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人权委员会
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纳入妇女人权和性别公平观：暴力侵害妇女

暴力侵害妇女、其原因及后果问题
特别报告员亚肯·埃蒂尔克女士提交的报告

增 编

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^{*} 内容提要以所有正式语文分发。报告正文附在内容提要之后，仅以提交语文分发，因此未经联合国部门编辑。

内 容 提 要

9 月 25 日至 26 日，我参加了与非洲人权和人民权利委员会非洲妇女权利问题特别报告员 Angela Melo 就暴力侵害妇女问题进行的首次非洲区域磋商。磋商在喀土穆举行，组织单位有：日内瓦人权研究所、非洲妇女发展与通讯网(非洲妇女通讯网)以及巴比克·巴德里妇女研究科学协会(巴德里妇女研究会)。鉴于有指控称达尔富尔地区冲突中发生妇女遭到强奸的情况，我利用这次在苏丹的机会前往该地区进行了短暂的访问。

我在达尔富尔察看了监狱、会见了一些国内流离失所者并访问了一些村庄。我听取了遭受极端形式暴力行为之害的妇女的证词。

回来以后，我向委员会委员们汇报了情况，并表达了我的关注。我针对苏丹政府提出下列建议：

苏丹政府必须：

- 按照安全理事会第 1325(2000)号决议为妇女及妇女团体充分参与和平进程提供便利，并确保在一切谈判中均顾及妇女的需要和利益；
- 确保公民人身安全，并采取保护措施，减少当前妇女和女童在离开国内流离失所者营地和村庄外出时遭到强奸、殴打和绑架的风险；
- 调查一切关于暴力侵害妇女行为的指控，保护证人和受害者免受报复，起诉暴力行为人并为幸存者提供补偿；
- 批准《消除对妇女一切形式歧视公约》和《非洲人权和人民权利宪章》的非洲妇女权利议定书；
- 请人权高专办以及秘书处经济和社会事务部和提高妇女地位司在执行这些文书方面提供技术合作；
- 开始就改善苏丹妇女权利的法律保护事宜进行对话，并切实有效地履行在国际法之下的现有义务。

设立负责调查强奸事件的国家委员会是一项积极的举措，但委员会需要：

- 扩大其组成范围，使之也包括社会工作者和医护人员；
- 改进数据收集方法以及与联合国和非政府组织在这方面的合作。

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 traveled 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 Kalma¹, 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 poor².

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 necessities³.

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 practitioner⁴. 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.
