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**INTÉGRATION DES DROITS FONDAMENTAUX DES FEMMES
ET DE L'APPROCHE SEXOSPÉCIFIQUE:
VIOLENCE CONTRE LES FEMMES**

**Rapport de la Rapporteuse spéciale, Yakin Ertürk, sur la violence
contre les femmes, ses causes et ses conséquences**

Additif

Visite au Darfour (Soudan)*

* Le résumé du présent rapport de mission est distribué dans toutes les langues officielles. Le rapport proprement dit est joint en annexe au résumé, et il est distribué dans la langue originale et en arabe seulement.

Résumé

Les 25 et 26 septembre 2004, j'ai participé à la première consultation régionale africaine sur la violence contre les femmes aux côtés d'Angela Melo, Rapporteuse spéciale de la Commission africaine des droits de l'homme et des peuples sur les droits de la femme en Afrique. Cette manifestation, qui s'est tenue à Khartoum, était organisée par l'Institut des droits de l'homme de Genève, le Réseau africain de développement et de communication pour la femme (FEMNET) et la Babiker Badri Scientific Association for Women's Studies (BBSAWS). J'ai profité de ma présence au Soudan pour faire une courte visite au Darfour afin d'y évaluer la situation eu égard aux allégations de viols commis contre des femmes dans le cadre du conflit.

Au Darfour, je me suis rendue dans des prisons, des camps de personnes déplacées et des villages, et j'ai entendu les témoignages de femmes qui avaient subi des formes de violence extrêmes.

À mon retour, j'ai exposé la situation aux membres de la Commission et je leur ai fait part de mes préoccupations. Je souhaite adresser au Gouvernement soudanais les recommandations suivantes.

Le Gouvernement soudanais devrait:

- **Faciliter la pleine participation des femmes et des groupes de femmes au processus de paix conformément à la résolution 1325 (2000) du Conseil de sécurité et faire en sorte qu'il soit tenu compte des besoins et des intérêts des femmes dans toutes les négociations;**
- **Garantir la sécurité des civils et mettre en place des mesures de protection afin de réduire le risque pour les femmes et les filles d'être violées, passées à tabac ou enlevées lorsqu'elles s'éloignent des camps de personnes déplacées ou des villages;**
- **Enquêter sur toutes les allégations de violence contre les femmes, protéger les témoins et les victimes d'éventuelles représailles, poursuivre les auteurs des violences et indemniser les victimes;**
- **Ratifier la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes et le Protocole à la Charte africaine des droits de l'homme et des peuples relatif aux droits des femmes en Afrique;**
- **Solliciter la coopération technique du Haut-Commissariat aux droits de l'homme ainsi que du Département des affaires économiques et sociales et de la Division de la promotion de la femme du Secrétariat concernant les implications de la ratification de ces instruments;**
- **Engager un dialogue en vue d'améliorer la protection juridique des droits de la femme au Soudan, et respecter effectivement les obligations qui sont les siennes au regard du droit international.**

La création de la Commission nationale chargée d'enquêter sur les viols est certes une initiative bienvenue, mais il faut que la Commission:

- **Diversifie sa composition pour inclure parmi ses membres des travailleurs sociaux et du personnel médical;**
- **Améliore ses méthodes de collecte de données et collabore à cet égard avec l'Organisation des Nations Unies et les organisations non gouvernementales.**

Annex

VISIT TO THE DARFUR REGION OF THE SUDAN BY THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES, YAKIN ERTÜRK (25-26 SEPTEMBER 2004)

Introduction

1. From 25 to 26 September I participated in the first Africa Regional Consultation on violence against women with the Special Rapporteur of the African Commission on Human and People's Rights on women's rights in Africa, Angela Melo. The consultation was held in Khartoum, Sudan and organized by the Geneva Institute for Human Rights, African Women's Development and Communications Network (FEMNET) and Babiker Badri Scientific Association for Women's Studies (BBSAWS). I took the opportunity whilst in Sudan to undertake a short visit to the Darfur region, following allegations that women were being targeted for rape as part of the conflict, to assess the situation.
2. I wish to thank the Government of Sudan for the invitation and in particular the Advisory Council for Human Rights for facilitating the visit. I also appreciated the support received from the Office of the High Commissioner for Human Rights in Sudan and the African Union's logistical support.
3. In Khartoum I met Sudanese officials, the National Commission for investigation of rape in Darfur, representatives of civil society, international NGOs and the United Nations country team. I travelled to Nyala in South Darfur and El Genina in West Darfur. I met with local officials and undertook field visits and interviewed internally displaced persons (IDPs) in Kalma,¹ Kass and Ardamata camps. In Nyala I also visited the female section of Nyala prison. At the time of the visit there were 39 detainees accompanied by their 9 children. The majority of detainees were detained for public order offences (for selling wine/tea) as they were unable to pay the fines imposed. The conditions inside the female section were poor.²

Main findings

4. According to reports received during the visit women and girls have suffered, and continue to suffer, multiple forms of violence during attacks on their villages, including rape, killings, the burning of homes and pillage of livestock. Women said the violence is perpetrated by government-backed militia, known as "Janjaweed", and security forces. I received testimony from a woman who had also been tortured during interrogation by security forces for being a relative of suspected rebels. Displaced women and girls are also experiencing violence. In particular, women in the camps told me that rape, beatings and abductions occur when they leave the camps for necessities.³
5. Victims of rape face numerous obstacles in accessing justice and health care. They may be accused of making a false allegation and/or having had consensual sex before marriage or committing "zina" (adultery) in violation of Penal Code article 152. In August 2004 the Minister of Justice removed the procedural requirement "form 8" which required a victim of physical assault to report the crime to the police before they could be treated by a medical

practitioner.⁴ However at the time of the visit I noticed that the order was not known by local officials, police and doctors indicating that the order had not been disseminated effectively. A group of survivors of rape with whom I met in South Darfur testified that they had been unable to access health care because they had not first reported the crime to the police.

6. In order to avoid the risk of attacks women told me they are taking preventative measures such as leaving the camp early in the morning and in large groups. Additionally, community-based centres are being set up for provision of support services and income-generation schemes are being introduced. Local NGOs and lawyers told me they are concerned about the current impunity for perpetrators of human rights violations and are starting to document cases for criminal prosecution.

7. I met with the National Commission for the investigation of crimes of rape in Darfur prior to and following my visit to Darfur. The investigating committees to investigate rape allegations in Darfur were formed by the Minister of Justice (MoJ) by order dated 28 July 2004.⁵ Each committee is chaired by an appeal court judge delegated with the powers of the district prosecutor under the Criminal Procedure Act 1991, including - inter alia - order to arrest, frame charges and to decide compensation. During the first meeting they emphasized that rape allegations are exaggerated and unfounded, a view which was echoed in other meetings with local governors and officials in Darfur. They expressed concern that the allegations may be the result of a misinterpretation of the Arabic word used for rape by the women in the IDP camps.⁶ The committees had completed their first investigation - duration three weeks - and the interim reports provided to the MoJ. According to these reports the total number of cases registered was 50 (29 cases were registered in West Darfur, 10 rape cases in North Darfur, and 11 cases in South Darfur).⁷

8. On return from Darfur I debriefed the Commission on my visit and conveyed my concerns regarding their methods of work and composition of the committees which were considered as fundamentally flawed due to the level of mistrust between the people in the IDP camps and the authorities, particularly as the perpetrators of the violations are alleged to have been government backed militia and security forces for the most part. I was pleased to learn that the Commission planned to organize an evaluation meeting with OHCHR, UNICEF, UNHCR, and EU to discuss the findings and improve the methodologies which were of concern.

Conclusion and recommendations

9. **To conclude, the situation in Darfur is a grave human crisis exasperated by insecurity; mutual mistrust between the people and the Government; and lack of effective follow-up regarding allegations of human rights violations, including rape of women and girls. Female IDPs endure security concerns, the trauma of rape and loss, health problems and heightened risk of HIV/AIDS infection, domestic violence and poverty. The fact that the majority of the households in the camps are headed by women exasperates their vulnerability to violence and exploitation. In view of my findings, I make the following recommendations:**

The Government of Sudan must:

- **Facilitate the full involvement of women and women's groups in the peace process in accordance with Security Council resolution 1325 (2000) and ensure that women's needs and interests are included in all negotiations;**
- **Ensure the security of civilians and introduce protection measures to reduce the ongoing risk of rape, beatings and abductions for women and girls when they move outside IDP camps and villages;**
- **Investigate all allegations of violence against women, protect witnesses and victims from any retaliation, prosecute perpetrators and compensate survivors;**
- **Ratify the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa;**
- **Request technical cooperation from OHCHR, DAW, DESA in regard to the implications of ratification of these instruments;**
- **Commence a dialogue for the improvement of the legal protection of women's rights in Sudan, and effectively implement current obligations under international law.**

While the establishment of the National Commission for the investigation of rape is a positive initiative, it is necessary that the Commission:

- **Diversify its composition to include social workers and medical staff;**
- **Improve its data collection methods and collaborate with the United Nations and non-governmental organizations (NGOs) in this regard.**

Notes

- ¹ Population estimate 73,000, serviced by 273 police including 15 female officers.
- ² As an indicator of the situation, one of the detainees gave birth to twins (June 2004) inside the jail assisted only by the other inmates and lost one of her babies during childbirth.
- ³ See Addendum 1 for details of communications with the Government of Sudan in regard to individual cases received.
- ⁴ The Sudanese Ministry of Justice issued a decree on 21 August 2004, lifting the “procedural requirements” “in cases requiring medical attention”. Specifically, it states, “In serious and emergency cases that need urgent treatment, the victim shall be treated in public hospitals without obtaining form (8).”
- ⁵ “Delegation of district prosecutor powers to investigate crimes of rape against women in the 3 states of Darfur.” “In enforcement of article 2/6 of the agreement signed between the GoS and the UNSG concluded on 3/7/2004 and in accordance with article 20 of the Criminal Procedure Act 1991, the MoJ issued the following order: to delegate powers of district prosecutor to investigate the crimes of rape against women in the 3 states of Darfur.”
- ⁶ A local interpreter working in South Darfur refuted this theory, stated that women are not being misunderstood and indeed are talking about rape.
- ⁷ Ministry of Justice Advisory Council for Human Rights: Protection in Darfur (4) 1-15 September 2004.
