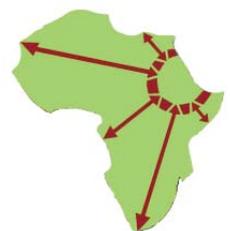




Darfur

Abductions, sexual slavery
and forced labour

Darfur Consortium
An African and
International Civil
Society for Darfur



Abductions, sexual slavery and forced labour in Darfur

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1. Executive Summary

Research carried out by Darfur Consortium over the last two years, which included field research in three states of Darfur, has found that Government supported militia, like the *Janjaweed* and the Popular Defence Forces, together with the Sudanese Armed Forces, have systematically abducted civilians for the purposes of sexual slavery* and forced labour as part of the Darfur conflict.

The vast majority of those abducted are from non-Arabic speaking ethnic groups like the Fur, Massaliot and Zagawa. Women and girls who are abducted are subjected to rape, forced marriage and sexual slavery as well as forced labour which typically would involve cooking, cleaning, washing clothes, collecting firewood and water, but may also include cultivating crops. Abducted men and boys are subject to forced labour which is usually agricultural work, looking after livestock, loading or carrying goods for their abductors and, in the case of boys, domestic work.

Evidence from victims or witnesses of abductions indicate that, at an absolute minimum, many hundreds of people have been abducted during the course of the conflict, but the true figure is likely to be in the thousands.

Abductions are used as part of a wider strategy in which civilians from non-Arabic speaking ethnic groups are attacked, killed and subjected to human rights violations in order to drive them from their land, which is then seized and repopulated by the militia and Arabic speaking nomadic groups. It is difficult to see how this could be described as anything other than ethnic cleansing.¹

The Government of Sudan has not only comprehensively failed in its duty to protect its citizens from abductions and associated abuses, but it also bears a direct responsibility for these violations as they have generally been carried out by Government forces or militias which the Government of Sudan established and supported.

Furthermore, the Government has denied that abductions are taking place in Darfur² and has taken no action to hold those responsible to account. When former victims of abduction or their families report

cases to the police they find the authorities show little interest in pursuing a prosecution even though the offence of abduction carries a penalty of up to ten years imprisonment under Sudanese law. There has not been a single successful conviction for any of the abductions and associated abuses carried out in Darfur.

The real tragedy of the situation in Darfur is how closely it follows the pattern of violations which took place during the civil war of 1983-2005 in southern Sudan. During this conflict, the *Murahaleen* militias carried out joint attacks with the Sudanese Armed Forces against civilians, committing widespread human rights violations and abducting some 14,000 people. Not one person was found guilty or punished for any of these abductions.

The report concludes that there is an urgent need to protect civilians from abductions and other serious human rights violations. It calls on the Government of Sudan to disarm and disband the *Janjaweed*, the Popular Defence Forces and other militia and to fully cooperate with the United Nations and the African Union in order to address continuing human rights and humanitarian issues in Darfur.

The mandate of the mixed UN and African Union force operating in Darfur (UNAMID) should be strengthened so that it can use force to protect civilians and the international community must provide the mission with the human and material resources to be able to do this effectively.

The Government of Sudan must establish confidence in the judicial system and end the impunity that those who have committed abduction and other human rights violations have enjoyed since 1983. This would include ensuring that all those responsible for abductions are prosecuted, punished and prohibited from holding public positions in the future and that those who have failed to properly investigate or sanction abductions are punished and, where appropriate, removed from jobs. The Government also needs to bring its national laws and policies in line with its obligations under the Interim National Constitution and the international human rights standards it has ratified.

*Slavery is the status of a person whom any or all of the powers attaching to the right of ownership are exercised, including sexual access through rape or other forms of sexual violence. Sexual slavery also encompasses situations where women and girls are forced into "marriage". UN Commission on Human Rights. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Fiftieth session. Contemporary forms of slavery. Systematic rape, sexual slavery and slavery-like practices during armed conflict, submitted by Ms. Gay J. McDougall, Special Rapporteur. E/CN.4/Sub.2/1998/13, 22 June 1998.

¹ On 2 April 2004, Jan Egeland, Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, reported to the UN Security Council that a "coordinated, scorched-earth campaign of ethnic cleansing" was taking place in Darfur in which they have seen "an organized campaign being undertaken of forced depopulation of entire areas". Weblink: <http://www.un.org/apps/news/storyAr.asp?NewsID=10307&Cr=sudan&Cr1=>

² See for example the International Labour Organisation, Conference Committee on the Application of Standards report on Sudan under Convention No. 29, June 2008.

Sudan

(Northern, Western and Southern Darfur outlined in red.)



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2. Introduction: rationale and methodology for the research

On 20 December 2003, the United Nations (UN) described the situation in Darfur as “one of the worst humanitarian crises in the world”.³

Since the conflict began in 2003, aid workers estimate that as many as 300,000 people have died as a consequence of the fighting between government and rebel forces in the western region of Sudan.

The Government of Sudan claims the figure is about 10,000 people. The violence has also forced some 2.7 million people, mostly farmers and their families, to flee their homes to Internally Displaced Persons’ (IDP) camps near big towns in Darfur⁴, or across the border into neighbouring Chad.⁵

Systematic and widespread violations of the civilian population’s human rights by both Sudan’s Armed Forces and militia groups allied to the Government have been well documented, not least by the UN. These include massacres, extrajudicial executions, torture and the abduction of civilians, primarily women and children, for purposes of sexual slavery and forced labour.

There are also recorded incidents involving human rights violations by the rebel groups, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), which have included a limited number of cases involving the abduction and forced recruitment of child soldiers.

Darfur Consortium was particularly concerned that the initial reports of abductions in Darfur showed a disturbing similarity to those that took place in southern Sudan during the 1983-2005 civil war. During this conflict some 14,000 individuals were subjected to abductions and subsequent sexual slavery and/or forced labour.⁶

The exact nature of abductions in Darfur has not as yet been systematically documented, nor has the Government of Sudan accepted that forces under its control are responsible for these grave human rights violations. In this context, Darfur Consortium decided to undertake field research to try and obtain more detailed information and evidence about the

abductions taking place in Darfur and identify what action was needed to stop this practice.

The main part of the field research was carried out during 2006-07 by a team of eight researchers (four women and four men) in the three states of North Darfur, South Darfur and West Darfur, as well as in Khartoum.

Interviews were conducted with people directly affected, including former victims of abductions, relatives of those who had been abducted or witness to abductions. In addition, interviews or group meetings were conducted with NGOs and civil society organisations in Sudan, lawyers and community leaders (i.e. Omdas and Sheiks). Separate workshops and key informant discussions were organised to verify information and analyse data.

Wherever the security situation permitted, researchers visited the main areas where abductions were reported to have taken place. Researchers also visited IDP camps where civilians who were displaced during raids on their villages were forced to settle. The IDP camps visited included Abu Shauk, Alsalam, Abuja, Deraig, Kalma, Shangili Tobai, Shaddad, Uttash/Zamzam.

Alongside this primary research, a review of secondary sources was also conducted which looked at reports by international governmental and non-governmental organisations, newspaper articles, and other information relating to the issue of abductions in Darfur.

Researchers encountered several obstacles in collecting data for this report. One of the most difficult of these was related to the fact that most of the women and many of the girls who had been abducted had been raped, often over a prolonged period of time. They were consequently reluctant to admit to, or talk about, the sexual violence they had suffered not only because of the trauma of having to relive these experiences, but also because of the social taboo associated in discussing these issues and the fear that they could be stigmatised or rejected by their own communities.

³ Jan Egeland, the Under-Secretary General in charge of the UN Office for the Coordination of Humanitarian Affairs (OCHA), 20 December 2003, weblink: <http://www.un.org/apps/news/storyAr.asp?NewsID=9094&Cr=sudan&Cr1=>

⁴ IRIN, 12 September 2008, weblink: <http://www.irinnews.org/Report.aspx?ReportId=80325>

⁵ IRIN, 11 July 2008, weblink: <http://www.irinnews.org/Report.aspx?ReportId=79213>

⁶ The scale of abductions carried out during the civil war was recently acknowledged by the Government of Sudan which reported to the International Labour Organization’s Committee of Experts in 2006 that it had resolved 11,000 of the 14,000 cases. Only 3,394 of these ‘resolved’ cases led to abductees being reunited with their families.

These women, and all victims of abductions, were also reluctant to talk about their abduction because they were afraid that those responsible would find out and their lives would be put in danger. It was because of this that the researchers had to spend a lot of time gaining the trust of the people they wished to interview and planning interviews in a way that made them feel secure. This meant that it often took several meetings just to set up an interview. Even once interviews had been set up, they could take many days to complete and this was the case for many of the women who had been subjected to abductions and sexual violence. Due to security concerns, all the names of individuals who were interviewed during the research have been omitted from the final report.

Additionally, some people were understandably unwilling to commit to a time consuming and emotionally draining process which would not lead to immediate improvement in their own security or humanitarian situation.

Finally, the ongoing conflict meant that some areas in which abductions were reported to have taken place were either partially or completely inaccessible to civilians and researchers could not go there to corroborate reports of abductions which they had received.

3. Background to the Darfur conflict

Darfur was an independent kingdom until 1916,⁷ but both prior to this and subsequently it has been a region which has been inhabited by many different ethnic groups, some indigenous and others who have migrated and settled there from west, central and northern Africa.

The economy of Darfur is a mix of farming and animal herding. In northern Darfur people depend primarily on livestock, while in the south and west of Darfur farmers cultivate small plots of communally owned land for a mixture of subsistence and cash crops as well as owning livestock.

Nomadic groups exist in both the south, where they are called *baggara* (cattle herders), and in the north, where they are called *abbala* (camels herders). Tensions have existed between farmers and nomadic groups in Darfur for many decades and are largely a result of competition over water and fodder, especially during poor rainy seasons and droughts.⁸

These tensions were aggravated by a series of droughts and a rapidly spreading process of desertification that hit the region in the mid-1980s which put additional pressure on already scarce natural resources. Nomads were forced to migrate south in search of water and food for their animals, with many heading for the area of Jebel Marra in West Darfur. This situation increased existing tensions between the farmers and the nomads in the region over access to these resources.⁹

One of the factors that contributed to the emergence of opposition movements and the armed insurgency against the Government of Sudan was the feeling in the south, east and western regions of Sudan that, since independence in 1956, the national Government had neglected and marginalised these regions in terms of the national development programmes. In particular, many felt that central Government had not allocated sufficient resources to these regions to allow their development or even to

provide essential services such as education, health care, access to clean drinking water and transport.

In the mid-1960s, a regional political movement, the Darfur Development Front (DDF) was established to call for regional development and proper political participation at the national level. The DDF was mainly made up of what are referred to as African based ethnic groups, like the Fur, Zaghawa, Massaliet, Meidob, Berti, Tama, Mararit and Tunjur.¹⁰

In the mid-1980s, the Arab Congregation was formed, mainly from Arabic speaking ethnic groups like the Habania, Beni Hussein, Zeiyadiya, Beni Helba, Djawama, Rezeigat and the Maharia. This body was formed to advocate for official and financial backing from both the central government and the national political parties in support of the cause of the Arabic speaking groups in the region.¹¹

By 2003, the Sudan Liberation Movement/Army¹² (SLM/A) was formed. Soon afterwards, a second armed group, the Justice and Equality Movement (JEM), was established. The two armed movements were predominantly made up of and supported by the African based ethnic groups in Darfur, particularly the Fur, Massaliet and Zagawa.

The Government rejected the option of political dialogue with the leaders of the rebel movements in favour of an aggressive military response in which they mobilised some Arabic speaking nomadic groups against the African groups in Darfur.¹³ The Arabic speaking groups which were mobilised into militias became known as the *Janjaweed*.¹⁴ In this way the pre-existing tensions in the region were consolidated into a conflict with clearly defined ethnic and racial lines.¹⁵

It should also be noted that the unstable political situation in neighbouring countries, especially Chad, has also had an impact on the conflict in Darfur. Both people and weapons have repeatedly crossed the porous border between Sudan and Chad thereby

⁷ In 1916, Ali Dinar, the last Sultan of the Darfur Kingdom, was killed and Darfur was annexed by the British to Sudan which they had already colonised. For more information see Peter Malcolm Holt and M. W. Daly, *A History of the Sudan*, weblink:

<http://books.google.co.uk/books?id=BkO14rpFY70C&pg=PA110&dq=Darfur+Kingdom+1916&sig=ACFU3U0KVPuDbYddA58aQFt1rXlg6smsHg>

⁸ Suliman, 1997, weblink: http://www.ifaanet.org/ifaapr/ethnicity_inversion.htm

⁹ Lawrence, et. al., 2005. weblink: <http://www.mathematicalanthropology.org/pdf/KuznarSedlmeyer1005.pdf>

¹⁰ These groups are sometimes described in Sudan as 'African' groups in contrast to the Arabic speaking nomads in Darfur, often referred to as 'Arabs'.

¹¹ Suliman, 1997, weblink: http://www.ifaanet.org/ifaapr/ethnicity_inversion.htm

¹² Formerly the Darfur Liberation Front.

¹³ It should be stressed that not all Arabic speaking ethnic groups were mobilised into militia.

¹⁴ Other Government backed militia operate in Darfur, including the Popular Defence Forces (PDF). However, the PDF was established by the Government in 1989 in the context of the 1983-2005 civil war.

¹⁵ Interviewees reported that the *Janjaweed* commonly refer to people from African ethnic groups as *Zurga* which is a derogatory term meaning black.

fuelling the conflict.

In the initial and intense period of the conflict, between 2003-2005, the *Janjaweed* and the Sudanese Armed Forces carried out a range of human rights violations against civilians in order to drive them from their homes which resulted in the displacement of nearly three million people. These human rights abuses included attacks on civilian targets, massacres, extrajudicial executions, the destruction of villages and abductions.

Towards the end of 2007, the violence intensified once again, particularly in parts of West Darfur. These areas witnessed the same pattern of coordinated joint attacks by the militia and the Sudanese Armed Forces on civilian targets and subsequent human rights violations, including abductions.¹⁶

¹⁶ UN news centre, weblink: <http://www.un.org/apps/news/story.asp?NewsID=25735&Cr=darfur&Cr1=>

4. The pattern of abductions in Darfur

The Report of the United Nations High Commissioner for Human Rights on the Abduction of Children in Africa defined abduction as follows:

“Abduction is the removal, seizure, apprehension, taking custody, detention or capture of an individual temporarily or permanently by force, threat or deception for involvement in armed forces or armed groups, for participation in hostilities, for sexual slavery and forced labour.”¹⁷

While, this definition was given in the context of looking at the abduction of children in Africa, it is equally appropriate to apply it to the abduction of adults too. The victims of abductions are reduced to a situation of slavery as their abductors exercise powers of ownership over them and compel them to provide work or services under the threat of some form of punishment.¹⁸ This manifests itself in a variety of ways which are detailed below, but includes sexual slavery through rape and other forms of sexual violence, domestic servitude and forced agricultural labour.

The abduction of individuals belonging to different ethnic groups did take place prior to the current conflict in Darfur and was a manifestation of the tensions between the farmers and the pastoral nomads over resources. However, these abductions were always very limited and were usually quickly resolved by the traditional leaders using administrative powers under what was called the Native Administration system.¹⁹

When the conflict began in 2003, the number of abductions increased dramatically alongside other human rights violations targeted at civilians. As early as 2004, the United Nations Commission of Inquiry on Darfur noted that:

“Hundreds of incidents have been reported involving the killing of civilians, massacres, summary executions, rape and other forms of sexual violence, torture, abduction, looting of property and livestock, as well as deliberate destruction and torching of villages.”²⁰

The fact that the *Janjaweed* and other militia were directly supported by the Government and given a free hand to commit all sorts of abuses with impunity took the violence to an entirely new level. The scale of the abductions and other human rights violations and the support the militias received from central Government meant the local authorities no longer had the powers to resolve these conflicts at an administrative level.

Nearly all of the abduction cases documented during this research have been carried out by the *Janjaweed*, the Popular Defence Forces (PDF) - another government backed militia - the Sudanese Armed Forces or other unidentified militia.²¹ The victims are almost exclusively from African ethnic groups, the majority being women and children from the Fur, Massaliet or Zaghawa groups. However, there are also significant variations in how abductions take place, what happens to the victims and how long they are held, all of which are examined in more detail below.

4.1 Abductions and disappearances

The researchers carried out interviews in West Darfur with relatives and witnesses of seven different cases of abduction involving nine individuals who have subsequently disappeared.²²

The abductions took place between May 2003 and December 2006 during attacks on their villages which

¹⁶ UN news centre, weblink: <http://www.un.org/apps/news/story.asp?NewsID=25735&Cr=darfur&Cr1=>

¹⁷ United Nations High Commissioner for Human Rights, 8 February 2006. Weblink:

<http://daccessdds.un.org/doc/UNDOC/GEN/G06/106/63/PDF/G0610663.pdf?OpenElement>

¹⁸ The 1926 Slavery Convention defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”. The 1930 ILO Convention on Forced Labour defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

¹⁹ These administration powers were used to resolve problems and maintain peace between the different ethnic groups. For further information, see Mohamed, 2004, weblink: http://www.steinergraphics.com/pdf/darfur_screen.pdf#page=85

²⁰ The UN International Commission of Inquiry, October 2004, *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary General*, page 54. At www.un.org.

²¹ The only exception to this is a number of abductions involving the recruitment of children as combatants by the SLA, JEM and the Chadian insurgency. For more details see section 4.4 Child abductions.

²² These abductions would constitute enforced disappearances which is defined as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” (Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance).

were located in Zari, Sindo-Mukjar, Zuwa, Tama, Dammaya, and Jiwaighain. In all cases the *Janjaweed* militia was responsible for the abductions and in some cases the attacks were carried out together with the Sudanese Armed Forces.

The women and girls who were abducted were aged 4, 16, 17, 18, 25 and 28 respectively. Five of them were from the Fur ethnic group and the other one was Massaliet. The three men who were abducted were aged 21, 35 and 40. Two of them were Fur and the other was from the Burnu ethnic group.²³

At the time of the interviews, the whereabouts of all of these people remained unknown. It is impossible to prove what has happened to these individuals without locating them or interviewing other people who have had direct contact with them since their abduction. However, based on the evidence collected during this research it is likely that teenage girls and women will have been subjected to rape, sexual slavery and forced labour, while the men will either have been killed or been used as forced labourers.

4.2 Abductions, sexual slavery and forced marriage

The report of the UN International Commission of Inquiry on Darfur (2004) found that *Janjaweed* militiamen and government soldiers were responsible for the abduction, confinement and rape of women in cases that the Commission investigated in Tawila, North Darfur, and in Maallag, Mangarsa and Kanjew in West Darfur.²⁴

The Commission also documented further cases of women and girls being abducted, detained and subjected to repeated acts of sexual violence in the area surrounding El- Geneina, Mukjar, Disa and Silea in West Darfur, Kutum in North Darfur, and in Kailek, South Darfur.²⁵

Several human rights organisations issued reports in 2004-05 which supported the UN Commission's findings that women and girls were systematically subjected to abduction, rape and sexual slavery in Darfur.²⁶ Darfur Consortium's research confirms these findings, but also provides additional information relating to the nature of these abductions which it is important to highlight.

The majority of abductions of women documented in Darfur Consortium's research were carried out during *Janjaweed* attacks on civilian villages, often in cooperation with the Sudanese Armed Forces. Women and young girls are also vulnerable to abductions when they are compelled to leave their IDP camps to search for water and firewood. However, in some cases the militias also came directly into the IDP camps and carried out abductions.

In one incident, 21 people (14 men and seven women) were abducted from the Shaddad IDP camp in October 2005. A woman who managed to escape described what happened to them:

“They used us like their wives in the night and during the day time we worked all the time - preparing food, collecting firewood and fetching water from nearby. The men they abducted with us were used to look after their livestock. We worked all day, all week with no rest. I believe those who I left behind are still doing the same work.”

This woman was only able to escape after three months and even then under circumstances which meant that she had to leave behind her six month old baby. She is still traumatised by her experiences.²⁷

Another woman described how she had been abducted along with 12 other people (seven women, three men and three children) in October 2005, from the administrative districts of Daim Mayo, Tama and Jiwaighain in West Darfur. These abductions took place when the *Janjaweed* militia attacked their homes, looted their belongings and killed many civilians. After their abduction, all the women and girls were repeatedly raped. In addition to this they were forced to perform different types of unpaid domestic work for the militia in the camp. None of the detainees were allowed to leave, but the woman who provided this information managed to escape after two months and find her way to Deraig IDP camp where she was interviewed.²⁸

The interviews highlight that women and girls are subjected to forced labour (cooking, fetching water, domestic work, etc.) as well as sexual violence after their abduction. The testimonies also reveal that men are abducted in attacks on villages or IDP camps. These men are either compelled to provide forced labour (see below for more details) or are killed by the militias.

²³ Information gathered during interviews for this study.

²⁴ The UN International Commission of Inquiry, *op. cit.*, page 103.

²⁵ The UN International Commission of Inquiry, *op. cit.*, page 89.

²⁶ See Human Rights Watch, *Sexual Violence and its Consequences Among Displaced Persons in Darfur and Chad*, 2005; MSF, *The Crushing Burden of Rape: Sexual Violence in Darfur*, 2005 downloadable from: <http://www.doctorswithoutborders.org/publications/reports/2005/sudan03.pdf> and Amnesty International, *Darfur: Rape as a weapon of war: sexual violence and its consequences*, 2004 at: <http://www.amnesty.org/en/library/info/AFR54/076/2004>

²⁷ Interview at Shaddad IDP camp, August 2007.

²⁸ Interview at Deraig IDP camp, August 2007.

The length of time that women and girls are held in the *Janjaweed* camps varies considerably, with some being released after days or weeks and others only escaping after a number of months or even years.

In one case, around 50 female students aged between 13 and 15 years old were abducted by the *Janjaweed* in Tawila and surrounding villages in North Darfur after attacks in February 2004. These girls were taken to a camp in Tina, near Al Fasher, where they were repeatedly gang-raped for one week and then released.²⁹

However, in another case a woman testified that she was held for nearly two years after her abduction. During this time she was raped and forced to cook and do domestic chores for her captors. She said she had to work all day, seven days a week. Eventually she got pregnant and had a baby as a consequence of her continued sexual slavery. This woman had received no medical assistance at the time of the interview even though she was clearly traumatised by her experiences and in need of professional counselling.³⁰

It should also be stressed that the abduction and sexual slavery of women and girls has not stopped and researchers recorded several cases which took place in 2007.³¹ For example, on 26 April 2007, *Janjaweed* militiamen attacked a group of women while they were collecting firewood near their village Aradeab. Six women were abducted and taken to Um Andaraba and Farig Abyad, north of Al Geneina, in West Darfur. One of them managed to escape and testified that all the women were subjected to sexual violence and forced to prepare food for the militia every day.³²

In some cases, abducted women and girls are coerced into forced marriages with their abductors, their abductor's relatives or even with men in a different region of Sudan.³³

There is little an abducted woman or girl can do to prevent a forced marriage. They have seen other women beaten or killed for trying to resist their captors and most have already been raped. In reality

they have no way of rejecting the status of 'wife' being imposed upon them. These marriages are not formal in the sense of having an official marriage certificate, but a marriage is recognised as legal under Islamic Sharia law³⁴ and by the local community as long as the women's consent is guaranteed and there are two witnesses to testify to the marriage. Even if the woman refuses the marriage, the witnesses (who are also her captors) will testify that she agreed to be married.

It is not unlikely that many of the women who were abducted and disappeared (see above) have ended up in forced marriages. For example, in one case a group of women were abducted as they were returning to their village in February 2006. Sometime later a man came to Habillah marketplace in West Darfur on a donkey which had been owned by one of the abducted women. The man was subsequently arrested by the police and in the course of being interviewed he provided information regarding the abduction, including the fact that one of those taken, a 17 year old Massaliet girl, had been forcibly married to a Sheik from one of the *abbala* (camel herding) groups that live in the area.³⁵

The research also identified several cases in which abducted women and girls were moved outside of Darfur, mainly to the capital, Khartoum, where they were forced to act as a wife to a man that they did not know. This relationship would involve them carrying out unpaid domestic work and being treated as the sexual property of the man to whom they were given.

One such case came to the attention of a lawyer in a court in Kalakla, South Khartoum in which he was working. In February 2007, a member of the Popular Defence Forces (PDF) came to the court to get a marriage certificate and then tried to leave when he was asked about his wife and when the wedding took place. The lawyer who witnessed the incident managed to meet the woman and learned that she was part of a larger group of women who had been abducted in Darfur and then brought to the capital where they were distributed among the members of PDF militia.³⁶

²⁹ Interview in Al Fasher, 14 March 2007. This incident was also reported by the United Nations, although they stated that around 35 girls were involved.

³⁰ Interview at Abu Shauk IDP camp, June 2007.

³¹ As recently as 5 November 2008, UNAMID documented a case of two girls aged 11 and 12 and three women who were gang-raped by men wearing military uniforms in Sudan's Darfur region. Reuters, 5 November 2008, weblink: <http://www.alertnet.org/thenews/newsdesk/L5685684.htm>

³² Interview at Abu Shauk IDP camp, May 2007.

³³ Forced marriage was recognised as a prosecutable crime during periods of armed conflict at the Ad Hoc International Criminal Tribunal for the Former Yugoslavia (*Prosecutor v. Kvočka et al.*) and, more recently, the Appeals Chamber of the Special Court on Sierra Leone concluded that acts of forced marriage amount to a crime against humanity. For more information see: www.sc-sl.org/Press/pressrelease-022208.pdf.

³⁴ Sharia law is an Islamic justice system that derives from a combination of sources including the Koran, the Hadith (the sayings and conduct of the prophet Muhammad) and fatwas (the rulings of Islamic scholars by which all aspects of a Muslim's life are governed).

³⁵ Interview at El Geneina, March 2007.

³⁶ Interview conducted with the lawyer in August 2008.

A similar case was documented in which 16 girls from Garsila in West Darfur were abducted in 2006 by the PDF and then transported to the area of Albutana in east Sudan. This case came to light when one of the girls was admitted to the hospital in a village called Village 40 because of the repeated acts of sexual violence for which she required medical treatment.

She stayed in the hospital until her treatment was finished and in this time her story reached a lawyer. The girl told the lawyer how she was one of 16 girls who had been abducted from Darfur, brought to the east of Sudan and forced into marriage. The lawyer then filed a case on her behalf against charging the people who were keeping her with abduction.

The case was referred from Village 40 to Medani's Criminal Court, in central Sudan. Officials in the Medani court then tried to argue that they did not have the authority to examine this case and that it should be referred to the special courts in Darfur, Al Fasher and Nyala, and dealt with there. The girl's lawyer insisted that the Medani court had the authority to deal with the case in question and the case was allowed to proceed. However, when a date had been set for the next session of the trial the sitting judge was transferred. He was replaced by a new judge who informed the lawyers that the 'accused parties' had been married to each other and therefore there was no case to answer since the marriage was consensual. The Judge dismissed the case in December 2007.

Secondary sources confirm this pattern and in at least one instance cite the direct involvement of the Sudanese army in these abductions. One source quotes two separate incidents, which took place in different locations and a year apart, in which a woman and a girl testify that they were abducted and raped by soldiers from the Sudanese army in West Darfur and then airlifted to Khartoum to serve as wives for government soldiers.

In the first case, a 21 year old woman was seized by government soldiers when they attacked her village, Jartage, in 2003. During the attack she and many other women tried to hide in nearby bushes, but were caught. She said: **"Each of us was raped by between three to six men...One woman refused to have sex with them, so they split her head into pieces with an axe in front of us."** The woman described what happened when the soldiers tried to force them onto a truck:

"I refused, so one of them hit me with a cane, broke my rib, then threw me in. They took 43 of us in land cruisers and drove for two days without food or water...In the middle of the night we reached a place with lights and they put us directly on a huge airplane. I thought they'd kill me...There were girls from other villages, I knew about 10."

The woman said that when they arrived at a base in Khartoum the soldiers were given money. After that **"each woman was given to a soldier, now I do not know where any of them are. I was given to an Arab soldier, taken to his house and locked inside. Every night he used me like a wife. For two months I did not see the outside."** She eventually escaped and went into hiding on the outskirts of Khartoum.

In a separate incident a 14 year old girl recounted a similar story in which she was abducted from the village of Mokjar by government soldiers and *Janjaweed* who threatened to kill her if she did not go with them. She was then taken to an airfield, where there were about 25 girls from different areas. **"They put us all on two planes, each with about 100 soldiers and in Khartoum we were all taken to a place along the Nile and raped at gunpoint."** After that she was handed to a soldier as his wife.³⁷

These accounts were corroborated in private by UN and Sudanese officials. A senior politician in Khartoum who wanted to remain anonymous said: **"The army captured many children and women hiding in the bush outside burnt villages,...They were transported by plane to Khartoum at night, and divided up among soldiers as domestic workers and in some cases wives."**³⁸

4.3 Abductions and forced agricultural labour

The research has documented many cases in which men, women and children have been abducted and used to provide free agricultural labour in areas controlled by the *Janjaweed* militia in West and South Darfur.

There is substantial evidence which indicates that many hundreds of people are being held in areas controlled by the *Janjaweed* where they are forced to farm land, tend animals and harvest crops for the benefit of the militia and their families. They are not paid for this work and they are not allowed to leave these areas.³⁹

³⁷ Joffe-Wal, B., *Darfur Women 'Kept as Sex Slaves after Kidnap by the Sudanese Army'*, Sunday Telegraph, London, 19 September 2004. Weblink:

<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/sudan/1472135/Darfur-women-'kept-as-sex-slaves-after-kidnap-by-the-Sudanese-army'.html>

³⁸ Joffe-Wal, B., *op.cit.* 19 September 2004.

³⁹ Information gathered during interviews for this study 2006/2007.

The areas affected are those which are more fertile and have historically been more productive. The *Janjaweed* have little knowledge of farming or tending farm animals and are therefore dependent on local expertise which they exploit through forced labour.

This practice occurs mostly in West Darfur and areas affected include Alginaina, Zalinjai, Wadi Salih (formerly Garsila), the areas of east Dilaij, Wara, Beida, Daringa and Genyo. There are also reports of abductions and forced labour from around Zalinjai, particularly the area of Shedi, around Coroly, Bundisi and Um Dukhun, Kubra, Dunbar, to the east of Zalinjai, and in the area extending from Wadi Toro to Abata.⁴⁰ This practice has also been identified in the area of Tuwal, near Buram in South Darfur and in Kabkabiya, Saraf Umra and Alsiraif Banu Hussain in North Darfur.

In Abu Shouk IDP camp, 12 boys were identified who had been abducted between 2003 and 2004 and forced to do farm work by the militia. One of the boys explained in detail how he was made to look after livestock which had been looted by the *Janjaweed* during attacks on civilian villages.

“When they captured me, they beat me regularly, and they ordered me to look after their animals, they were treating me and the other boys very badly, they kept telling us that we are not human beings and we are here to serve them, I also worked on their farms.”

The boys also stated that there were many hundreds of abductees in Kabkabiya, Saraf Umra and Alsiraif Bani Hussain, all of which are controlled by the *Janjaweed*.⁴¹ This was corroborated in other interviews which were carried out in a different location, but in which the interviewees confirmed the presence of abductees in these same locations.⁴²

In early 2006, a man was abducted from the Uttash IDP camp and was taken to the village of Bidair, which is a well-known stronghold of the *Janjaweed*, to carry out forced labour for the militia. Information collected during interviews indicates that the man is still being held there.⁴³

In February 2007, two other men, aged 25 and 27, were also attacked and abducted by militiamen while returning from Kass to their village in South Darfur. They were taken to Mistreha western Kabkabiya,

which is controlled by the *Janjaweed*. The men were forced to grind millet and do other work every day, seven days a week. If they stopped working they were beaten. One of the men said “We were beaten and called names, we were made to take care of the camels and grind millet.” They only managed to escape after 16 months.⁴⁴

In another case, a 21 year old Fur man was abducted by the *Janjaweed* in October 2005 from Kilo village in South Darfur. He and other abductees were taken to a place called Adowa where they had to provide forced agricultural labour. He managed to escape after two years and was able to list by name some of the abductees who continue to be held in detention in Adowa.

“I left more than 20 abductees behind, during the period of abduction I and the other abductees were used to look after our abductors’ livestock and do farming work... the abductees were from Jouroof, Haraza, Kilo, Taringa, Orshinga and Sidada villages in South Darfur.”⁴⁵

While the cases cited above refer to the abduction and forced labour of boys and men, it should be stressed that girls and women are also detained in these areas and forced to provide free agricultural labour for the *Janjaweed* and prepare food for the militia. As documented in other cases of abduction, these women and girls are extremely vulnerable to repeated acts of rape and sexual slavery.

4.4 Child abductions

As has been documented above, girls are frequently abducted for the purposes of sexual slavery and forced marriage. Boys are also abducted and primarily used for looking after livestock and other agricultural work. In both cases these children may also be obliged to carry out domestic work for their abductors.

However, the research has also found cases in which children were abducted and taken to cities specifically to perform forced domestic work in other people’s homes, including washing clothes, ironing and cleaning. These children are not allowed to leave the houses, do not receive any education and are not paid for the work they do.

⁴⁰ Information gathered during interviews for this study 2006/2007.

⁴¹ Interviews at Abu Shouk IDP camp, June 2007.

⁴² Interview in Al Fasher, North Darfur, February 2007.

⁴³ Information gathered from interviews conducted in 2007 and 2008 in South and West Darfur.

⁴⁴ Interview at Kass, May 2007.

⁴⁵ Interview at Nyala October 2007.

One family who were interviewed in Alsalam camp explained how their child was abducted when he was eight years old during a *Janjaweed* attack on Korma in August or September 2005. The family found out that their son had been taken to Kabkabiya and was being forced to do domestic work for an Arabic speaking family. The abducted boy's family reported the case to the local Sheik and the police, but the police showed no interest in investigating the matter. The boy was still being held in Kabkabiya at the time of interview.⁴⁶

In another case, a boy from the Fur ethnic group was abducted in South Darfur and brought to Khartoum in December 2007 by an officer in the Sudanese army. The boy was detained in the officer's house and forced to do domestic work for him:

“I was the first to get up and the last to go bed. Normally I woke up very early, about 5.00am, cleaned the house, washed the dishes, and then washed clothes and ironed them. I worked all day. I was so tired and then one day I managed to escape as they left the door open. I walked and walked until I saw some people in a shop who looked like the people from Darfur.”

The shop was for washing and ironing clothes and was run by people from Darfur. One of the men in the shop was also Fur and he put the boy in touch with a lawyer. The lawyer contacted some organisations which worked with children and eventually they managed to reunite the boy with his family.⁴⁷

Most of the armed groups in Darfur have been involved in recruiting and sometimes abducting children in order to use them as child soldiers. In his August 2006 report on children and armed conflict in Sudan, the UN Secretary-General reported that the SLA, the *Janjaweed* and the Chadian insurgency were all involved in abducting or recruiting children to use as combatants.⁴⁸ On 2 February 2007, Radhika Coomaraswamy, the UN Special Representative to the Secretary-General on Children and Armed Conflict, noted after a visit to Sudan that there **“is recognition in Sudan at the official level of the problems of child recruitment and sexual violence”**. She added that: **“Independent monitors have pointed out to us through verified data that child recruitment is increasing in Darfur and that all parties to the conflict engage in child recruitment.”**⁴⁹

Human Rights Watch researchers in North Darfur photographed child soldiers with the SLA at rebel checkpoints in July and August 2004 and have received eyewitness accounts that the JEM is also using child soldiers.⁵⁰ UN field monitors also reported that 13 boys confirmed to them in May 2007 that they had been recruited by the JEM and were being used as combatants.⁵¹

⁴⁶ Interview at Alsalam IDP camp, June 2007.

⁴⁷ Interview in Khartoum, March 2008

⁴⁸ United Nations, *Report of the Secretary-General on children and armed conflict in the Sudan*, August 2006, S/2006/662.

⁴⁹ Reuters, 2 February 2007, weblink: <http://www.alertnet.org/thenews/newsdesk/IRIN/a95a529d2e11b6edad20c0d6c69d8aeb.htm>

⁵⁰ Human Rights Watch, *Sudan: If We Return, We Will be Killed*, November 2004.

⁵¹ Report of the Secretary General to the UN Security Council, September 2007. Quoted in the International Herald Tribune, *Children in Sudan still being recruited to fight, face other abuses*, 14 September, 2007.

5. Addressing the issues behind abductions in Darfur

5.1 Ethnicity, human rights violations and land

As has been mentioned earlier, the ethnic tensions between the generally settled African groups like the Fur, Zaghawa and Massaliet and the Arabic speaking nomadic groups, do pre-date the current conflict in Darfur. However, the Government of Sudan's strategy of mobilising and arming the Arabic speaking groups into the *Janjaweed* and then providing them with active support to carry out attacks on civilian targets led to systematic and widespread human rights violations which had not been seen in the region before.

The issue of land ownership is an integral part of the conflict in Darfur. Many regions of Sudan have traditionally been populated by certain ethnic groups and this is reflected in the names of these region. For example, Darfur, Dar Hamar, and Dar Massaliet – Darfur literally means home (Dar) of the Fur.

The Government of Sudan provided the *Janjaweed* with the political and military support to allow them to seize control of land and other natural resources that belonged to African ethnic groups. Abductions, torture, extrajudicial executions, the destruction of villages and other human rights abuses were all part of this strategy. Once the local population had been displaced from their land it was then occupied by the *Janjaweed* and other, mainly nomadic, Arabic speaking groups.

Information gathered during the research indicates that some of the groups occupying land are foreign nationals. These people are Arabic speaking nomads who come from Chad, Niger, Mali and Cameroon. They have been actively encouraged by the *Janjaweed* to migrate to Darfur to settle and local people have been displaced from their land to allow this to happen. Several sources allege that these migrants have been given Sudanese identity documents, but the research was not able to confirm this.

The process described above is illustrated in the example of Tawila. This area was subjected to repeated attacks which were accompanied by

abductions and other human rights violations. As a result most of the original inhabitants fled their homes, with many being displaced to villages further away or to IDP camps. The *Janjaweed* then completely cleared the area of any remaining people and extended its attacks to neighbouring villages and IDP camps causing secondary displacement and depopulating an even larger area of land. These areas were then occupied by the *Janjaweed* and other Arabic speaking ethnic groups, including some who came from other countries.

The displacement of the local population of African ethnic groups like the Fur, Zaghawa and Massaliet from their lands and their replacement by Arabic speaking ethnic groups is at the heart of the conflict. The issue of land ownership is therefore going to be a crucial part of any peace process and if it is not adequately addressed it has the potential to be a source of continuing conflict in the future.

5.2 The absence of civilian protection

In Darfur, the Government of Sudan has not only failed in its responsibility to protect its own citizens from human rights violations, but it also bears a direct responsibility for many of the abuses which have taken place.

As has been previously outlined, it was the Government of Sudan which supported the *Janjaweed* and PDF militias. The Government gave these groups full licence to establish their control over Darfur by force, including by attacking civilian targets and committing grave human rights violations, such as abductions. The Sudanese Armed Forces have provided direct military support for these actions, as has been well documented by the United Nations and various other sources.

In the absence of State protection and with traditional mechanisms for conflict resolution left completely impotent by the scale of the violence, civilians have been left to suffer the consequences of the violence. An estimated 4.5 million people have been directly affected,⁵² with some 2,000 villages totally or partially destroyed and around 300,000 people killed.⁵³

⁵² <http://www.irinnews.org/Report.aspx?ReportId=77809>

⁵³ The UN High Commissioner for Human Rights highlighted in a report on 20 March 2008 that attacks by pro-government militia on civilians have continued in January and February 2008 in West Darfur and constituted "violations of international humanitarian and human rights law". It noted that more than 100 people had been killed and some 30,000 driven from their homes in the attacks. Weblink: <http://www.reuters.com/article/latestCrisis/idUSL20508924>

The inevitable consequence of this violence and the failure of the Government to protect its citizens was that people were forced to flee their homes and go to IDP or refugee camps. Nearly three million people have been either internally displaced or have crossed the border to seek refuge in the Republic of Chad, but their security has not been guaranteed in either place.⁵⁴

The political instability in Chad has also affected the security situation in Darfur. The Chadian armed insurgency has a presence in Darfur and Sudanese militias operate in Chad. This means even those refugees who crossed into Chad are still vulnerable to attacks from either of these groups.⁵⁵

Civilians who have been displaced to IDP camps inside Sudan are even more at risk as these camps are in “designated areas” which have been chosen by the Sudanese Government and are often located near militia strongholds, making them intrinsically unsafe.

Some IDP camps, like those in West Darfur, have been the subject of joint attacks by Sudan’s Armed Forces and the militias. Abductions have taken place during these attacks, as has been cited in some of the testimonies above. On 25 August 2008, UNAMID reported violent clashes in Kalma IDP camp, near Nyala, in South Darfur, when military and police units of the Government of Sudan forcibly entered the camp to execute a search warrant for weapons and drugs allegedly in the camp. UNAMID investigated the incident and “obtained concrete evidence of the death of 31 IDPs, among them seven children, 10 women, and 13 men, aged 11 to 60, who were buried in Kalma”.⁵⁶ The displaced communities are trapped in the camps as they have nowhere else to go. Their land has been occupied and many of them no longer have homes to return to.

However, the group of people who are most vulnerable to human rights violations are those who have been abducted and are still detained in areas that are under the control of the militia, particularly in parts of West and South Darfur. These civilians are subject to forced labour and sexual slavery and have no access to protection or humanitarian assistance from international agencies. Individuals who have escaped from these areas estimate that hundreds of people are affected and this figure could even be in

the thousands. Despite their vulnerability, the plight of this group of people has not been highlighted or addressed by the humanitarian or human rights organisations working in Darfur, including the UN and the African Union (AU).

Civilians in Darfur deserve to be protected from abductions and other human rights abuses which are being committed against them. However, while this duty of protection is the responsibility of the Government of Sudan, it has comprehensively failed to do this. This is manifest in its failure to prevent abductions and other human rights violations taking place against the civilian population as well as its lack of action to secure the release of those being held by militias.

In the absence of State protection, it has been left to the AU and UN peacekeeping forces to try and ensure the protection of civilians in Darfur. On 31 July 2007, the UN Security Council passed resolution 1769 to deploy a joint AU and UN force in Darfur. This resolution includes a mandate to protect civilians and to facilitate the free movement of people and humanitarian assistance.⁵⁷

The UN resolution and the emergence of the AU and UN hybrid peacekeeping force - UNAMID - was a response to the fact that the original deployment of African Union troops was insufficiently resourced and supported to fulfil its mandate to protect civilians and support voluntary returns for refugees and IDPs to their original homelands. However, (UNAMID) has also faced major resourcing difficulties with only 9,479 out of the required 26,000 force having been deployed by June 2008.⁵⁸

Various UN and AU resolutions have been passed on the need to disarm the militias in Darfur and this is a crucial part of restoring order and ensuring civilians’ personal security, particularly in rural areas. However, the Government of Sudan has not taken any action to do this to date.

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⁵⁴ Human Rights Watch, *Sexual Violence and its Consequences among Displaced Persons in Darfur and Chad*, 2005. Downloadable from:

<http://www.hrw.org/backgrounder/africa/darfur0505/>

⁵⁵ See Human Rights Watch, *They Shot at Us as We Fled: Government Attacks on Civilians in West Darfur*, February 2008, at:

http://hrw.org/reports/2008/darfur0508/2.htm#_Toc198126593 or *Medicines Sans Frontieres, Darfur: New Attacks, More Displaced*, 2007, at:

<http://www.doctorswithoutborders.org/news/article.cfm?id=2128> and BBC reports at: <http://news.bbc.co.uk/2/hi/africa/6539273.stm>

⁵⁶ UNAMID featured news on 27 August 2008, weblink: <http://unamid.unmissions.org/Default.aspx?tabid=36&ctl=Details&mid=376&ItemID=205>

⁵⁷ For further information see weblink: <http://daccessdds.un.org/doc/UNDOC/GEN/N07/445/52/PDF/N0744552.pdf?OpenElement>

⁵⁸ [http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/AMMF-7GZDRV-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/AMMF-7GZDRV-full_report.pdf/$File/full_report.pdf)

UNAMID is also trying to address the issue of freedom of movement. The ability of humanitarian agencies and human rights monitors to do their jobs is being severely hampered by the restrictions placed on them by the Sudanese authorities and by the military checkpoints which the militia have established in areas under their control.

Establishing freedom of movement across Darfur and disarming the militias would both have a major impact in terms of reducing and resolving instances of abductions and other human rights violations in the region.

5.3 Ineffective legal procedures

There is a legal framework that can be used to punish the crime of abduction in Sudan. Article 162 of the Criminal Act 1991 prohibits abduction and states that whenever someone compels another person to leave a place, either by force or deception, with the intention of committing an offence against that person or their freedom, they should be punished with imprisonment for a period of no more than 10 years or should be fined or both.

There are other relevant offences which can be used to prosecute abduction cases including Article 163 on forced labour, Article 164 on illegal restraint and Article 165 on unlawful confinement.⁵⁹

However, there are several legal issues which make the application of these laws difficult, if not impossible. The most serious of these is the immunity from prosecution which is extended to all members of the security forces, including the Armed Forces, the Popular Defence Forces and the police.

Section 33(b) of the National Security Act, 1999 states that the Head of the Security Agency must have been successfully prosecuted in relation to any offence prior to a prosecution being brought against another member of the security forces, thereby granting effective immunity to all members of the security forces.

A lawyer in Darfur filed a case against members of the armed forces relating to 27 incidents of abduction and disappearance which took place between 2005 and 2007, but he has not been able to take forward this case because of the immunity from prosecution which is granted under the National Security Act.

In addition to the issue of immunity there is also a question about whether the prosecution of abduction and forced labour cases should be considered as

“personal” or “public” rights, that is to say, whether the responsibility for taking forward a prosecution rests with the individual or the State. It is important that the State has this responsibility, as individuals or their families may be too traumatised or intimidated to take forward a case.

Similarly, laws which allow victims or their guardians to waive charges or pardon those accused of forced labour (Article 36) should be deleted as victims can easily be coerced or intimidated into giving such pardons.

Finally, under Section 38 of the Criminal Procedure Act (1991), rights to effective remedies are further limited by a statute of limitations, specifying that charges must be brought within 10, five or two years of a crime occurring, depending upon the seriousness of the crimes. If charges are not brought within these periods of time then the offence can no longer be prosecuted.

There are clear contradictions between the existing legal system in Sudan and the provisions of the new National Interim Constitution (2005). Under the new constitution the Government guarantees the right to litigation, but as outlined above this is effectively denied to victims of abductions by the immunity which is offered to members of the security forces.

Furthermore, the Constitution commits the Government to prohibiting all forms of slavery and servitude (Article 30) and indeed incorporating into domestic law all the international human rights standards that it has ratified (Article 27), but this has not taken place.

These serious deficiencies in the legal system need to be addressed as a matter of urgency. However, it must be stressed that there are greater obstacles in the path of individual citizens seeking a legal remedies for human rights violations associated with abductions. These obstacles are primarily linked to the fact that the competent authorities are not applying the existing law.

Darfur Consortium is not aware of any successful prosecution which have been brought against anyone for abducting someone during the present conflict in Darfur. There are several reasons for this. In relation to women and girls who have been abducted and subjected to rape and sexual slavery, they are reluctant to report these cases both because of the trauma of having to describe what happened to them and also because it is considered shameful and could result in them being isolated or rejected by their own communities.

⁵⁹ For more details see Appendix: Sudan’s legal framework relating to abductions.

In addition, there are real dangers involved in taking forward legal cases. Chief amongst these is the established connection between those who commit abductions and the state authorities who are responsible for the protection of civilians and the enforcement of the law. This has been clearly documented above in relation to the Government of Sudan's role in forming and supporting the militias and the joint operations between the armed forces and the *Janjaweed* in carrying out attacks and abductions against civilians.

However, there is also a widespread distrust of the police amongst those who have been victims of human rights violations and a belief that the *Janjaweed* have contacts and a cooperative relationship with many police officers. This concern seems well justified given that some members of the militia have been directly absorbed into the police as part of Border Guard Forces.

It was for this reason that a number of women who had been abducted and raped refused to even report the incident to the police. These women explained that they did not trust the police and believed that the *Janjaweed* would have access to any information given to the authorities. One woman said she would not report her case to the police because she feared the consequences of doing so: **"the *Janjaweed* will know about it and they will come and kill me - they are the same people."**⁶⁰

In other cases, reports of abductions were not made to the police out of a concern of what might happen to the people who had been abducted and were still being held against their will. For example, even after the child who was forced to do domestic work for an officer in the Sudanese army managed to escape, his family decided not to file a case against the officer as they were worried that it may put the lives of other children in danger.

Other women were afraid that if they tried to take a case against their abductors for rape, they may be the ones who ended up being punished by the law. For example, one woman who was abducted in February or March 2006 gave birth to a baby girl as a consequence of being repeatedly raped. She explained that she needed to find some way of explaining why she had a child when she was not married. She was afraid that she would be

sanctioned under the law (by being whipped) as the child would be considered illegal under Sharia law. In these circumstances there is little prospect of the victim bringing a prosecution against those responsible for her abduction and rape.⁶¹

In the unusual cases where abductions have been reported, there is evidence that the authorities have not taken the appropriate action to resolve these cases. For example, the family of a 17 year old Massaliet girl who was abducted by the *Janjaweed* in mid-2005 managed to find out where she was being held and informed the police, but they took no action to get her back.⁶²

A case involving the abduction of a man from the Uttash IDP camp was filed with the police in July 2005 in which both the abductors and the location of the abductee were identified. While a warrant was issued for the arrest of those responsible for the abduction, no action had been taken to carry out the arrest at the time of the interview in February 2008.⁶³

The abduction and the disappearance of one person from the Tama IDP camp in January 2006 was reported to the police in April 2006 and an arrest warrant was subsequently issued in May 2006. However, when another case involving the abduction and disappearance of 22 people was reported in June 2006, the police responded by immediately suspending the investigation into the previous case. This action will clearly discourage other people from reporting cases of abductions to the police.⁶⁴

Sometimes it is other members of the judicial system who block cases going forward. In one case, a local man witnessed the abduction of another man by the *Janjaweed* as he made his way from Mahagriya to Nyala on 14 July 2006. The witness reported the abduction to some lawyers who took the case to the police. A request was made to the district attorney to order the arrest of the Sheik of the village where the abducted man had been taken. However, the district attorney refused to do so without providing any legal justifications for his inaction.⁶⁵

Currently, victims of abduction have to expose themselves to additional risks in order to bring forward a prosecution and receive no support or assistance in doing so. As the authorities show little interest in pursuing such cases and applying the law, the chances of securing any successful convictions for abductions and associated abuses seem remote. If those responsible for committing such crimes can do so with impunity then there is every likelihood that this pattern of human rights violations will continue.

⁶⁰ Interview at Kalma IDP camp, August 2007.

⁶¹ Interview at Abu Shauk IDP camp, September 2007.

⁶² Interview at Abu Shauk IDP camp, August 2007.

⁶³ Interview at Uttash IDP camp, February 2008.

⁶⁴ Interview at Nyala, March 2008.

⁶⁵ Interview at Nyala, March 2008.

6. Conclusions

The research carried out by Darfur Consortium provides a more detailed picture of the abductions that have been carried out in Darfur since 2003. The findings of the research are consistent with those of earlier reports by the United Nations and various non-governmental organisations.

On the basis of interviews conducted with former abductees, witnesses of abductions, families of victims and others who have direct experience of abductions, the research accumulated information relating to cases involving approximately 100 victims of abduction.

The great majority of these abductions took place during attacks on civilian villages by the *Janjaweed* and other militia, often as part of joint military operations with the Sudanese Armed Forces. A smaller number of abductions took place in raids on IDP camps or when people were outside of their villages or IDP camps looking for food, wood or water. The abductions took place over a large area encompassing North, West and South Darfur.

All of the individuals who were interviewed in this research identified the *Janjaweed*, the Sudanese Armed Forces or the PDF and allied militia as being responsible for abductions. However, there is evidence that both the armed opposition groups in Sudan (SLA and JEM) and in Chad are also responsible for a number of abductions, primarily involving the forced recruitment of children into their armed forces.

The abductions by the *Janjaweed* and other Government allied forces are part of a larger pattern of human rights violations which is targeted at civilians who are from non-Arabic speaking ethnic groups, particularly the Fur, Massaliet and Zagawa. Members of these groups are killed, tortured and abducted as part of a systematic policy to displace the existing local population, seize their land and repopulate the area with Arabic speaking groups, including some from other countries. It is difficult to see how this could be described as anything other than ethnic cleansing.

In this context it is not surprising that the vast majority of those abducted are from non-Arabic speaking ethnic groups like the Fur, Zagawa and Massaliet. Women and girls who are abducted are subjected to rape, forced marriage and sexual slavery as well as forced labour which typically would involve cooking, cleaning, washing clothes, collecting firewood and water, but may also include cultivating crops.

Abducted men and boys are subject to forced labour which is usually agricultural work, looking after livestock or loading and carrying goods for their abductors. Men may also be killed after abduction. There were also many cases recorded during the research in which people were abducted, but whose subsequent whereabouts and the nature of their exploitation remains unknown.

The majority of those abducted are women and girls, but men and boys made up a sizeable minority. The larger number of men identified in this research as compared with previous reports can be explained by the fact that previous research had not documented the abduction of men for forced agricultural labour. It should also be stressed that there is likely to be a significant under-reporting of abduction by women and girls because of the societal taboo against discussing issues relating to sexual violence and the reluctance of victims to talk about such traumatic experiences.

Those abducted are normally moved to a different area of Darfur which is under the control of the *Janjaweed* or another militia. The exceptions to this are those who are held on their own land and forced to cultivate food for the *Janjaweed* and those who are abducted for forced marriage and are moved to another region of Sudan.

Abductees may be held for limited periods (a few days or weeks) or for longer durations (months or years). Former abductees usually escaped, but there are several instances in which they were released by the *Janjaweed*, these cases typically involved girls and pregnant women. The reason for this may be because the militias are moving around and they consider that the abductees will slow them down.

There is no systematic mechanism for gathering statistics on the total number of people who have been abducted during the Darfur conflict and therefore no detailed estimate of how many people are affected. However, the evidence compiled in this report indicates that, at an absolute minimum, many hundreds of people have been abducted during the course of the conflict, but it is likely that the true figure is in the thousands.

Urgent action is clearly required to prevent further abductions and associated human rights violations and to release and assist those who are still being held. The full deployment of UNAMID and the extension of its mandate to allow it to use force to protect civilians would help to reduce attacks on civilian targets and abductions.

Establishing freedom of movement across Darfur for inter-governmental and non-governmental agencies will also be of great importance in order to identify, release and assist those who have been abducted. Further investigation is particularly needed into cases involving the use of forced labour in agriculture in West and South Darfur.

If humanitarian agencies have access to all areas of Darfur and UNAMID forces are able to provide minimum levels of security then it should be easier to identify women and girls who have been abducted and provide them with the psycho-social care and rehabilitation assistance they require.⁶⁶ Several women interviewed in the research were clearly in emotional distress and suffering from post-traumatic stress disorders as a result of their experiences, but service provision for these women was extremely limited or, more often, completely non-existent.

Given that the majority of abductions are carried out by forces allied to the Government during military operations, a ceasefire and the initiation of a peace process which involved the disarming and disbanding of the *Janjaweed* and other militia would be a major step forward in ending these abuses.

It is also important that the Government of Sudan make a public commitment that it will take decisive action to ensure that all those who have committed abductions in Darfur will be prosecuted and victims will be compensated.

The research has shown that the civilian population has little confidence in the independence of security forces and the justice system and those who have reported cases have frequently found that the police have not taken the investigation forward. Thus, while the offence of abduction carries a penalty of ten years imprisonment, the research was not able to document a single case in which someone was successfully prosecuted for this crime.

This is a repeat of what happened during the civil war of 1983-2005 where not one successful prosecution took place, despite the fact that some 14,000 abductions were carried out during this time. The Government's failure to hold people to account at this time has undoubtedly contributed to the same pattern of human rights violation occurring in Darfur.

In order to end impunity and establish the rule of law it is imperative that the Government repeals laws

which grant members of the security forces immunity and ensure that all those who have committed abductions are prosecuted and punished. The Government should also prohibit anyone who has been involved in abductions or other human rights violations from holding a public post. In addition, all police officers, judges and other members of the judiciary who have failed to properly take forward investigations and discharge their responsibilities professionally and in accordance with the law should be sanctioned and, where appropriate, removed from their positions.

These measures should be part of a longer term strategy in which the Government of Sudan seeks to strengthen the capacity of the judiciary to protect its citizens from abductions and associated human rights violations. Such a strategy should include bringing Sudanese laws into conformity with the Interim National Constitution and international human rights standards that the Government has ratified (e.g. introducing specific criminal offences against slavery and forced marriage); increasing the punishments for the crime of forced labour (the current penalty of a maximum one year prison term, a fine or both is not adequate); and providing training to officials on how to apply these laws.

⁶⁶ This should include medical treatment for injuries, HIV/AIDS and other sexually transmitted diseases which may have resulted from the sexual violence they have had to endure.

7. Recommendations

Recommendations to address the issue of abductions and associated human rights violations in Darfur

Recommendations to the Government of the Sudan:

1. Cease all support for the *Janjaweed*, the PDF and other militia and begin the process of disarming and disbanding them.
2. Take all measures necessary to protect civilians from abductions and other human rights violations and support the expansion of UNAMID's mandate so that it can use force to protect civilians.
3. Guarantee and facilitate freedom of movement to all human rights and humanitarian workers and provide UNAMID and the ICRC officials with unrestricted access to detainees and prisoners.
4. Ensure that all allegations of abductions are properly investigated and that all those responsible are prosecuted and punished and prohibited from holding public positions in the future.
5. Ensure that all police officers, judges and other members of the judiciary who have failed to properly investigate or sanction abductions and other human rights violations are duly sanctioned and, where appropriate, removed from their positions.
6. Repeal provisions which grant immunity to members of the security forces and ensure that all laws and policies are consistent with the Interim National Constitution and the Government's obligations under ratified international human rights standards.
7. Enhance the capacity of the Sudanese justice system to deal with abductions and related violations by providing training to officials and introducing specific criminal offences against slavery and forced marriage, along with increased penalties for the crime of forced labour.
8. Prioritise action to identify, release, assist and compensate victims of abduction.
9. Fully cooperate with the United Nations and the African Union in order to address continuing human rights and humanitarian issues in Darfur.
10. Enter into negotiations with the relevant parties in the conflict with the objective of securing a ceasefire and initiating a peace process.

Recommendations to armed insurgency groups in Darfur

11. Respect international humanitarian law and the human rights of civilians in the areas of conflict

and cease the abduction and use of child soldiers in Darfur. All civilian being held should be immediately released.

12. Enter into negotiations with the Government with the objective of securing a ceasefire and initiating a peace process.

Recommendations to the international community

13. Urge the Government of Sudan to acknowledge that abductions for the purposes of sexual slavery and forced labour continue to take place in Darfur and to take immediate action to: protect civilians, ensure that those responsible are prosecuted and provide former abductees with adequate support, assistance and compensation.
14. Call for the full implementation of all UN Security Council resolutions relating to Darfur and take action to ensure the effective protection of the civilian population of Darfur, including through the full deployment of UNAMID, i.e., personnel and equipment, and the expansion of its mandate to allow the use of force to protect civilians.
15. Establish an independent body, possibly under the auspices of UNAMID, to investigate abductions in Darfur and to work with the Government of Sudan and opposition groups to identify, release, assist and compensate victims of abduction and ensure that this body has complete freedom of movement and full access to all detention facilities and camps.
16. Ensure that victims of abductions, particularly those subjected to sexual slavery, receive adequate psycho-social and medical assistance, including rehabilitation support and compensation.
17. Provide more assistance to IDP camps, particularly in relation to food and fuel security so that they do not have to leave the camps to search for these items.
18. Strengthen the international monitoring presence in Darfur and instigate further investigation into abductions, particularly in relation to reports of forced labour in areas controlled by militia.
19. Work with the Government of Sudan to enhance the capacity of the Sudanese justice system to deal with abduction and related violations.
20. Strengthen the capacity of the Sudanese civil society organisations so that they can better monitor and document cases of abduction, trace and assist victims and advocate for policies which will help to eradicate this practice.

8. Appendix: Sudan's legal framework in relation to abductions

Highlighted below are some of Sudan's legal obligations under both domestic and international law in relation to abductions, forced labour and slavery issues.

International law

Sudan has ratified the following international human rights standards which prohibit abduction, slavery, forced labour and related abuses.

- The Slavery Convention, 1926
- The International Covenant on Civil and Political Rights, 1966
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery, 1956
- The Convention on the Rights of the Child, 1989 and its Optional Protocols on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography
- ILO Convention No. 29 on Forced Labour, 1930
- ILO Convention No. 182 on the Worst Forms of Child Labour, 1999
- The African Charter on Human and Peoples' Rights, 1981

With regard to international humanitarian law, Sudan is bound by the four Geneva Conventions of 1949, as well as the two Additional Protocols of 1977 which set out how civilians must be treated during internal armed conflicts, particularly in relation to violence against life and person, hostage taking, outrages upon personal dignity and humiliating and degrading treatment.

National law

Sudan's National Interim Constitution, 2005 provides its citizens with protection against abduction and related abuses. Some of the relevant articles are highlighted below:

Article 29: Personal liberty

Every person has the right to liberty and security of person; no person shall be subjected to arrest, detention, deprivation or restriction of his/her liberty except for reasons and in accordance with procedures prescribed by law.

Article 30: Protection from slavery and forced labour

(1) Slavery and the slave trade in every form is prohibited. No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced or compulsory labour except as a penalty upon conviction by a competent court of law.

Article 27: Nature of the Bill of Rights

(3) All rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified by the Republic of Sudan shall be an integral part of this Bill.

(4) Legislation shall regulate the rights and freedoms enshrined in this Bill and shall not detract from or derogate any of these rights.

In addition to the Constitution, Sudan's Criminal Act 1991 (Part XIV) has several articles which prohibit practices relating to abduction.

Article 161: Enticement

(1) Whoever takes or entices any minor or any person of unsound mind out of the keeping of the lawful guardian of such minor or person of unsound mind without the consent of such guardian shall be punished with imprisonment for a term not exceeding seven years and he shall also be liable to a fine.

(2) The provisions of subsection (1) shall not apply to whoever claims custody, guardianship or any lawful authority.

Article 162: Abduction

Whoever by force compels or by any deceitful means induces any person to go from any place with the intent of committing an offence against that person or his freedom shall be punished with imprisonment for a term not exceeding ten years or with a fine or with both.

Article 163: Forced Labour

Whoever unlawfully compels any person to labour against the will of that person shall be punished with imprisonment for a term not exceeding one year or with a fine or with both.

Article 164: Unlawful Restraint

Whoever wrongfully obstructs any person so as to prevent that person from moving or from proceeding in any direction in which that person has the right to proceed shall be punished with imprisonment for a term not exceeding three months or with a fine or with both.

Article 165: Unlawful Confinement

(1) Whoever wrongfully confines any person in a specific place without lawful reason or continues to confine such person knowing that an order of release has been issued is said to commit unlawful confinement and shall be punished with imprisonment for a term not exceeding one year or with a fine or with both.

(2) If confinement happened in a secret manner or it was with the intent to extort a confession from the person so confined or to compel him to return money or do any unlawful act or if confinement was likely to endanger such person's life the offender shall be punished with imprisonment for a term not exceeding three years and he shall also liable to a fine.

The Darfur Consortium is a coalition of more than 50 Africa-based and Africa-focused NGOs dedicated to working together to promote a just, peaceful and sustainable end to the ongoing humanitarian and human rights crisis in Darfur.

The Consortium came together in September 2004 as concerned NGOs gathered on the fringes of the third extraordinary session of the African Commission on Human and Peoples' Rights in Pretoria, South Africa. The Consortium reflects the unique perspective of African civil society and provides a forum for unified action, particularly through sustained engagement with the institutions of the African Union.

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