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COMISIÓN DE DERECHOS HUMANOS
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**INTEGRACIÓN DE LOS DERECHOS HUMANOS DE LA MUJER Y LA
PERSPECTIVA DE GÉNERO: LA VIOLENCIA CONTRA LA MUJER**

**Informe de la Relatora Especial sobre la violencia contra la mujer,
sus causas y consecuencias, Sra. Yakin Ertürk**

Adición

VISITA A LA REGIÓN DE DARFUR EN EL SUDÁN*

* El resumen de este informe se distribuye en todos los idiomas oficiales. El informe, que figura en el anexo al resumen, se distribuye en el idioma en el que se presentó y en árabe solamente.

Resumen

Los días 25 y 26 de septiembre participé en las primeras consultas regionales africanas sobre la violencia contra la mujer junto con la Sra. Ángela Melo, Relatora Especial sobre los derechos de la mujer en África de la Comisión Africana de Derechos Humanos y de los Pueblos. La consulta se celebró en Jartum y fue organizada por el Instituto de Derechos Humanos de Ginebra, la Red Femenina Africana de Desarrollo y Comunicaciones (FEMNET) y la Asociación Científica Babiker Badri de Estudios sobre la Mujer (BBSWS). Durante mi estancia en el Sudán aproveché la oportunidad para realizar una breve visita a la región de Darfur y evaluar la situación en vista de las denuncias de que las mujeres eran violadas como parte del conflicto.

En Darfur visité a desplazados internos así como cárceles y aldeas. Recibí el testimonio de mujeres que habían sido víctimas de formas extremas de violencia.

Al regresar informé de la situación a los miembros de la Comisión y les transmití mi preocupación. Dirijo las siguientes recomendaciones al Gobierno del Sudán:

El Gobierno del Sudán debe:

- **Facilitar la plena participación de la mujer y de los grupos femeninos en el proceso de paz, de conformidad con la resolución 1325 (2000) del Consejo de Seguridad y velar por que se incluyan en todas las negociaciones los intereses y las necesidades de la mujer;**
- **Garantizar la seguridad de los civiles e introducir medidas de protección para reducir el riesgo constante de que las mujeres y las niñas sean víctimas de violaciones, palizas y secuestros cuando salen de los campamentos de desplazados internos y las aldeas;**
- **Investigar todas las denuncias de violencia contra la mujer, proteger a los testigos y las víctimas de las represalias, juzgar a los autores y compensar a los sobrevivientes;**
- **Ratificar la Convención sobre la eliminación de todas las formas de discriminación contra la mujer y el Protocolo relativo a los derechos de la mujer de la Carta Africana de Derechos Humanos y de los Pueblos;**
- **Solicitar la cooperación técnica del ACNUDH y del Departamento de Derechos Económicos y Sociales y la División para el Adelanto de la Mujer de la Secretaría respecto de las consecuencias de la ratificación de dichos instrumentos;**
- **Entablar un diálogo para mejorar la protección jurídica de los derechos de la mujer en el Sudán y aplicar efectivamente las obligaciones vigentes en virtud del derecho internacional.**

Si bien la creación de la Comisión Nacional de investigación de las violaciones es una iniciativa positiva, es necesario que dicho órgano:

- **Diversifique su composición para incluir a trabajadores sociales y personal médico;**
- **Mejore sus métodos de reunión de datos y colabore con las Naciones Unidas y organizaciones no gubernamentales (ONG) al respecto.**

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:**

10. **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.
