

Response to Call for Evidence for Lords Select Committee Inquiry on the United Kingdom's policy and practice of preventing sexual violence in conflict

Introduction

1. This submission contains the views and recommendations of two organisations, Waging Peace and Article 1. Waging Peace is a non-governmental organisation that campaigns against genocide and human rights abuses in Darfur and Sudan more widely. Its sister charity Article 1 supports the Sudanese community in the UK, including asylum seekers and refugees.
2. Given our joint expertise on the human rights situation in Sudan, our views and recommendations relate to that country, but our hope is that they can be generalised and used to inform the Inquiry's assessment of the UK's policies and practices in preventing sexual violence in conflict worldwide.
3. Furthermore, our recommendations are sometimes based specifically on 77 testimonies we acquired in early 2015. These document first-hand accounts of rape and mass rape perpetrated by various armed groups, including government and opposition forces, across all five states of the Darfur region of Sudan. The testimonies document incidents from 2004 to late 2014, though most cover incidents dating from 2012 onwards.
4. Due to security considerations, we cannot reveal our source(s) for the testimonies, though every effort was made to verify the information obtained. The testimonies also formed the basis of a report we prepared in November 2015, called 'Rape in Darfur – A History of Predation', which is online at <http://bit.ly/1XLvWVU>. We have submitted this information to the International Criminal Court's (ICC) Office of the Prosecutor under Article 15 of the Rome Statute, for the Court's consideration in the context of its ongoing investigation of the Darfur situation.

Responses to Inquiry questions

2 What evidence is there on the effectiveness of the UK's work with other States, multinational, regional and international bodies to prevent sexual violence in conflict?

5. In terms of the UK's engagement with Sudan, more could be done to pressure the government to endorse international mechanisms for addressing the issue of sexual violence in conflict. For instance, pressure could be brought to bear on the Sudanese state to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, as well as sign the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), alongside the Optional Protocol to it of 2000.

3b To what extent is sexual violence in conflict used as a deliberate tactic?

6. The testimonies we received clearly demonstrate that rape is a weapon in Darfur's long-running conflict. It is a particularly endemic element of life in the region for women and girls from non-Arab black African ethnic groups, with over two-thirds of the 77 testimonies mentioned coming from members of these groups, such as the Berti, Zaghawa or Bargo. Ethnicity is a key component of the attacks. In the accounts, the attackers often explicitly mention the victim's ethnicity during the rape, using words such as "Nuba", "slaves", "dirty", "blacks", and "animals" to humiliate their victims. The language used during the incidents further indicates that ethnicity is a politicised concept, with certain groups associated with rebel or opposition activity. "Tora Bora", slang for anti-government Darfuri rebels, is a common insult used by attackers in conjunction with comments about race. Similarly, some accounts mention that the term "displaced" was used as a slur to suggest a perceived opposition allegiance.

7. This shows that rape in Darfur cannot be understood except through the prism of conflict. The testimonies even suggest that sexual and gender-based violence may be part of a deliberate counter-insurgency strategy, aimed at discouraging support of rebel activity among the local population. This is potentially evident in the planned nature of the attacks. It would often be the case that the victim(s) would encounter their attackers earlier in the day on the way to their destination, only to be ambushed at a later time, often by a larger force of men. In cases with multiple attackers, some of the men would be tasked with keeping watch while the rapes occurred, or with holding the victim while the rape was committed. Sometimes the rapes documented were part of a mass attack on a whole village, as in the case of the mass rape of 221 women and girls in the North Darfur village of Tabit in late October and early November 2014. These facts suggest attacks are not immediately opportunist, but seemingly permitted or even encouraged by military commanders.
8. Rape may serve a different function for rebel and opposition forces, but its use is still widespread. However, the precise statistics on how many abuses were carried out by particular parties to the conflict are hard to fathom from our testimonies. This tells its own story: victims would often note only that men were armed, masked by shawls and in military uniform, not noticing or caring about their political allegiance. To the victims, conflict dynamics are unimportant; their saviours one day may become their aggressors the next.

4a What measures to prevent sexual violence in conflict have been shown to work and how can such measures be disseminated and scaled?

9. Our testimonies indicate that in Darfur the measure that works best at preventing sexual violence is the physical protection offered by the region's hybrid United Nations-African Union peacekeeping mission, UNAMID. The accounts suggest that very few incidents of conflict-related sexual violence occur inside UNAMID-controlled compounds, though we know from other sources that incidents of sexual violence experienced in domestic settings are still widespread in the internally displaced person (IDP) camps.
10. However, it is in the immediate vicinity of the UNAMID-controlled compounds that our testimonies indicate that the worst abuses occur. Almost two-thirds of the victims report being raped upon leaving the relative safety of UNAMID-controlled zones: either to collect firewood, perform agricultural work while living in temporary accommodation near farms, or to collect personal belongings immediately following a displacement. The similarity in the accounts provided in the testimonies suggests that such attacks proximate to UNAMID have become routine.
11. This suggests that the UK government needs to argue forcefully, as well as to increase the funds available, for greater mission patrolling capacity. Unfortunately currently in Sudan patrolling capacity is being reduced, with the Sudanese government putting pressure on UNAMID to formulate a full exit strategy, largely as the result of attempts made by the mission to investigate the aforementioned mass rape in Tabit village.
12. Another suggestion for UN peacekeeping missions offering physical protection to civilians in IDP camps or similar locations is to introduce a mechanism to consult with local populations about their protection needs. Lessons could be learned from the model of 'community liaison assistants' employed by the United Nations Organization Stabilisation Mission in the Democratic Republic of the Congo. The UK could take the lead on this initiative in Darfur and elsewhere.

5a What can be done to lessen the stigma that is often experienced by survivors of sexual violence in conflict?

13. Reform to Sudan's national justice programmes is essential to lessen the stigma experienced by survivors of sexual violence in conflict in that country. This applies not just to those laws that directly relate to incidents of sexual violence, but to the wider criminalisation of women in Sudan based on their assumed moral obligations.

Several articles of the 1991 Sudanese Criminal Act are disproportionately applied against women, invoke corporal punishment, from stoning or flogging to the death sentence, and increase the stigma experienced by victims, as well as negatively impact on women's general well-being. Those relevant in this context are Article 145 and Article 146 that define the crimes and punishments for 'zina' (adultery), Article 149 which defines rape (see response to question 9a for a fuller assessment), Article 151 on sexual harassment, and Article 152 outlining the crime of 'indecent dress'.

14. Article 151 is particularly notable in that it defines sexual harassment in a vague manner, and includes temptation and invitation to sexual harassment as an element of the crime, punishable by lashing. This clearly reduces the likelihood of women speaking out about cases of sexual violence, and shifts responsibility from the perpetrators to the victims. The UK should make reform of Sudan's laws a key part of attempts to lessen stigma surrounding sexual violence in conflict.

8 How do we ensure that international peacekeepers are held to the highest standards and that any perpetrators of sexual violence and/or exploitation are held to account?

15. It is important that the UK government hold organisations to account where they fail to implement appropriate policies and practices with regard to incidents of sexual violence, especially where they are a substantial financial backer of those organisations. For instance, there is evidence to suggest that UNAMID has before not followed up on cases reported to it. Looking at our 77 testimonies, four were reported to UNAMID specifically, but victims said that in each situation mission staff "did nothing".

16. This corroborates claims made by Aicha Elbasri, the former UNAMID spokesperson turned whistleblower. She leaked documents to [Foreign Policy magazine](#) that showed that UNAMID routinely failed to act even in the face of overwhelming evidence of rape and sexual and gender-based violence during her tenure from August 2012 to April 2013. The UK must be ruthless in pushing for a full investigation of allegations made by Ms Elbasri of cover-up in UNAMID, as well as the wider UN Department for Peacekeeping Operations (DPKO). The ICC already called for such an independent and public inquiry, but the probe conducted by UN Secretary-General Ban Ki-moon was internal, though even it did find occasions when the mission concealed critical information about the culpability of government forces and/or their proxies from DPKO.

9a What evidence is there on the effectiveness of the UK's contribution to the reform of national justice programmes and, going forward, what are the priority areas to address?

17. The UK can be charged with taking far too permissive an attitude to the impunity enjoyed by perpetrators of sexual violence in Sudan's conflict areas. While we recognise that international pressure contributed to the Sudanese government amending controversial laws around rape in early 2015, the changes did not go far enough. Formerly, under Article 149 of the Sudanese Criminal Code of 1991, rape was defined as 'zina', meaning intercourse outside marriage, without consent. If women or girls reported a rape but could not produce the necessary evidence, including witness statements from four males confirming that the act was 'without consent', they would instead be charged with 'zina' (adultery), and face being jailed, flogged or stoned to death. The law was changed in 2015 to reflect the fact that rape involves physical or psychological coercion, but Article 62 of the country's 1994 Evidence Act remains unchanged, meaning four male witnesses are still required in cases of this kind. This places a prohibitive burden of proof on victims of sexual violence.

18. Since 2012, the Strategic Initiative for Women in the Horn of Africa has recorded four sentences of death by stoning under Article 145 and 146 (for 'zina'), which although suspended, demonstrate the risks associated with disclosing acts of sexual violence. Flogging for this 'crime' daily affects women in the country. We suggest that reform of the 1994 Evidence Act is a priority area to address going forward.

9c To date, there have been no convictions at the International Criminal Court (ICC) for crimes of sexual violence in conflict situations. Why is this and how could it be addressed? What lessons can be learned from the prosecutions of sexual violence at the International Criminal Tribunal of the Former Yugoslavia (ICTY), the International Tribunal for Rwanda (ITR) and the Special Court for Sierra Leone (SCSL)?

19. It is our view that the case of the mass rape in the Darfur village of Tabit in late 2014 could lead to the first convictions at the ICC for the crime of sexual violence in a conflict situation. The UK should push for a thorough investigation of events there, and details should be included in a bundle of information to reinvigorate the stalled ICC activity on Darfur, hibernated by Chief Prosecutor Fatou Bensouda in December 2014.

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