years. They said that many of the child soldiers were youngsters who were members of local defense units organized not by the SLA but by the communities affected by government/Janjaweed violence, and that they were used for sentry duty.

One SLA spokesperson, however, said that the SLA had taken responsibility in 2003 for many children whose parents and other family members had been killed or were missing in the conflict. The girls were taken in by informal foster families, at SLA urging. Some eighty Fur boys, however, could not be so accommodated. The SLA sent these boys to the refugee camp in Bahai, Chad, just over the border from North Darfur, in January 2004. Many of the boys returned to the SLA, however, claiming that there was no

⁸⁶ The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. These standards reflect a growing international awareness that children under the age of eighteen should not participate in armed conflict. Human Rights Watch takes the position that no child under the age of eighteen should be recruited—either voluntarily or forcibly—into any armed forces or groups or participate in hostilities.

⁸⁷ See Human Rights Watch report, *Darfur in Flames: Atrocities in Western Sudan*, Vol.16, No.5 (A), April 2004, p.39.

provision for them in the camp. A few of these boys were pointed out to Human Rights Watch by the spokesperson. They were been armed.⁸⁸

Other children in this group taken by the SLA to Chad apparently found a way to become attached to refugee families and qualify for rations, even though they were technically unaccompanied children. Later in 2004, the International Committee for the Red Cross (ICRC) reported that it had taken note of several unaccompanied children in refugee camps in Chad.⁸⁹

The Optional Protocol to the Convention on the Rights of the Child establishes eighteen as the minimum age for any conscription or forced recruitment. It further calls on armed groups distinct from state forces not to recruit or use in hostilities persons under the age of eighteen and on other state parties to assist with rehabilitation where possible. On September 11, 2004, the government of Sudan ratified this optional protocol.⁹⁰

International Response to the Crisis in Darfur

If the Sudanese government were genuinely committed to the safety and prosperity of its citizens, it could remove and prosecute the Janjaweed, who have repeatedly broken the criminal laws of Sudan. The Sudanese government, however, is responsible for recruiting, arming, and jointly operating with the Janjaweed against Darfurian rebels. This is the main reason why the government has failed to undertake prosecutions or investigations of the Janjaweed or their leaders, or to disarm them.

The U.N. Secretary-General finally recognized this crucial fact in his report of November 4, 2004 to the U.N. Security Council, discarding the diplomatic fiction that the Sudanese government is separate and apart from the Janjaweed militia. "It [the Sudanese government] has responded to increasing pressure from the SLM/A attacks by launching operations using combined forces from the army, police and militia, including groups known to the local population and internally displaced persons as 'Janjaweed,'" ⁹¹ he noted. The Security Council has lost precious time by pretending that the Sudanese

⁸⁸ Human Rights Watch interview, SLA spokesperson, North Darfur, July 27, 2004.

⁸⁹ ICRC, "Sudan Bulletin No. 17," October 29, 2004, <http://www.icrc.org/web/eng/siteeng0.nsf/iwplList4/69D2C0590E520C96C1256F3C00561281>

⁹⁰ UNICEF, "Sudan ratifies two protocols for the protection of children's rights," Press Release, Khartoum/Geneva/New York, October 31, 2004.

⁹¹ United Nations Secretary-General, "Report of the Secretary-General on Sudan pursuant to paragraph 15 of Security Council Resolution 1564 of 18 September 2004, and paragraphs 6, 13 and 16 of Security Council resolution 1556 of 30 July 2004" (New York: United Nations, October 2004).

government is neutral as to the Janjaweed and the rebels in Darfur, and that it was not responsible for the scorched earth campaign that ruined the economy of Darfur, cost the lives of thousands of Darfurians, and burned hundreds of villages.

Despite several "early warnings," the matter of Darfur was not even on the Security Council agenda until April 2004.⁹² The Security Council on July 30, 2004, ended its protracted delay in taking action on Darfur and passed Resolution 1556.⁹³ This resolution, to the credit of the Security Council, gave the government of Sudan thirty days to "disarm the Janjaweed militias and apprehend and bring to justice Janjaweed leaders and their associates"⁹⁴. It threatened "further actions" if the Sudanese government failed to comply with the resolution.

The Sudanese government failed to disarm the Janjaweed or bring any to justice. Instead, the Secretary-General's Special Representative for Sudan, Jan Pronk, was treated to a "show" disarmament of 300 Popular Defense Force members.⁹⁵ At the same time, many reported that numerous Janjaweed, far from being disarmed, were being transferred to the uniformed police, armed forces, and PDF—and into a specially created "Border Intelligence Guard."

The Secretary-General's report to the Security Council on August 30, 2004 flatly stated that the government of Sudan had not met its obligation to stop attacks against civilians and ensure their protection "fully, despite the commitments it has made and its obligations under resolution 1556."⁹⁶ Despite this conclusion, the report did not recommend any specific action against the government of Sudan but merely urged it to accept the A.U. offer to provide troops to protect civilians in Darfur.

⁹² In late 2003 the U.N.'s emergency chief Jan Egeland warned that Darfurians were living the "worst humanitarian crisis in the world." Sudan was not on the agenda of the Security Council until April. The government of Sudan responded to this show of interest and concern by quickly signing a ceasefire agreement with the rebels; by April 2004, however, the damage had been done: one million people had been evicted from their farms and rendered destitute on account of their ethnicity. They missed the 2004 planting season, guaranteeing that the international community would be called on to provide continued emergency relief for another year.

⁹³ The Security Council President issued a statement on Darfur in late May. The Council was briefed on the humanitarian and human rights crisis in Darfur repeatedly in April-June and U.N. officials continued to visit Darfur, including Secretary-General Kofi Annan in early July.

⁹⁴ United Nations Security Council Resolution 1556, July 30, 2004.

⁹⁵ Reportedly, the weapons turned in were handed back to the PDF members the next day. Amnesty International, "Darfur, Sudan: UN Security Council must challenge human rights violations," Press release, September 2, 2004, <http://news.amnesty.org/index/ENGAFR541082004>.

⁹⁶ United Nations Secretary-General, "Report of the Secretary-General pursuant to paragraphs 6 and 13 to 16 of Security Council resolution 1556 (2004)" (New York: United Nations, August 30, 2004).

The next Security Council resolution (Resolution 1564) on September 18, 2004 did not follow through on the threat of “further measures” from the previous resolution. The resolution instead continued to threaten, this time specifying the possibility of sanctions for noncompliance, including on the petroleum sector and on individual members of the government. In a positive move, the Security Council authorized the establishment of an international commission of inquiry to “investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable”⁹⁷.

The U.N. High Commissioner for Human Rights, Louise Arbour, visited Darfur from September 20-24 with the Secretary-General’s Special Advisor on the Prevention of Genocide, Juan Mendez. They denounced the total impunity enjoyed by perpetrators of atrocities and recommended the deployment of an international police force in Darfur to protect civilians and investigate crimes.⁹⁸

The second monthly report of the Secretary-General to the Security Council was delivered on October 5. In a briefing to the Security Council, the Secretary-General’s Special Representative for Darfur, Jan Pronk, stated that “there was no systematic improvement of people’s security and no progress on ending impunity.”⁹⁹ In the third monthly report, dated November 4, the Secretary-General noted with some alarm the increase in violence and insecurity in Darfur.

From the start of the crisis in Darfur, the Security Council, in effect, delegated to the African Union the responsibility to provide the international military presence needed to bring security to Darfur, in the face of Sudanese government’s de facto refusal to protect its citizens. The fledgling A.U. offered to increase its forces and to expand its mandate to include civilian protection, in a sharp change from its predecessor, the decidedly non-interventionist Organization of African Unity. After protracted negotiations, the Sudanese government consented to increased A.U. forces and a slightly expanded mandate.

The A.U. worked to build up the expanded protection force, but as of November 4, there were only 136 A.U. ceasefire observers, protected by 625 A.U. troops, in an area

⁹⁷ United Nations Security Council Resolution 1564, September 18, 2004.

⁹⁸ United Nations High Commissioner for Human Rights Louise Arbour, “Statement to the Security Council on the situation of human rights in Darfur”, September 30, 2004.

⁹⁹ “Sudan: U.N. envoy criticizes government over Darfur,” IRIN, October 6, 2004.

the size of France. As of early November, only 287 Nigerian and Rwandan troops had been added to the 310 already on the ground since August. The A.U. planned to boost its force to 2,341 troops to protect 450 unarmed military ceasefire observers and deploy 815 civilian police by the end of 2004.¹⁰⁰ The deployment schedule was facilitated by airlifts of African troops provided by the E.U., U.S., Australia, and others.

The A.U. ceasefire monitors, struggling with inadequate logistics inside Darfur which impeded their ability to deploy sufficiently outside of five bases, nevertheless investigated the cascade of complaints and confirmed that the ceasefire agreement signed in N'Djamena, Chad, on April 8, 2004 has been broken daily by all parties.

A special Security Council meeting was scheduled in Nairobi, Kenya for November 18-19 to bring pressure on the Sudanese government and the southern-based rebels the Sudan People's Liberation Movement/Army (SPLM/A) to finalize the North-South peace agreement—negotiations for which had dragged into the third year—and end the twenty-one-year war fought mostly in southern Sudan; the special meeting would also address the worsening situation in Darfur.

Sanctions are reportedly not on the table for consideration at the Nairobi meeting. But the Security Council cannot afford to allow the Sudanese government to further flout its resolutions. The Secretary-General has now stated that the Sudanese government is responsible for the actions of the Janjaweed militia. The Security Council has given the Sudanese government more than enough time to ensure the security of its citizens – but the Sudanese government has rewarded this indulgence with more stalling as attacks on civilians continue and ethnic cleansing is consolidated.

¹⁰⁰ The one-year operation will cost an estimated US \$220 million. African Union, "The African Union deploys more troops in Darfur as part of its efforts to strengthen AMIS," Press Release No. 098/2004 (Addis Ababa, October 28, 2004).

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