

**SUDAN:**

**CIVILIANS  
CAUGHT IN  
UNENDING CRISIS  
IN SOUTHERN  
KORDOFAN**

**AMNESTY  
INTERNATIONAL**



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# 1. INTRODUCTION

The armed conflict in Sudan's Southern Kordofan state between the Sudanese government and armed opposition group, the Sudan Peoples' Liberation Army-North (SPLA-N)<sup>1</sup>, continues unabated, and to the detriment of the civilian population. Indiscriminate attacks by both parties, including aerial bombardments by the Sudanese Armed Forces (SAF), and Sudan's ongoing denial of humanitarian access to areas affected by the conflict since it erupted in June 2011, have led to deaths and injuries of civilians, and the destruction of civilian property. Hundreds of thousands of people have been displaced internally or have sought refuge South Sudan.<sup>2</sup>

Southern Kordofan is one of Sudan's 'Three Areas,' addressed separately in the 2005 Comprehensive Peace Agreement (CPA); an agreement which among other things led to the independence of South Sudan.<sup>3</sup> Due to a number of unresolved issues in the CPA in relation to Sudan's 'Three Areas' conflict erupted in Southern Kordofan in June 2011 and expanded to Blue Nile in September 2011.

This briefing focuses on attacks against civilians in Southern Kordofan's Nuba Mountain region, and the additional hardship they continue to face due to the lack of humanitarian assistance and displacement. It is based on research carried out by Amnesty International during a mission to Yida and Pariang refugee camps in Unity State, South Sudan, and to SPLA-N controlled areas of Southern Kordofan in January 2013. Interviews were carried out with scores of civilians in refugee camps in Unity State and in the SPLA-N controlled areas of Southern Kordofan. Meetings were also held with the UN refugee agency - UNHCR, international NGOs, members of the SPLA-N, and national human rights monitors in SPLA-N controlled areas.

Amnesty International was unable to travel to government-controlled areas of Southern Kordofan, due to Sudan's long-standing denial of access to international human rights organizations. Amnesty International has been denied access to Sudan since 2006.

## 2. INDISCRIMINATE BOMBARDMENTS AND THEIR IMPACT ON CIVILIANS

Amnesty International interviewed scores of people in towns and villages and settlements for internally displaced persons (IDPs) in Um Dorein, Heiban, Delami, and Buram counties, who had either suffered injuries or lost family members due to indiscriminate ground and aerial attacks by SAF between June and December 2012. In all of the incidents investigated, witnesses and victims stated that there were no military targets or SPLA-N combatants present at the time of the attacks. Amnesty International was unable to confirm the absence of SPLA-N forces at the time of the bombings. However there was no sign of any SPLA-N installations, current or abandoned, in the areas visited by the Amnesty International delegation and the sites where civilian casualties were documented by the organization were not located at or near the frontlines of fighting between SAF and SPLA-N. Furthermore, evidence gathered by Amnesty International about the incidents suggests that no effort was made by the SAF to identify and avoid or minimise harm to civilians and civilian objects. Bombings by the SAF are carried out using unguided munitions, often rolled out of Antonov cargo planes or other aircrafts, flying at high altitudes, in a manner which does not allow for accurate delivery. As such the attacks are inherently indiscriminate.<sup>4</sup>

### INTERNATIONAL LAW AND ATTACKS ON CIVILIANS

Sudan is legally obliged to respect and protect the right to life of people within its territory, a right that is non-derogable under the International Covenant on Civil and Political Rights<sup>5</sup> and is also provided for in Article 4 of the African [Banjul] Charter on Human and Peoples' Rights. Sudan is a state party to both these treaties.

In times of war, international humanitarian law (IHL), which applies only in situations of armed conflict, applies alongside international human rights law, and at times provides the content to rights as relevant to such situations.<sup>6</sup> Its central purpose is to limit, to the extent feasible, human suffering in times of armed conflict. There has been a non-international armed conflict in Southern Kordofan since June 2011, and therefore all parties to the conflict are bound by the applicable rules of IHL.<sup>7</sup> Violations of these rules may amount to war crimes.

A fundamental rule of international humanitarian law is that parties to any conflict must at all times “distinguish between civilians and combatants”, especially in that “attacks may only be directed against combatants” and “must not be directed against civilians.”<sup>8</sup> A similar rule requires parties to distinguish between “civilian objects” and “military objectives”. These rules are part of the fundamental “principle of distinction.”<sup>9</sup>

Intentionally directing attacks against civilians not taking direct part in hostilities, or against civilian objects, is a war crime.<sup>10</sup> Indiscriminate attacks are, firstly, those that are of a nature to strike military objectives and civilians or civilian objects without distinction, either because the attack is not directed at a specific military objective, or because it employs a method or means of combat that cannot be directed at a specific military objective or has effects that cannot be limited as required by international humanitarian law.<sup>11</sup>

Secondly, indiscriminate attacks involves those attacks “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”<sup>12</sup> Intentionally launching an indiscriminate attack resulting in death or injury to civilians (that is, knowing that the attack will not distinguish between military objectives and civilian objects, or that it will cause excessive incidental civilian loss, injury or damage) constitutes a war crime.<sup>13</sup>

## DEATHS AND INJURIES

Civilians in SPLA-N controlled areas continue to bear the brunt of indiscriminate ground and aerial attacks by the SAF. Amnesty International documented injuries and deaths due to bombs dropped by Antonov aircrafts and ground attacks using long-range rockets, which took place in late 2012. Many of those to whom Amnesty International spoke in Southern Kordofan, including people who had lost family members and/or suffered injuries, had left their homes and sought shelter in caves and surrounding areas. In all of the instances described below, Amnesty International visited the locations where air strikes or ground attacks had taken place. No military objectives were visible near any of these locations. Civilians interviewed by Amnesty International delegates further stated that there were no armed SPLA-N members or military weaponry, vehicles or installations in the vicinity at the time of attack.



On 10 November 2012, in Um Serdiba, in the Um Dorein Locality, an attack by a long-range rocket,<sup>14</sup> injured 11 year-old Nafeesa Abdallah. She was picking beans when a rocket landed near her and a piece of shrapnel hit her right leg, which was still visibly swollen when Amnesty International spoke to her in January 2013.

Nafeesa Abdallah's leg was treated by a traditional healer after a piece of shrapnel hit it in Um Serdiba on 10 November 2012. © Private

She told Amnesty International: *“I was alone. When I heard the sound, I stood up and did not know what was happening. When the shrapnel hit my leg, I collapsed. I was taken to a healthcare centre in Kurchi which couldn’t help me, and then taken to a traditional healer with experience in fixing broken bones. It took two months for the wounds to heal. We now stay in the rocks and sleep there.”*



Remnants of the rocket that injured Nafeesa Abdallah, January 2013  
© Amnesty International

Nafeesa, and relatives and others who witnessed the attack, stated to Amnesty International that there were no armed entities or military installations near her at the time of attack. Nafeesa and her family and neighbours now live in the nearby caves due to fear of further attacks.

According to the Sudan Relief and Rehabilitation Agency (SRRA), the humanitarian wing of the SPLM-N, an estimated 264 shells fell in SPLA-N controlled areas between June 2011 and November 2012, with 119 shells in October 2012 alone.<sup>15</sup>

Amnesty International documented the intensified ground fighting and indiscriminate shelling by the SAF and SPLA-N in and around Southern Kordofan’s capital Kadugli, from October 2012, in addition to intensive aerial bombardments by the SAF in SPLA-N controlled areas, during the same period. National human rights monitors, who carry out research solely in civilian areas stated that over 200 bombs were dropped by SAF in November 2012 alone.<sup>16</sup>



Heskiel Luka Tutu, aged 40, from Al Dar in Buruam locality, showed Amnesty International researchers the fruit tree where his two sons, Hamis, aged ten, and Yacoub, aged five, were killed and his two nieces, Sara Felibus Luka Tuta, aged three, and Lucia Felibus Luka Tuta, two months old were injured.

Heskiel Luka Tutu holding shrapnel from a bomb that killed his two sons in Al Dar, January 2013 © Amnesty International

The four children had been playing under the tree on 18 November 2012 when a bomb was dropped by an SAF Antonov plane. Sara sustained shrapnel wounds to her left leg, and Lucia her left arm. An Antonov plane dropped more bombs on 12 December 2012 and destroyed their home. Heskiel has seven other children who survived, and has moved with them to an area where they hope it might be safer. However he told Amnesty International that in the rainy season, which commences in April, they would need to relocate again as the area to which they relocated is prone to flooding.



The fruit tree where Heskiel Luka Tutu's two sons were killed and two nieces injured in Al Dar, January 2013 © Amnesty International

Amnesty International visited the remnants of the house of Elhas Abdallah and her husband Mohammed Alabashim in Um Serdiba. Their house was hit by bombs twice – once in June 2012, when Elhas Abdallah and the couple's seven year old daughter Sameera were injured. Elhas was nursing her 15-day-old baby at the time, and told Amnesty International that she did not hear the Antonov plane fly overhead or the bombs drop, until it was too late to run. She lay flat on the bed with her baby, but shrapnel came through the house wall and hit her on the ribs on her right side. Sameera who was lying on the ground was hit on the right side of her head by shrapnel. Both were taken to a clinic, previously run by an international NGO, where their wounds were cleaned.

The family faced further tragedy on 23 December 2012, when, at around midday, an Antonov plane dropped more bombs around their home. Mohammed Alabashim was killed. Elhas Abdallah told Amnesty International: *"We were all in the house. I was in the room and my husband heard the plane and said we should jump into the foxhole. I told him to come and he said no, he will wait. When the plane left and rotated, I went back to the shelter. When the plane came back I said I am fearing something bad is going to happen. He told me to run and he would lay low."*



The remnants of Elhas Abdallah's house, Um Serdiba, January 2013 © Amnesty International

Johanna Rocco Abubashim, Mohammed's nephew said: *"The planes came past, rotated and dropped bombs. They then crossed and rotated again and dropped more bombs. It was in that second rotation that a bomb fell directly in my uncle's compound. I heard 14 bombs drop at that time. His [Mohammed's] head was crushed and his right arm was cut off...Two or three hours later when we were burying my uncle the plane came and bombed 14 times again. It burned houses on the other side, but no one got hurt."*

Johanna told Amnesty International that his mother Hawa was also injured by bombs dropped from an Antonov. On 17 December, at midday, she was at the mill to grind sorghum. Due to the noise of the mill, she did not initially hear the plane, and only ran for shelter after she

heard people screaming. According to Johanna, his mother and a neighbour, Annie Mubarak, aged around 16 years old, hid behind some rocks. Hawa was injured on her upper right thigh, and Annie was killed by a piece of shrapnel that went through her upper back and came out through her chest.<sup>17</sup>

On 16 December in Um Serdiba, at around 2pm, Amal, aged 28 and a mother of five children, and her grandmother Naima Kuku, were killed when a bomb landed in Naima's home. Khadija Al'hamr, a neighbour, described the shocking aftermath of the bombing: *"Naima Kuku was cut into pieces. I picked up her parts to bury. Amal was cut into two and was pregnant. An old woman passing the road was also hit by shrapnel which hurt her leg."*

Khadija's home was also damaged by the bombing. She told Amnesty International: *"The plane has really given us a hard time. Now the clothes I am wearing were donated by my neighbours because I lost everything when the bombs fell. They all got burned. We are really suffering. The fence and shelter were burned as a result of the bombings."*

Two elderly women, interviewed at the Mother of Mercy Referral Mission Hospital in Gidel - the only tertiary hospital in SPLA-N controlled areas of Southern Kordofan - told Amnesty International about how they sustained their injuries when Heiban, the town where they lived, was bombed. Mariam Hamdhan Kuku who was injured on 24 December 2012 said: *"I was collecting beans when the Antonov came. I tried to lay down and stay safe. The shrapnel hit me and I was injured on my upper left thigh and knees. I have been at the hospital for nearly two months."*

Sameera James Kuku, also from Heiban, was brought to the hospital in Gidel on 27 September 2012. She suffers from poor hearing due to her age and did not hear the Antonov aircraft until it was too late. The bomb destroyed her house and she had shrapnel wounds on her left upper arm, right thigh and her right wrist. The surgeon at the Mother of Mercy Referral Mission Hospital told Amnesty International that *"Sameera's humerus [the long bone in the arm that runs from the shoulder to the elbow] was fractured and opened, with the flesh gone. Her right wrist was broken and right leg fractured, with the tissue lost so she couldn't walk."* He added that Sameera's injuries were serious and that it is remarkable she can walk again.

Seven people had been injured during the same bombing and brought to the hospital, but she was the only one still recovering from the injuries at the time of Amnesty International's visit on 25 January 2013. According to Sameera, one woman was killed in the attack and her five-month-old baby later died due to lack of milk.

## CIVILIAN STRUCTURES DAMAGED

Aerial bombardments in Southern Kordofan continue to inflict serious damage on civilian property.<sup>18</sup> As a result, daily activities such as farming and schooling have been severely hampered in the SPLA-N controlled areas. In the areas where education continues, it is done in open spaces, so that students and teachers can seek safety in foxholes and caves in the event of bomb attacks.<sup>19</sup>

On 26 September 2012, a school in Um Serdiba was destroyed by aerial bombardments at 11.51am. Following this on 10 November 2012 a mosque was bombed at 2.22pm.<sup>20</sup>

Both structures were empty at the time of attack. Amnesty International visited the structures and saw the damage to them.

An all-girls school in Kauda<sup>21</sup> was also bombed on 21 December 2012. Haifa Abdelaziz Mudir and her siblings, whose house is in close proximity to the school, were at home at the time of the bombing. Haifa, aged 16, told Amnesty International that the bombings occurred at 8am and that: *“We were sitting in our shelter when we heard the Antonov and ran to the foxhole. The Antonov bombed the first time, second time, and third time it was very close to us. We started screaming. We saw our house on fire but failed to get anything. Everything was burned and damaged. The room that was burned was a store with maize, sorghum and groundnuts saved during the rainy season. It also had two beds with mattresses and our clothes. All our property was in two rooms.”*



Rubble from Haifa Abdelaziz Mudir's house in the foreground, and the girl's school in Kauda in the background, January 2013 © Amnesty International

No military installations were visible to Amnesty International near the school or Haifa's house, and Haifa told Amnesty International that there were no armed entities present at the time of the attack.

Amnesty International has previously documented the damage and destruction of schools, health clinics, water wells and churches in Southern Kordofan in 2011 and 2012.<sup>22</sup> Ongoing reports of bombs dropped on civilian structures have been received by Amnesty International, including damage to a church and primary school building on 11 March 2013 in the village of Angolo.<sup>23</sup>

## HUMANITARIAN SITUATION: LACK OF ACCESS TO FOOD, WATER AND HEALTHCARE

The humanitarian situation in SPLA-N controlled areas of Southern continues to deteriorate. However, international organizations, including the UN, have repeatedly been denied the opportunity to provide humanitarian assistance to these areas by the Sudanese government. Amnesty International travelled to areas in Delami County, where the living conditions of the host population and IDPs had visibly deteriorated since the organization's delegates had visited the area in August 2011. Delami County was formerly considered one of the breadbaskets of the region; however, civilians have been unable to cultivate due to a combination of poor rains, lack of seeds and tools and the impact and constant fear of aerial bombardments.<sup>24</sup> National human rights monitors documenting aerial bombardments in Delami County in 2012 told Amnesty International that from June to November 2012 bombings increased in SPLA-N controlled areas of Delami County, reaching a peak in October with 70 bombs dropped.<sup>25</sup> The months of June to August are key planting periods for sorghum, millet and other staple crops grown in Southern Kordofan, and November is a key harvesting and planting period.<sup>26</sup>

The intensified bombings during a key planting and harvesting period for sorghum and other staple crops severely disrupted attempts by civilians to cultivate. Amnesty International believes while the bombings are indiscriminate in nature, the Sudanese authorities cannot be unaware of the key month for harvesting important crops such as sorghum; therefore the intensification of bombings reported during that month raises serious concerns about whether the SAF are intentionally attempting to disrupt harvest, and thereby deepen the humanitarian crisis. National humanitarian monitors in Southern Kordofan reported that in January 2013, in areas where farming was severely disrupted due to insecurity, "severe hunger scores" were identified, and overall more than 85% of the population was food insecure, with the situation likely to further deteriorate as harvest food stocks were consumed, combined with the lack of humanitarian assistance to supplement their diets.<sup>27</sup>

Under IHL, attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population is prohibited. Such objects include agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies, and irrigation works.<sup>28</sup>

In addition, such attacks violate the right to an adequate standard of living, which Sudan is obliged to respect under Article 11 of the International Covenant on Economic, Social and Cultural Rights, to which it is a state party.

The lack of international humanitarian assistance to SPLA-N controlled areas has also had severe implications for people's access to clean water, which also has health repercussions. Many civilians and civil authorities to whom Amnesty International spoke stated that boreholes and hand pumps, which were functioning prior to the conflict, no longer worked and the spare parts to service them were not available due to lack of access to the area. Additionally, in some communities the individuals who have the technical skills and knowledge needed to repair the pumps have fled. Prior to the conflict, hand pumps were regularly serviced by international NGOs. In most of the areas, communities had only one functioning borehole. The Delami County Commissioner told Amnesty International that there used to be ten hand pumps in the area, but there was now only one that continued to function, which was used by the community and for livestock.

Under IHL, all parties to an armed conflict "must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control."<sup>29</sup>

Access to healthcare in SPLA-N controlled areas has been severely constrained due to the conflict and the denial of humanitarian access. The only tertiary hospital in the SPLA-N controlled areas, the Mother of Mercy Referral Mission Hospital in Gidel, has one surgeon, who remained behind after the conflict broke out. He told Amnesty International: *"We receive a whole age range of civilian cases as a result of the conflict. New born babies whose mother's were killed [by the bombings], a grandmother breastfeeding her grandchild because the mother was killed..."*

At the hospital, Amnesty International found Bibiana Isaac, now aged ten, who researchers had previously met in 2011. She was injured during an air strike on Kurchi market on 26 June 2011, which killed 13 civilians and injured over 20 civilians. Bomb fragments cut through her cervical vertebrae and she is paralyzed from the waist down.<sup>30</sup> During the 2013 visit, the surgeon told Amnesty International that Bibiana's mother was unable to care for her, and had abandoned her and her siblings. Bibiana was then cared for by extended family members, but suffered from neglect and *"she sent word to the Mother of Mercy sisters and now lives at the hospital."*

Amnesty International met Bibiana and her brother, who lives with her at the hospital. Bibiana told Amnesty International that she was no longer in pain, though she couldn't feel anything from the waist down, and that she was well taken care of at the hospital. The surgeon also told Amnesty International about the lack of food for staff and patients at the hospital. He said, *"I don't remember it being so bad last year. January should be the best time [for food supplies]. In May 2012 people would come for food from the sisters' compound. In July [2012] people came to the hospital to ask for food. We hadn't planned for extra people. This year the staff are likely to be fully dependent on the hospital's food supply."*

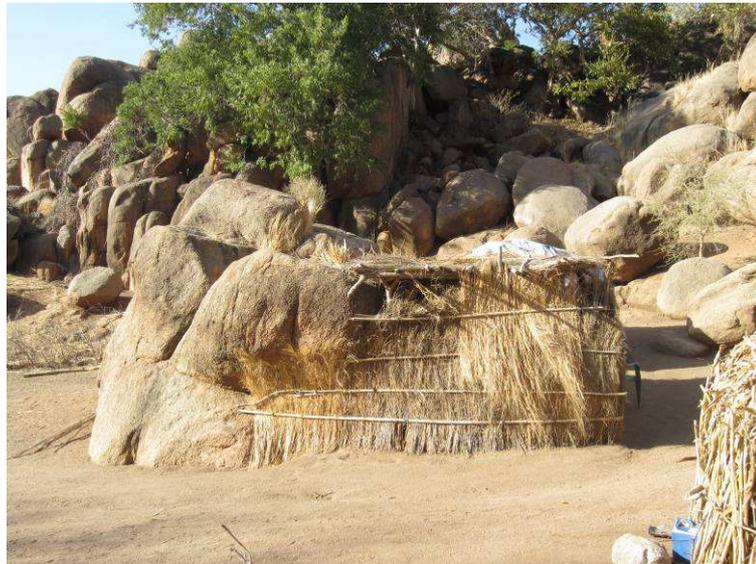
Amnesty International found that a number of clinics that existed prior to the conflict throughout the SPLA-N controlled areas of Southern Kordofan have either been abandoned or have limited capacity due to shortages of medical staff and supplies. Researchers encountered a number of civilians who suffered from diseases such as malaria and injuries, both related and unrelated to the conflict, who did not have access to healthcare. Achy, a woman to whom Amnesty International researchers spoke in Um Serdiba, had cut her thumb badly, and her hand was visibly swollen as a result. There was no clinic functioning within walking distance to which she could go to have her wound treated. She had carrying out her daily work, including caring for and holding her baby, with her other arm. She told Amnesty International she could not afford transport to the nearest clinic, and that she hoped it would heal naturally in time.

Due to the limited supplies, including fuel and vehicles, in SPLA-N controlled areas, transport remains a major challenge in Southern Kordofan. The majority of those sick or injured that Amnesty International met had sought treatment from traditional healers.

## CHALLENGES FACED BY INTERNALLY DISPLACED PERSONS

Due to attacks on towns and villages by the SAF and their allied militia, including the Popular Defence Force (PDF)<sup>31</sup>, an estimated 150,000 to 200,000 people fled from SAF controlled areas, and areas at the frontlines, to SPLA-N controlled areas between June 2011 and December 2012.<sup>32</sup> These IDPs have been identified by national humanitarian monitors as particularly vulnerable; without access to international humanitarian assistance many initially relied on host communities to provide them with areas to settle, in addition to food. According to the Famine Early Warning Systems Network (FEWS NET) report on Sudan covering October 2012 to March 2013, the majority of IDPs in Southern Kordofan are likely to face crisis levels of food insecurity by the time the rainy season starts in late April 2013.<sup>33</sup>

Amnesty International visited areas in Delami locality including Tunguli, Lombre and Sanjak, to which many people had fled - mostly in 2011 - from attacks by the SAF and their allied militia on their towns and villages. The areas they fled from, including main towns such as Dilling and Delami, are now government-controlled. Many IDPs interviewed by Amnesty International stated that would prefer to receive assistance in the areas where they had settled, rather than make the lengthily and arduous journey to Yida refugee camp in South Sudan. Some families reportedly went back to SAF controlled areas; however the state of their well-being was unknown as contact and movement between the areas are limited.<sup>34</sup>



IDP settlement in Tunguli, January 2013 © Amnesty International

In Tunguli, the IDPs mostly live at the foot of the Nuba Mountains and in the caves to which they fled shortly after the conflict broke out in June 2011. B.B, aged 38, from Khor Delib, moved to Tunguli in late 2011 with her husband, 12 children between the ages of five and 20 years old, and her uncle. She told Amnesty International: *“War, militia and the plane forced us to stay at the foot of the hills...When the war started, the militia set fire to houses. I saw them setting fire to houses with my own eyes... they are PDF [Popular Defence Force] and wear uniforms similar to SAF. They were acting like militia before [the conflict]. They said they did not want Nuba, so we ran to the mountains. This place is safe because of the*

*formation of the mountains. Even when there are planes, we know where to hide.”*

B.B added that since they arrived, her family had received one sack of maize in 2012 from a national NGO, and nothing since. She said *“We are struggling so much to live, really suffering. We sleep on the ground with no beds or mats. We used to get by, sometimes we get things from the market, sometimes we don’t. We didn’t manage to cultivate here because of the Antonov. We don’t have resources to go to Yida, but we have thought about it. We need medicine, food and water now – we are all depending on one borehole in this area. We need help from anywhere.”*

Sarah Morkos, aged 26, from Khedber, fled to Tunguli in June 2011, shortly after the conflict broke out. She said that her village was not attacked but it was surrounded by SAF, as was Delami and Um Brambita, so they could not stay there. She went to Tunguli with her whole family – her father, mother, husband and two children ages 8 and 5 (she had a third child born in Tunguli, who is now one year old). When asked about access to food, Sarah said that *“[we] just get by. We were assisted the first two weeks by the [host] community, and after that not anymore because they had no plan for themselves. There were a continuous stream of people into 2012, but due to harsh conditions, some have fled back to SAF [controlled] areas.”*

Amnesty International interviewed the *umdah* (village chief) of Um Heitan who, along with many of his community, had fled to Sanjak in October 2011. He said that 119 households – 629 people - left because the SAF took control of the area where they lived.<sup>35</sup> He listed a number of people from his village who had been killed by aerial bombardments, including Abdulrahman Kuku, a 60 year old man, and Koche Komon, a man aged about 70. He also described how several people had been injured and how livestock had been injured/killed.



IDP settlement in Sanjak, January 2013 © Amnesty International

The umdah told Amnesty International: *“Before October 2011, things were normal. We heard after the elections that war broke out, but in our place it was safe because there was no presence of military troops from either side. It only got worse when SAF came...a number of households were waiting for things to improve and have joined recently – in November and December 2012... in the next village Nyukor... We have tried to sustain ourselves here and there up to now, but we are now running out of food in this area. We are waiting for God. Yida is the only option – I have discussed this with the community and we are waiting for something to change. The problem is the means [to get to Yida]. There are 167 children under 5 years old in the community. We all depend on one borehole that is not functioning well. You have to pump for ten minutes to get one jerry can. Education is a big concern. We prefer to seek assistance here than to move because it poses new challenges.”*

## JALILA KHAMIS KOKO

In addition to blocking humanitarian access to SPLA-N controlled areas, the Sudanese government has sought to restrict information and attempts to raise awareness about the plight of civilians in Southern Kordofan. The Sudanese authorities have done this through harassing, arresting and detaining a number of activists in Sudan. Amnesty International has also documented cases of Sudanese activists living in Cairo, Egypt who have faced harassment for disseminating information or working for Cairo based associations providing relief for civilians from Southern Kordofan in Sudan.<sup>36</sup>

Jalila Khamis Koko, a teacher, activist and SPLM-N member from the Nuba Mountains in Southern Kordofan, worked as a volunteer providing humanitarian support to IDPs from Southern Kordofan who were living in and around Khartoum, the capital of Sudan. In June 2011, she appeared in a YouTube video where she denounced the conditions in conflict-affected areas of Southern Kordofan and called for a ceasefire.

On 15 March 2012, Jalila was arrested by the National Security Service (NSS) and held for over nine months in pre-trial detention. She was charged with five criminal counts on 13 December 2012. Jalila was released after a court hearing on 20 January 2013, and following a large domestic and international campaign calling for her release. She was acquitted of all charges except those related to “spreading false news,” an ambiguous provision in Sudan’s 1991 Criminal Code often used to silence dissent.

Amnesty International believes that Jalila Khamis Koko was held solely for peacefully alerting people to the plight of people from Southern Kordofan and considered her to be a prisoner of conscience. The YouTube video was used as the only piece of evidence against her.<sup>37</sup>

### 3. ARBITRARY ARRESTS AND DETENTIONS

Arrests and detention of suspected members and supporters of the political wing of the SPLA-N, known as the SPLM-N, continue in Southern Kordofan and other parts of Sudan, including the capital, Khartoum. In September 2011, the Government of Sudan declared the SPLM-N a banned opposition group, and has used this as grounds to continue arresting individuals. As far as Amnesty International is aware many of those arrested on the basis of their alleged membership of or connection with SPLM-N have not committed any recognised criminal offence. In April and May 2012, Sudan's President Omar al-Bashir declared a state of emergency in ten localities in Southern Kordofan. This provides the president with powers to suspend the bill of rights in Sudan's Interim Constitution, with the exception of a limited number of rights including the right to life, freedom from torture and the right to a fair trial; The President is further allowed to dissolve or suspend any of the state organs or powers and prescribe the manner in which affairs in the state will be managed; and take any measures which are deemed necessary, which will have the force of law.<sup>38</sup>

In October and November 2012, 32 women were arrested and detained without charge in Southern Kordofan's capital Kadugli, ostensibly for spying and collaborating with the SPLA-N. The majority of the women arrested were government employees working at various ministries in Kadugli and five have been detained with their young children, ranging in age from six to 18 months old.<sup>39</sup> On 27 December, the women and their children were transferred to El Obeid prison in Northern Kordofan. Although family members have been allowed to visit them there, they have been denied access to a lawyer. As far as Amnesty International could discover, the women have not been charged to date. A number of the women reportedly have serious health concerns but have not received adequate health care.<sup>40</sup>

R.M was arrested on 9 November 2012 and has reportedly suffered from seizures and sustained loss of consciousness while in detention, but has been denied treatment in El Obeid. K.M.B.K aged 41, who worked at the Ministry of Health in Kadugli, sustained spinal injuries while in detention in Kadugli, allegedly from falling down the stairs, though her family believe it is due to ill treatment while in detention.<sup>41</sup> She was transferred to Khartoum Teaching Hospital for medical treatment on 6 February 2013 and transferred back to Kadugli upon release from hospital. On 13 March 2013, she was transferred to El Obeid prison where she remained detained with the other women at the time of writing.

Amnesty International is concerned about the health of the women detained and calls on the Government of Sudan to provide them immediately with medical treatment and access to a lawyer and an independent court which would determine the lawfulness of their detention. Amnesty International further calls on the Government of Sudan to release them without delay, unless they are charged them with internationally recognizable criminal offences and remanded by a court. Under Article 9 of the ICCPR and Article 6 of the African Charter, Sudan is obliged to refrain from arbitrarily depriving persons of their liberty.

## CLOSURE OF NUBA ORGANIZATIONS IN KHARTOUM

In addition to the arbitrary arrest and detention of a number of activists suspected of being members of the SPLM-N, Amnesty International has noted a wider trend of harassment and closure of institutions linked to or run by the Nuba ethnic group from Southern Kordofan, in other parts of Sudan.

On 16 January 2013, the Kuku Centre for Culture and Heritage (KUCCH), and the NINU Centre for Languages and Computer Science, (both located in the same building in Khartoum), were shut down by the NSS.<sup>42</sup> KUCCH was established in 1993 with the purpose of helping people from Southern Kordofan in preserving their cultural heritage through writing and developing their languages. The NINU Centre was registered in the National Federation of UNESCO Clubs; a national body representing UNESCO clubs in Sudan.

NSS agents entered the premises and ordered the centre's director to go with them to the NSS office. He was interrogated there and told to return a number of times for further interrogation. The director was reportedly asked about his political affiliations, religion and culture, among other things, and asked to present certificates of registration for both organizations. He was also 'accused' by the NSS of receiving support from international organizations.

On 11 February 2013, after weeks of interrogation, he was officially told by the NSS that both centres would be shut down, and could re-register with the Ministry of Culture, in accordance with a directive received from the Ministry of Culture. A number of materials from the centres, including certificates of registration were confiscated and have not been returned to date.

Amnesty International is concerned that by such arbitrary closures, Sudan is in violation of its obligation to respect the right to freedom of association, provided by Article 22 of the ICCPR and Article 8 of the African Charter. Further, the organisation is concerned that these measures have targeted Nubian associations in a discriminatory manner, in violation of the prohibition of discrimination provided in Article 2(1) of the ICCPR and the ICESCR as well as Article 3 of the African Charter.

## DETENTION OF CIVILIANS BY THE SPLA-N

In an area close to Sanjak in Southern Kordofan, Amnesty International spoke to six women who were captured with four of their children by the SPLA-N in Um Mihitan on 10 October 2012. They told Amnesty International that the SPLA-N found them hiding in a room during the fighting and they were not given a reason for their capture. They were detained in Um Mihitan for two days, following which they were detained in a small room in Tunguli for two months.

S.M., a woman aged 24 described to Amnesty International their conditions in detention:<sup>43</sup> *"There were no beds, we had to sleep on the floor. We were questioned in an office two times... we were accused of being NCP [National Congress Party, the ruling party in Sudan] supporters. Our husbands are active in the PDF. We were finally released when a male relative came forward and said he would take responsibility for us. We are now completely free, without any restrictions. We can return home if we wish, but if we cross SPLA [SPLA-N] territories and go to SAF we will not be alive. We will be accused of being SPLA [SPLA-N] supporters."*

The women told Amnesty International that they had been relying on food from their male relative, which had now run out. They had to walk over two hours to get water from the nearest borehole.

Amnesty International considers the detention of these women and children wholly unjustified and arbitrary, and in violation of the SPLM-N's obligation, under Article 3(1) common to the four Geneva Conventions, to treat those taking no active part in the hostilities humanely.

## 4. PROTRACTED UNCERTAINTY: REFUGEES FROM SOUTHERN KORDOFAN IN SOUTH SUDAN

More than 70,000 people have fled across the border into South Sudan - virtually all of whom have ended up in the remote Yida refugee camp.<sup>44</sup> UN officials at Yida report that during the first part of January 2013 average arrivals at Yida were approximately 1,000 per week and by late January the rate had risen to 300-400 per day. The rate of new arrivals is expected to be sustained and even increase as the situation continues to deteriorate in Southern Kordofan and people are forced to flee before the rains make travel difficult by May. At the end of March 2013 there were over 70,000 refugees in Yida, compared to around 18,000 at the end of March 2012.<sup>45</sup> UN officials and humanitarian organizations anticipate that the number of refugees in Yida will reach 100,000 by May 2013.<sup>46</sup>

Amnesty International researchers, who had previously visited Yida in April 2012, found the camp had visibly grown in size and that refugees, who had been at Yida for over one year, were building houses out of brick, rather than straw in comparison to the previous year.

### CONTINUING CONTROVERSY AROUND THE LOCATION OF YIDA CAMP

Refugees began to arrive spontaneously at Yida in July 2011, shortly after the conflict erupted in Southern Kordofan. From the beginning, however, UNHCR has raised legitimate concerns about the camp's location due to its close proximity to the border with Sudan. In one direction the camp is only 12 kilometres from the border between South Sudan and Sudan. Moreover, it is located directly within a strategic corridor through which there is the potential for considerable military traffic, particularly given the location of a significant South Sudanese military presence in Jau, 25 kilometres northwest of Yida. International norms require states to take steps to ensure the civilian and humanitarian character of refugee camps.<sup>47</sup> Central to that goal is recognition that camps should be located at a reasonable distance from the border that refugees have crossed.<sup>48</sup> According to UNHCR, as a general rule this should be a distance of at least 50 kilometres.<sup>49</sup>

Both in its shortest distance to the border, and its most strategic distance to SPLA-N controlled areas of Southern Kordofan, Yida is much closer to the border than 50 kilometres. Armed elements from the conflict in Sudan have entered the Yida camp on several occasions, and this has resulted in serious security challenges. For example, in March 2013, clashes between armed individuals from Southern Kordofan and the South Sudan Police Service (SSPS) left three people dead and several more injured. Approximately one thousand refugees fled the camp, but have since been able to return, although many found that their possessions, including blankets and food, had been stolen.<sup>50</sup>

Prior to this in October 2012, the SPLA-N reportedly entered the camp to round-up alleged deserters, and in November 2011, the camp was bombed by the SAF. No deaths or injuries were reported, however two bombs landed in the camp, including one close to a school.<sup>51</sup>

UNHCR has also expressed concern about the fact that Yida is virtually cut off from outside road access during the region's lengthy rainy season making it very difficult to adequately provide services and supplies. During last year's rainy season, UNHCR and humanitarian organizations had to airdrop food and other supplies to Yida due to impassable roads. UNHCR had to mobilize rapidly to ensure that plastic sheeting, mosquito nets and other crucial supplies were in place as the rainy season approached and the World Food Programme worked quickly to preposition adequate food supplies.<sup>52</sup>

As a result of the valid concerns described above, UNHCR has maintained the position that the camp cannot be accorded full recognition as an official refugee camp; instead UNHCR views Yida as a transit site - notwithstanding the fact that refugees have been accommodated there for over a year - and has actively encouraged the occupants to move elsewhere. As a result of its classification of the camp as a transit one, UNHCR has decided to provide only emergency services at Yida. Amnesty International is concerned that UNHCR has not made important services, such as education and support for agriculture and livelihoods, available at Yida. The absence of programmes to support education and livelihoods has, and will continue to have, a detrimental effect on the rights of refugees at Yida.

In late 2011 and early 2012 there was a concerted effort to persuade refugees at Yida to move to new sites that the UNHCR had established at Nyiel and Pariang, further inside South Sudan's Unity State. Pariang was primarily set up for secondary school students and at its peak was home to more than 3,000 young people between the ages of 14 and 30. The site at Nyiel was intended to be the destination to which the majority of Yida camp residents would be transferred and was developed with an initial capacity to house up to 9,000 refugees.

Amnesty International has previously reported on the problems that arose with respect to plans to transfer refugees to Nyiel, including strong opposition among the refugee community because of concerns that due to Nyiel's low ground and hard soil the site would become a swamp during the rainy season.<sup>53</sup> This would make living there difficult for the refugees, and providing and maintaining the camp challenging for the UN and humanitarian organizations. By mid-April 2012, only 650 refugees had moved to Nyiel and it had become clear that hopes that a large number of refugees would make the move had to be abandoned. The vast majority of refugees remained at Yida and has continued to do so since then.

In mid-April 2012, however, the population at Yida was just over 20,000, and the rate of new arrivals rapidly increased to levels of between 600 and 800 new arrivals per day. Amnesty International highlighted a range of pressing human rights concerns in the camp, including serious protection problems for a sizable number of unaccompanied girls and young women.<sup>54</sup> The situation has since improved, due to steps taken by the UNHCR and humanitarian organizations to ensure that the unaccompanied girls and women are reunited with their families, some of whom were living in the camp during the time, or were placed with host families.

Notwithstanding the improved situation for unaccompanied girls and women, UNHCR continues to have serious concerns about Yida's location. When UN High Commissioner for Refugees António Guterres visited the camp in November 2012 he again urged refugees to move to sites deeper inside South Sudan.<sup>55</sup> However, by then it had become abundantly clear that the overwhelming majority of refugees would not move to Nyiel.

As a result, working with South Sudanese government officials, UNHCR explored 17 other possible sites at which to open new refugee camps in Unity State. Arising from that process, three sites in and around the community of Jam Jang - approximately 45 kilometres east of Yida - were selected. Differing explanations have been offered by UNHCR and some humanitarian agencies for the need to establish the three new sites at Jam Jang. These include the longstanding security concerns about Yida's location. Additionally the sites at Jam Jang will remain accessible by road during the rainy season, particularly once roads in the area have been upgraded. UNHCR has also indicated that the continuing expansion of Yida is not sustainable and that a new camp is needed to relieve the pressures of such rapid and ongoing growth of the camp population.

The sites at Jam Jang are said to have a very similar soil composition and topography to that of Yida.<sup>56</sup> The first site, Ajuong Thok, opened in April 2013, and 20 refugees had relocated there in the first week.<sup>57</sup>

Notably, however, all three sites at Jam Jang remain very close to the border with Sudan. Ajuong is 15 kilometres from the border; and Gumriak and Pamil are both 12 kilometres from the border. Notwithstanding their proximity to Sudan, the UNHCR considers them to be more secure as they are removed from the road corridor to the Jau border crossing.<sup>58</sup>

Refugees interviewed by Amnesty International at Yida camp in January and February 2013 indicated that they would oppose any transfer to the new sites. Many refugees also said that they believe the new sites to be more dangerous locations. The border areas of Sudan closest to the Yida camp are presently controlled by the SPLA-N, whom the refugees consider to be a source of protection. The border areas of Sudan closest to the new sites around Jam Jang are controlled by the SAF.

Many refugees highlighted concern about the possibility of militia groups or armed gangs aligned with the SAF being sent across the border to harass and attack refugees at the new site, with the Sudanese government denying any responsibility or involvement. Amnesty International believes that the concerns raised are legitimate, and should be seriously taken into consideration.

As one refugee woman interviewed by Amnesty International at Yida said: *"The new site is much closer to the SAF front. It is near our enemy. We are running away from our enemy. We did not run away so that we could then end up closer to our enemy."*<sup>59</sup>

Another woman at Yida stated to Amnesty International that: *"If we are going to be forced to move to a new camp, it is better to go back to Nuba. The new site means we would be closer to our enemy. Why would we want to move closer to our enemy? I would rather go back. I would rather choose how and where I die than have someone else make the choice for me."*<sup>60</sup>

Amnesty International is concerned that UNHCR's plan to move the refugees to the three new sites, which many have stated they feel unsafe to move to, may result in refugees feeling forced to return to the very places they had fled.

UNHCR officials told Amnesty International that the agency is aware of these concerns. They indicated that they have received strong assurances from governmental authorities that the South Sudanese Armed Forces, known as the SPLA, is confident of its ability to secure the border with Sudan in the area near the new sites. The South Sudan Police Service (SSPS) will be deployed to provide security in the immediate vicinity of and inside the new camps. However, an earlier initiative to increase the presence of SSPS at Yida in late 2012 was abandoned after only a few weeks. Divisions, conflict and fighting among the police themselves had become such a source of instability and insecurity that the additional contingent of police was recalled from Yida.<sup>61</sup>

In addition to expressing their fears about the location of the three sites as a result of their proximity to the border, some of the refugees emphasised that they are well settled at Yida and had worked hard to establish themselves at the camp. They were concerned that a move to a new site means starting their lives again.



Construction in Yida's market by the refugee population, January 2013 © Amnesty International

One refugee told Amnesty International: *"It would mean beginning again. That means all of the work to clear and develop the site and set up a new home. It isn't just being transferred. It is being displaced again. It is like we are being used as an unpaid rural development team to develop these isolated areas of Unity State."*<sup>62</sup>

Recognizing that there is still much debate and controversy about relocating refugees from Yida to other sites, UNHCR officials have repeatedly stressed that transfers from Yida to the new sites at Jam Jang will only be on a voluntary basis, and that refugees currently at Yida will not be forced to relocate to the new camp. If UNHCR receives reports that refugees are

being coerced or forced to make the move, transfers will be halted.<sup>63</sup>

Given UNHCR's concerns about the burgeoning population at Yida, the intention is to begin to locate new arrivals at the new camps, so as to slow the continuing growth and expansion of Yida. The latter reasoning appears to be in line with a new South Sudan Government resolution announced on 4 April 2013, which stated that ration cards should not be issued to new arrivals in Yida, in order to ease congestion in the camp. This is with the exception of some vulnerable people and individuals with close family ties to people who are already registered at Yida. All other new arrivals must be registered at Ajuong.<sup>64</sup>

UNHCR recognizes that Yida camp will not be closed at any point soon. Even if a significant number of new arrivals and some current residents of Yida do move to the new sites, Yida will continue to have a population of around 50,000 throughout 2013. Despite this, UNHCR appears to have chosen a course of action that is resulting in the denial of fundamental refugee rights at Yida, including the right to education, and agricultural and livelihoods support, based on UNHCR's classification of Yida as a transit site.<sup>65</sup>

While it is indeed UNHCR's prerogative together with the authorities of South Sudan to identify suitable alternative sites, Amnesty International considers that in the interim, and particularly given the reality of the situation at Yida, refugees must be provided with access to basic services, including education and other services that are essential to the enjoyment of human rights.

### **PARIANG: HARDSHIP AND BROKEN DREAMS FOR REFUGEE STUDENTS**

Pariang, a refugee camp 26 kilometres from Yida, was established as an alternative site to Yida in 2012, offering secondary school education. However due to the reluctance of refugees to move to Pariang, the camp has essentially become a boarding school for secondary school students, with education and protection supported by international humanitarian organizations. The student population at Pariang reached a peak of just over 3,600 in 2012, but has declined steadily due to various difficulties faced by students at the camp. In January 2013 when Amnesty International visited the camp there were approximately 760 refugees between the ages of 14 and 30 at the camp.

Amnesty International interviewed a number of students and camp administrators. Students, particularly female students, told Amnesty International that they faced insecurity in the camp. According to some of the students interviewed by Amnesty International, there have been ongoing food shortages, and the level of education offered has suffered; students raised concerns about teachers' qualifications and availability of textbooks and other materials.

Students also told Amnesty International that they experienced harassment at the hands of the SSPS who provide security for the camp. Female students said they had asked for a female police officer to be based at the camp, but this had not happened. Female students also told Amnesty International that they have repeatedly asked for fencing to be erected around their compound to provide greater security; however humanitarian actors stated to Amnesty International that it was inappropriate to confine refugees by fencing them in. They said that there have been numerous instances of unwanted men, including from the adjoining village of Pariang, entering the female compound at night.

One female student told Amnesty International: *“One man has come several times. Once when he came he was naked. Another time he came at midnight and he went in to where one of the girls was sleeping. She lost consciousness. Some of the rest of us woke up and realized what was happening. We screamed very loudly and the man ran away. But what if he did not? Who would have protected us? We have reported our concerns about this man to the police. They say it is probably one of the boy students. We have asked the police and the NGOs to put up a fence so that we are safe. They say that a fence would take away our freedom of movement. We say we want to be safe.”*<sup>66</sup>

Amnesty International is deeply concerned that girls as young as 14 appear to have been left in an insecure situation, exposed to serious risks, even after they have reported specific incidents and asked for protection. Refugee children – and in particular adolescent girls – can be at particular risk of sexual and gender-based violence, and the risks are heightened when they are separated from their family.

Students also expressed their deep concern about the quality of education they have received at Pariang. They stated that they were confused with regards to the school curriculum being taught, currently as a combination of the Sudan, Kenyan and South Sudan curricula. Furthermore, a shortage of teachers was reported, with up to 100 students in a class. Students told Amnesty International that in many instances they felt more knowledgeable than their teachers.

One male student told Amnesty International: *“Many of the teachers are simply not qualified to teach at a secondary school level and they are unable to teach us. Often, in fact, it seems that we know more than they do. When that is combined with the fact that we are often lacking the textbooks we need, it makes it very difficult to learn anything. Many students have lost hope and have given up in the past few months. They have dropped out of school. Some have gone back to Yida because there is no reason to stay here.”*<sup>67</sup>

Students have been informed that the Pariang camp will be closed down and they will be transferred to the new sites at Jam Jang, where secondary education will be provided. Students at Pariang told Amnesty International that if there was an assurance that the level of education and security would improve at the new site, they would be amenable to transferring. They also expressed concern that there would be considerable time lost while facilities and programming at Pariang is being constructed and developed.

## 5. INTERNATIONAL IMPASSE

As the conflict in Southern Kordofan and Blue Nile states continues, violations of international humanitarian and human rights law - documented and raised by international and national human rights organizations, in addition to those in Office of the High Commissioner for Human Rights (OHCHR) report released in August 2011 - persist, and recommendations to improve the situation remain unaddressed.<sup>68</sup> This includes the recommendations of the High Commissioner for Human Rights to mandate an independent inquiry into the alleged violations of international human rights and humanitarian law in Southern Kordofan<sup>69</sup> - the UN Security Council has thus far failed to agree on condemning the violations or on taking concrete action in relation to Southern Kordofan, mainly due to objections to strong language and action by China and Russia.

Furthermore, international efforts, led by the African Union (AU), to negotiate modalities for the Government of Sudan and the SPLM-N to allow for humanitarian access to Southern Kordofan and Blue Nile persist without results. A tripartite group - consisting of the AU, the UN and the League of Arab States - called for impartial and independent humanitarian assistance in the first instance, in February 2012, to "war affected civilians in South[ern] Kordofan and Blue Nile States"<sup>70</sup> in the form of a tripartite proposal.<sup>71</sup> In August 2012, the Government of Sudan and the SPLM-N signed two separate Memoranda of Understanding with the tripartite group.

However on 5 November 2012, when the three-month memorandum signed by the Government of Sudan had expired, none of the measures outlined in the memorandum, including an assessment and plan to deliver humanitarian assistance, had been carried out. Furthermore, Sudan's Humanitarian Affairs Commissioner reportedly stated to the media that the humanitarian situation in SPLM-N areas "is at the natural level," implying no humanitarian crisis.<sup>72</sup>

In January 2013, in its report to the AU Peace and Security Council, the AU High-Level Implementation Panel (AUHIP) – a group led by former South African President Thabo Mbeki, which has primarily led on negotiations between Sudan and South Sudan<sup>73</sup> - adopted stronger language on humanitarian access in Southern Kordofan and Blue Nile. Its report reiterates calls for "immediate and unconditional humanitarian assistance" to Southern Kordofan and Blue Nile, in addition to stating that if the Government of Sudan and the SPLM-N continue to fail in reaching an agreement on humanitarian assistance, "it will not be possible for Council to discourage any other mechanisms for humanitarian assistance that are not necessarily in full conformity with the preferred principles of impartiality and transparency."<sup>74</sup> This language was reflected in the AU Peace and Security Council communiqué in January 2013,<sup>75</sup> however was not addressed in the decisions and declaration made at the AU Summit in January 2013, which solely focused on negotiations between South Sudan and Sudan.<sup>76</sup>

At the time of writing, further agreement on the modalities of humanitarian assistance between the Government of Sudan and the SPLM-N had not been reached. Furthermore, while the tripartite group aims to negotiate humanitarian assistance, it does not address wider human rights concerns.<sup>77</sup>

## 6. CONCLUSION AND RECOMMENDATIONS

The protracted conflict in Sudan's Southern Kordofan between the government of Sudan and the SPLA-N continues to take its toll on civilians. Ongoing indiscriminate attacks, including aerial bombardments by the SAF on civilians in SPLA-N controlled areas, have resulted in more deaths, injuries and destruction of civilian property. This, coupled with the lack of humanitarian access to the region since June 2011, has led to drastic declines in food supplies, health services, access to safe drinking water, education, and has severely undermined people's ability to carry out livelihoods.

As a consequence of the crisis, hundreds of thousands of civilians have been internally displaced in SPLA-N controlled areas, in addition to over 70,000 refugees who have fled to South Sudan's Unity State. As the rainy season fast approaches in May and roads to South Sudan consequently become impassable, tens of thousands more are expected to flee to South Sudan in the coming weeks, where they are still vulnerable to humanitarian challenges and human rights abuses.

Despite gross violations of international human rights and humanitarian law during the conflict in Southern Kordofan, international efforts by the tripartite group to convince the government of Sudan and SPLM-N to reach an agreement which allows for independent and impartial humanitarian access to SPLA-N controlled areas has not led to the delivery of assistance to date, largely due to unwillingness by the Sudanese authorities to reach a concerted agreement.

In light of the findings outlined in this report, Amnesty International makes the following recommendations:

### **To the Government of Sudan:**

- Immediately cease all violations of international humanitarian and human rights law in Southern Kordofan, including indiscriminate aerial bombardments in civilian areas;
- Take all necessary precautions in all attacks in order to protect civilians, including by warning civilians of impending attacks on military objectives;
- Initiate prompt, effective and impartial investigations into all violations of international human rights and humanitarian law and bring those suspected of criminal responsibility to justice before ordinary civilian courts in fair trials without the application of the death penalty;

- Grant immediate and unhindered access to UN agencies and international humanitarian organizations to all areas of Southern Kordofan, for the purposes of providing assistance to civilians affected by the conflict including food, health services and other assistance;
- Allow immediate access to international human rights monitors, including UN monitors and NGOs, to all areas of Southern Kordofan;
- Promptly accede to the Rome Statute of the International Criminal Court, the International Convention for the Protection of All Persons from Enforced Disappearance and ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and implement them in law, policy and practice.

#### **To the Sudan Peoples Liberation Army-North:**

- Take concrete steps to ensure fighters respect international humanitarian law and in particular avoid locating troops, military bases and any other military objectives within or near densely populated civilian areas, including IDP sites and settlements;
- Suspend from SPLA-N forces any member suspected of having committed violations of international humanitarian law, including persons with command responsibility for such violations. In addition, suspects should be brought before civilian courts offering the essential guarantees of independence and impartiality and ensuring respect for international fair trial standards without application of the death penalty.

#### **To the Government of South Sudan:**

- Ensure that the civilian and humanitarian character of refugee camps is maintained, including through efforts to locate refugee camps and settlements in safe and humane locations at a reasonable distance from the border, managing law and order, preventing the use of arms in refugee camps, and through the disarmament of armed elements and the identification and separation of fighters;
- Collaborate with UNHCR and UNMISS to ensure that all police and security forces and any judicial or quasi-judicial bodies operating in and around refugee camps in South Sudan are legally constituted and accountable under South Sudanese law. Those who detain persons unlawfully or otherwise abuse the human rights of refugees should be brought to justice in accordance with international standards of fairness;
- Ensure refugees are not be forced to move from Yida to the new sites; including through means that might indirectly compel refugees to move involuntarily such as access to food distributions and provision of educational programming.

#### **To UNHCR, UNMISS, other UN agencies and international NGOs:**

- UNHCR should ensure that primary and secondary education is made available in all locations and ensure that education is readily accessible to all refugee children. Educational programming must not be withheld from children solely on the basis that their families have not moved to new camps;
- UNHCR and other UN and humanitarian agencies, should work with the South Sudanese government to review the security situation of children at Pariang and elsewhere and ensure

that security arrangements adequately protect children from physical threats, including sexual and gender-based violence. Any reports of harassment of, or assaults, on children should be treated very seriously, fully investigated, and appropriate remedial action taken;

- UNHCR and UNMISS should work with the South Sudanese government to ensure that all policing and security activities in Yida and other refugee sites in South Sudan are conducted by bodies which have transparent and accountable powers, established in law; and that they operate in full accordance with international human rights standards.

**To the UN Security Council and AU Peace and Security Council:**

- Demand an immediate end to indiscriminate aerial bombings and other violations of international human rights and humanitarian law by the Government of Sudan in Southern Kordofan and Blue Nile;
- Demand that the Government of Sudan allows humanitarian organizations and independent human rights monitors immediate and unhindered access to both Southern Kordofan and Blue Nile states;
- Establish an independent inquiry, established either jointly or separately, into the alleged violations and abuses of international human rights and humanitarian law by all parties to the conflict in Southern Kordofan and Blue Nile since June 2011;
- Expand immediately the current UN arms embargo on Darfur to cover the whole of Sudan, and thus help to prevent further violations of international humanitarian and human rights law in the country.

# ENDNOTES

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<sup>1</sup> The SPLA-N is the armed wing of the Sudan People's Liberation Movement-North (SPLM-N), an armed opposition group in Sudan's Southern Kordofan and Blue Nile states. Until 2011, the SPLM-N and SPLA-N were part of South Sudan's ruling party, the Sudan Peoples Liberation Movement (SPLM) and the Sudan Peoples Liberation Army (SPLA).

<sup>2</sup> Over 70,000 refugees from Southern Kordofan are in South Sudan's Unity State, see Humanitarian Bulletin, South Sudan 16-24 March 2013, OCHA, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%2018-24%20March%202013.pdf> The estimated figures for internally displaced persons in Southern Kordofan in SPLA-N controlled areas are 150,000 to 200,000. Estimated by the Southern Kordofan and Blue Nile Coordination Unit.

<sup>3</sup> The 'Three Areas' are Southern Kordofan, Blue Nile and the Abyei region. For a detailed background on unresolved issues, and background on the conflict in Sudan's Southern Kordofan and Blue Nile states, see: Amnesty International, "*We can run away from bombs, but not from hunger,*" *Sudan's refugees in South Sudan* (AFR 65/001/2012), June 2012, available at: <http://www.amnesty.org/en/library/asset/AFR65/001/2012/en/107d41a7-50c9-4eb9-9fe7-59afb3ec63ff/afr650012012en.pdf> For more information on the conflict in Abyei, see Amnesty International's report *Sudan-South Sudan: Destruction and Desolation in Abyei* (AFR 54/041/2011), December 2011, available at: <http://www.amnesty.org/en/library/asset/AFR54/041/2011/en/d701f194-b1c6-4f7c-9920-fc2dd30ce0ca/afr540412011en.pdf>

<sup>4</sup> The use of Antonov aircraft by Sudan in Southern Kordofan has been well documented, including by Amnesty International through witness testimony and weapons experts in 2011, 2012 and 2013.

<sup>5</sup> International Covenant on Civil and Political Rights articles 6 and 4.

<sup>6</sup> This principle was set out by the International Court of Justice in two Advisory opinions, *Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons*, ICJ Reports 1996 (I), opinion of 8 July 1996, para. 25; *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ Reports 2004 at 136, opinion of 9 July 2004, para. 106.

<sup>7</sup> Sudan is a state party to the four Geneva Conventions of 12 August 1949. Article 3, common to the four Geneva Conventions, applies to all parties to non-international armed conflicts. Many of the specific rules included in these and other international humanitarian law treaties form part of customary international humanitarian law applicable to non-international armed conflicts and are thus binding on all parties to this conflict, including the SAF, pro-government militias, the SPLA-N and other non-state armed groups. For more information see: International Committee of the Red Cross (ICRC) study, *Customary International Humanitarian Law: Volume 1: Rules*, J-M Henckaerts and L Doswald-Beck, eds, 2005 ("ICRC Customary IHL Study").

<sup>8</sup> ICRC Customary IHL Study, Rule 1; see also the 1977 Protocols Additional to the Geneva Convention: Protocol I, article 48 and Protocol II, article 12(2).

<sup>9</sup> For the purposes of distinction, anyone who is not a member of the armed forces of a party to the conflict is a civilian, and the civilian population comprises anyone who is not a combatant, namely not taking active part in the hostilities. Civilian objects are all objects (that is, buildings, structures, places

and other physical property or environments) which are not “military objectives”. Military objectives are “limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage”. For more information see: ICRC Customary IHL Study, Rules 8 and 9; Protocol I, article 52.

<sup>10</sup> ICRC Customary IHL Study, Rule 156, pages 591,593,595-598. See also Rome Statute of the International Criminal Court, articles 8(2)(b)(i) and (ii) and 8(2)(e)(i)(ii)(iv) and (xii); discussion in ICRC Customary IHL Study, page 27.

<sup>11</sup> ICRC Customary IHL Study, Rule 12; Protocol I, article 51(4)(a).

<sup>12</sup> ICRC Customary IHL Study, Rule 14; Protocol I, articles 51(5)(b) and 57.

<sup>13</sup> ICRC Customary IHL Study, Rule 156, pages 599-601.

<sup>14</sup> Amnesty International documented the use of rockets used in Southern Kordofan in 2012, see *In Sudan's Nuba Mountains, Government Rocket Attacks Sow Fear, Witnesses Say*, Jeffrey Gettleman, The New York Times, 13 March 2012, available at: [http://www.nytimes.com/2012/03/14/world/africa/in-sudans-nuba-mountains-rocket-attacks-spread-fear.html?\\_r=0](http://www.nytimes.com/2012/03/14/world/africa/in-sudans-nuba-mountains-rocket-attacks-spread-fear.html?_r=0)

<sup>15</sup> *The Humanitarian and Human Rights Situation of the IDPs and War Affected Civilians in the SPLM/A-North Controlled Areas of Southern Kordofan and Blue Nile States*, Sudan Relief and Rehabilitation Agency, December 2012, available at: <http://www.sudantribune.com/spip.php?article45035>

<sup>16</sup> For more information see *Sudan's civilians in crisis: Indiscriminate attacks and arbitrary arrests pervade Southern Kordofan* (AFR 54/051/2012), Amnesty International, 11 December 2012, available at: <http://www.amnesty.org/en/library/asset/AFR54/051/2012/en/d84e4390-2032-4def-b39e-b379cf247d08/afr540512012en.pdf>

<sup>17</sup> Information obtained by Amnesty International through an interview with Johanna Rocco Hashim, Um Serdiba, 21 January 2013

<sup>18</sup> Amnesty International documented the damage inflicted on schools, health clinics and churches in Southern Kordofan in “*We can run away from bombs, but not from hunger,*” *Sudan's refugees in South Sudan* (AFR 65/001/2012), pp 10 available at: <http://www.amnesty.org/en/library/asset/AFR65/001/2012/en/107d41a7-50c9-4eb9-9fe7-59afb3ec63ff/afr650012012en.pdf> ; *Sudan's civilians in crisis: Indiscriminate attacks and arbitrary arrests pervade Southern Kordofan* (AFR 54/051/2012), Amnesty International, 11 December 2012, available at: <http://www.amnesty.org/en/library/asset/AFR54/051/2012/en/d84e4390-2032-4def-b39e-b379cf247d08/afr540512012en.pdf>; and *Sudan: Southern Kordofan Civilians Tell of Air Strike Horror*, Amnesty International and Human Rights Watch, August 30 2011, available at: <http://www.amnesty.org/en/library/asset/AFR54/028/2011/en/6c8b872b-50a5-4ee3-8e3e-4a324d702814/afr540282011en.pdf>

<sup>19</sup> Teachers in SPLA-N controlled areas no longer receive salaries from the Government of Sudan, and therefore teach on a voluntary basis. A large number of teachers and students have also left to Yida refugee camp, where primary-level education is carried out by volunteers from the refugee population, while secondary-level education is carried out in Pariang by INGOs. For more information on education in the refugee camps see chapter 4.

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- <sup>20</sup> Information obtained from national human rights monitors
- <sup>21</sup> Name of school withheld to preserve security
- <sup>22</sup> For further information see Amnesty International, “*We can run away from bombs, but not from hunger,*” *Sudan’s refugees in South Sudan* (AFR 65/001/2012), June 2012, available at: <http://www.amnesty.org/en/library/asset/AFR65/001/2012/en/107d41a7-50c9-4eb9-9fe7-59afb3ec63ff/afr650012012en.pdf>
- <sup>23</sup> For further information see Nuba Reports available at: <http://www.nubareports.org/breaking>
- <sup>24</sup> Interviews with civilians in Delami locality, national human rights monitors and the county commissioner, January 2013
- <sup>25</sup> National human rights monitors showed Amnesty International a graph where they had documented the bombings in Delami. The graph showed that in 2012, ten bombs were dropped in October; 23 in August; 30 in September; 70 in October; and 20 in November. National human rights monitors in Southern Kordofan document bombings by visiting the air strike and ground attack sites and verify the information with eye-witnesses, and victims of the attacks. In some instances, GPS coordinates of air strike locations were also obtained.
- <sup>26</sup> See Seasonal calendar and critical events in Sudan, in *Humanitarian Bulletin, Sudan, 25-31 March 2013*, OCHA, available at: [https://docs.unocha.org/sites/dms/Sudan/Reports/OCHA\\_Sudan\\_Weekly\\_Humanitarian\\_Bulletin%20Issue\\_13\\_%2825-31\\_March\\_2013%29.pdf?utm\\_source=OCHA+Sudan&utm\\_campaign=aebd73c632-SHB+Issue+13%2C+2013&utm\\_medium=email](https://docs.unocha.org/sites/dms/Sudan/Reports/OCHA_Sudan_Weekly_Humanitarian_Bulletin%20Issue_13_%2825-31_March_2013%29.pdf?utm_source=OCHA+Sudan&utm_campaign=aebd73c632-SHB+Issue+13%2C+2013&utm_medium=email)
- <sup>27</sup> *Humanitarian Situation Report on South Kordofan and Blue Nile States*, 1 January-11 March 2013, South Kordofan and Blue Nile Coordination Unit, on file with Amnesty International
- <sup>28</sup> ICRC Customary IHL Study, Rule 54; Protocol I, article 54(2); Protocol II, article 14.
- <sup>29</sup> ICRC Customary IHL Study, Rule 55
- <sup>30</sup> For more information see *Sudan: Southern Kordofan Civilians Tell of Air Strike Horror*, Amnesty International and Human Rights Watch, August 30 2011, available at: <http://www.amnesty.org/en/library/asset/AFR54/028/2011/en/6c8b872b-50a5-4ee3-8e3e-4a324d702814/afr540282011en.pdf>
- <sup>31</sup> For more information on the PDF see *A Paramilitary Revolution: The Popular Defence Forces*, Jago Salmon, The Small Arms Survey, December 2007, available at: <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP-10-Paramilitary-Revolution.pdf>
- <sup>32</sup> Estimates of IDPs in SPLA-N controlled areas were obtained by Amnesty International from humanitarian monitors in Southern Kordofan
- <sup>33</sup> *Sudan Food Security Outlook, October 2012 to March 2013*, FEWS NET, available at: [http://www.fews.net/docs/Publications/Sudan\\_OL\\_2012%2010\\_final.pdf](http://www.fews.net/docs/Publications/Sudan_OL_2012%2010_final.pdf)
- <sup>34</sup> The mobile phone networks in SPLA-N controlled areas were shut down by the Sudanese government when the conflict erupted and movement between SAF and SPLA-N controlled areas is perceived as extremely risky.

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<sup>35</sup> According to the Umda, the SPLA-N controls one side of the mountain, while the other side with the market and school is controlled by SAF.

<sup>36</sup> For further information see *Repression still stalks Sudanese activists who sought safety in Egypt*, 18 January 2013, Amnesty International available at: <http://www.amnesty.org/en/news/repression-still-stalks-sudanese-activists-who-sought-safety-egypt-2013-01-17>

<sup>37</sup> For more information see *Urgent Action: Sudanese Prisoner of Conscience Released*, 23 January 2013, Amnesty International, available at: <http://www.amnesty.org/en/library/asset/AFR54/001/2013/en/08c48f0f-3489-423e-831c-9216e2d4dc63/afr540012013en.pdf>

<sup>38</sup> For more information see Part 14 of the Interim Constitution of the Republic of Sudan, 2005, available at: <http://www.pclrs.org/downloads/bills/Constitutional%20Law/Sudan%20National%20Constitution%202005.pdf>

<sup>39</sup> Information obtained from family members of victims, eye-witnesses, and national and international human rights groups

<sup>40</sup> Information obtained from two national human rights organizations [names withheld] who have spoken to family members of some of the women in detention, in addition to eye-witnesses who have seen and spoken to the women.

<sup>41</sup> Information obtained from two national human rights organizations [names withheld] who have spoken to family members of some of the women in detention, in addition to eye-witnesses who have seen and spoken to the women.

<sup>42</sup> Information obtained through testimony from human rights organizations [names withheld].

<sup>43</sup> Name withheld for safety reasons

<sup>44</sup> UNHCR figures give the population of Yida Refugee Camp as 62,179 as of mid-January, 2013. United Nations High Commissioner for Refugees, Yida Refugee Camp Profile, January 2013.

<sup>45</sup> See: *Humanitarian Bulletin, South Sudan 16-24 March 2013*, OCHA, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%2018-24%20March%202013.pdf> ; and *Humanitarian Bulletin, South Sudan, 29 March 2012*, OCHA, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%2023-29%20March%202012.pdf>

<sup>46</sup> Interviews with UNHCR officials, Juba and Yida Refugee Camp, January 2013.

<sup>47</sup> This principle has been repeatedly reaffirmed by the UNHCR's Executive Committee. See: A Thematic Compilation of Executive Committee Conclusions, inter alia, No. 94 (LIII) – 2002 – Civilian and Humanitarian Character of Asylum, “refugee camps and settlements should have an exclusively civilian and humanitarian Character ...”

<sup>48</sup> OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, article II(6): “For reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.

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- <sup>49</sup> United Nations High Commissioner for Refugees, Partnership: An Operations Management Handbook for UNHCR's Partners, February 2003, pg. B-20: "Distance from border of country of origin: At reasonable distance (depending on the geographic circumstances, at least 50 km)."
- <sup>50</sup> *Humanitarian Bulletin, South Sudan 16-24 March 2013*, OCHA, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%2018-24%20March%202013.pdf>
- <sup>51</sup> *UNHCR condemns air attack of refugee camp in South Sudan*, UNHCR, 11 November 2011, available at: <http://www.unhcr.org/4ebd2f5d6.html>
- <sup>52</sup> See Amnesty International, 'We can run away from bombs, but not from hunger': Sudan's refugees in South Sudan, AFR 65/001/2012, June 2012
- <sup>53</sup> See Amnesty International, 'We can run away from bombs, but not from hunger': Sudan's refugees in South Sudan, AFR 65/001/2012, June 2012, pgs. 17-18.
- <sup>54</sup> See Amnesty International, 'We can run away from bombs, but not from hunger': Sudan's refugees in South Sudan, AFR 65/001/2012, June 2012
- <sup>55</sup> UNHCR, *UNHCR chief visits South Sudan to spotlight "forgotten refugee crisis"*, 23 November 2012.
- <sup>56</sup> Interview with UNHCR officials in Yida and Juba, January 2013
- <sup>57</sup> *Humanitarian Bulletin, South Sudan, 11-7 April 2013*, OCHA, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%201-7%20April%202013.pdf>
- <sup>58</sup> Interviews with UNHCR officials, Yida and Juba, South Sudan, January 2013
- <sup>59</sup> A.F, interviewed at Yida Refugee Camp, 19 January 2013.
- <sup>60</sup> H.M, interviewed at Yida Refugee Camp, 19 January 2013.
- <sup>61</sup> Information based on interviews with humanitarian organizations in Yida refugee camp, January 2013. In March 2013, following the outbreak of violence in Yida, the Pariang Commissioner reportedly called for additional police to be deployed in Yida refugee camp, where there are currently 40 police providing security for 70,000 refugees. For more information see *Deploy more police in Yida, official tells government*, 18 March 2013, Sudan Tribune, available at: <http://www.sudantribune.com/spip.php?article45874>
- <sup>62</sup> I.M, interviewed at Yida Refugee Camp, 19 January 2013.
- <sup>63</sup> Interview with UNHCR officials in Yida and Juba, January 2013.
- <sup>64</sup> *Humanitarian Bulletin, South Sudan, 11-7 April 2013*, OCHA, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%201-7%20April%202013.pdf>
- <sup>65</sup> Interview with UNHCR officials in Yida refugee camp and Juba, January 2013.
- <sup>66</sup> Interview at Pariang Camp, 27 January 2013.
- <sup>67</sup> Interview at Pariang Camp, 27 January 2013.
- <sup>68</sup> For more information see: *Thirteenth period report of the UN High Commissioner for Human Rights on*

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*the situation of human rights in Sudan: Preliminary report on violations of international human rights and humanitarian law in Southern Kordofan from 5 to 30 June 2011*, August 2011.

<sup>69</sup> *Ibid.*

<sup>70</sup> Available at: [www.sudantribune.com/African-Union-League-of-Arab](http://www.sudantribune.com/African-Union-League-of-Arab), 4196, 9 February 2012

<sup>71</sup> This was reiterated in UN Security Council Resolution 2046 on 2 May 2012, in the context of growing tensions between Sudan and South Sudan. The resolution is available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2046\(2012\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2046(2012)) <sup>71</sup>

<sup>72</sup> *Tripartite partners voice concern over Sudan's rejection to renew humanitarian deal*, Sudan Tribune, 7 November 2012, available at: <http://www.sudantribune.com/spip.php?article44464>

<sup>73</sup> The AUHIP, led by former South African President Thabo Mbeki has primarily led on negotiations between Sudan and South Sudan.

<sup>74</sup> *AUHIP mediation report*, Addis Ababa, 28 January 2013, available at: <http://radiotamazuj.org/en/article/full-text-auhip-mediation-report>

<sup>75</sup> *Communiqué of the 353<sup>rd</sup> Peace and Security Council meeting at the level of Heads of State and Government/Sudan-South Sudan*, January 2013, African Union, available at: <http://www.sudantribune.com/spip.php?article45303>

<sup>76</sup> *Decisions and Declarations*, Assembly of the Union, Twentieth Ordinary Session, 27-28 January 2013, Addis Ababa, Ethiopia, African Union

<sup>77</sup> Since 9 July 2011, when the UN Mission in Sudan's mandate ended, access for international human rights monitors has been hindered. Therefore the full extent of human rights abuses and violations carried out by all parties to the conflict remains unknown. The last report by the UN was the *Thirteenth period report of the UN High Commissioner for Human Rights on the situation of human rights in Sudan: Preliminary report on violations of international human rights and humanitarian law in Southern Kordofan from 5 to 30 June 2011*, August 2011.

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