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COMMISSION ON HUMAN RIGHTS  
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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL  
FREEDOMS IN ANY PART OF THE WORLD**

**SPECIFIC GROUPS AND INDIVIDUALS: MINORITIES; MASS EXODUSES AND  
DISPLACED PERSONS**

**Written statement\* submitted by the Association for World Education,  
a non-governmental organization in roster consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 February 2005]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## DARFUR, SUDAN: NON-IMPUNITY AND PROSECUTIONS FOR GENOCIDE

I. Below is the AWE's 13 May 2004 'Urgent Appeal' to UN Secretary-General Kofi Annan:

URGENT APPEAL to United Nations Secretary-General Kofi Annan  
to seize immediately the United Nations Security Council regarding a Grave Threat:  
Ongoing Genocide and Flow of Sudanese Refugees from Darfur to Chad

Mr Secretary-General,

In a statement on 13 April to the UN Commission on Human Rights, the Association for World Education welcomed your historic address of 7 April [2004] to the UNCHR when you presented new ways of dealing with serious accusations of genocide. We echoed your concern with the fast deteriorating situation in the Darfur area of the Sudan, quoting your words of sincere contrition for past negligence of crimes against humanity: "We must never forget our collective failure to protect at least 800,000 defenceless men, women and children who perished in Rwanda ten years ago...we must all acknowledge our responsibility for not having done more to prevent or stop the genocide." You also proposed a radical preventive remedy.

Our appeal stressed the systematic nature of the violence against the Fur, Massaleit, Zayhawa and related peoples, which merited close examination under the 1948 Prevention of Genocide Convention. Now there is the revealing "Report of a UN Inter-Agency fact-finding and humanitarian needs assessment mission, Kaileh, South Darfur, 24 April 2004," which outlined the humanitarian catastrophe in the area, the high child mortality, acute malnutrition, water shortages as well as the dangers to peoples' lives due to the fighting.

The human rights situation has been analysed in the Report of the High Commissioner for Human Rights, released on 7 May, on the Situation of Human Rights in the Darfur region of the Sudan (E/CN.4/2005/3). From other sources of information, we are in agreement with this analysis: "It is clear to the mission that a resolution to the crisis in Darfur will be unlikely as long as the basic demands of its people for justice, equality, and development are not met. The Government of the Sudan has a legal responsibility to uphold the rule of law in Darfur and to protect all its citizens in that part of the country."

In presenting the Mission's report Acting High Commissioner for Human Rights Dr Bertrand Ramcharan stressed the situation in its harshest light: "First, there is a reign of terror in this area; second, there is a scorched-earth policy; third, there is repeated war crimes and crimes against humanity; and fourth, this is taking place before our very eyes." (Associated Press, 8 May)

In light of the many factors involved and the size of the area we support the recommendation of the Mission: "An international commission of inquiry is required, given the gravity of the allegations of human rights in Darfur and the failure of the national legal system to address the problem. To be credible, such a commission must be, and must be seen to be, independent. The Government of the Sudan should co-operate with this Commission."

Under VI. Recommendation 101, it is also stated:

The Government of the Sudan should put in place measures to ensure that human rights abuses, war crimes and crimes against humanity are not repeated in the future and that the rule of law is restored in Darfur in conformity with internationally agreed standards.

In this context, we wish to cite:

Article II of the 1948 Convention and Punishment of the Crime of Genocide:

"In the present Convention, Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: (c) Deliberately

inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

Manifestly, the seriousness of the situation within the Sudan has so far overshadowed the regional, inter-State dimension. Our appeal to you, therefore, also concerns the regional threat to peace, and the responsibility of the Security Council to deal actively with this dire threat arising from the refugee flow, especially to Chad.

You will recall how the flow of refugees from the conflict in Liberia had grave consequences in Sierra Leone, an important factor in plunging that country into civil war. The Mission report underlines the danger of this regional instability. "It is clear to the mission that the influx of so many refugees into Chad constituted a source of concern for peace and stability in the region. The composition of the Chadian population in the border region with the Sudan, coupled with the tribal mix of refugees crossing the border into Chad, constitutes a potentially destabilising factor, as does the practice of the Janjaweed (militias) of pursuing Sudanese refugees into Chad."

You know the history of the instability of Chad – its civil wars, coups, internal displacement of populations. Thus, the danger of renewed instability in Chad needs to be taken very seriously and closely analysed.

Therefore, we urgently appeal to you to bring this highly dangerous regional impact of the genocidal violence in Darfur to the immediate attention of the Security Council. Now is the time, to quote your own words on 7 April at the Palais des Nations, to do "more to prevent or stop the genocide" – spreading to Chad.

Yours respectively,

René Wadlow

Main Representative

(Association for World Education to the United Nations Office, Geneva)

David G. Littman

Representative

## II.

1. Our Association welcomes the efforts of the United Nations and the African Union to deal with the devastating conflict in Darfur, Sudan. The Darfur area of Sudan – the size of France – on the frontier with Chad, is the scene of an ongoing, systematic policy of genocide, in particular against the Fur, Messalite, Zaghawa, and Birgit ethnic/tribal societies. These societies are targeted by an armed militia, the Janjaweed, with the consent and military aid of the Government of Sudan.

2. Last year, the NGO Africa Action stated that "the term 'genocide' not only captures the fundamental characteristics of the Khartoum government's intent and actions in western Sudan, it also invokes clear international obligations. Africa Action notes that all permanent members of the United Nations Security Council – including the US – are parties to the 1948 Convention on Genocide, and are bound to prevent and punish this crime under international law."<sup>1</sup>

3. Justice Richard Goldstone, former Chief Prosecutor for the International Tribunals for former Yugoslavia and Rwanda, after reviewing the findings of a 23 June 2004 assessment report from Physicians for Human Rights wrote: "After all that we know and have learned from the last decade's genocides and mass atrocities, it is unconscionable for the world to witness these crimes and fail to take steps to protect and save the lives of tens of thousands of innocent men, women, and children. We owe it to the victims of Darfur and potential victims to do everything we can to prevent and account for what the PHR report establishes is genocide and reverse the intolerable acts of forcing entire populations from their land, destroying their livelihood and making it virtually impossible to return."<sup>2</sup>

4. This destructive conflict merits the efforts which have been made by the UN system under the leadership of the Secretary-General, by the Security Council, by the Special Rapporteurs of the Commission on Human Rights, and the UN humanitarian agencies. As the former Acting High Commissioner for Human Rights, Dr Bertrand Ramcharan, stressed: "First, there is a reign of terror in this area; second, there is a scorched-earth policy; third, there is repeated war crimes and crimes against humanity; and fourth, this is taking place before our very eyes."<sup>3</sup>

5. Our Association has for some years stressed that the 1948 Convention on the Prevention And Punishment of the Crime of Genocide is a landmark in efforts to develop a system of universally-accepted standards which promote an equitable world order for all to live in dignity.<sup>4</sup>

6. We welcome the efforts of the African Union, its cease-fire monitoring teams, its protective armed forces, and its efforts at mediation through meetings in Nigeria. We also welcome the reporting efforts of non-governmental organisations and scholars – such as Prof. Eric Reeves of Smith College in Massachusetts, USA – who are regularly reported on events and are analysing causes and consequences. We are appreciative of relief and development NGOs who have carried out their tasks with great difficulties.

7. While we are appreciative of all these efforts, we need to be conscious that on the ground in Darfur, the situation has not improved in the past year since the Commission met in March 2004. The ruined villages, the camps overflowing with the sick and hungry, the fear in the eyes of the people is a clear warning to all of us. People continue to be killed, to be uprooted from their homes, to be subjected to aerial and ground attacks.

8. There are an estimated 2.4 million persons displaced or refugees: 1.65 million in accessible camps in Darfur; 200,000 refugees in Chad; 500,000 displaced in inaccessible rural areas. Women and girls have been targeted, and there are credible reports of systematic rape.

9. The agricultural economy of Darfur has collapsed, and there is no prospect for revival under the conditions of combat. The Commission's Special Rapporteur on the Right to Food, Jean Ziegler, stressed the ongoing, deliberate destruction of the agricultural infrastructure of Darfur – the granaries needed both for food and for seed to replant, the deliberate destruction of wells that are filled and covered with sand; the destruction of all farm tools, as well as of houses and storage areas. By destroying the agricultural infrastructure, the government militias are destroying a people – and this is the definition of genocide.

10. The influx of so many refugees into Chad constitutes a source of concern for peace and stability in the region. The composition of the Chadian population in the border region with the Sudan, as well as the tribal mix of refugees crossing into Chad constitutes a potentially destabilising factor as does the practice of the Janjaweed militias of pursuing Sudanese refugees into Chad.

11. Thus, there is wide agreement that crimes against humanity and violations of the laws of war have taken place and that those who ordered and those who are carrying out these crimes in Darfur need to be brought to trial and punished. Accountability for crimes against humanity is imperative. On the issue of ending impunity, Secretary-General Kofi Annan said in his 7 April 2004 presentation to the Commission: "We have little hope of preventing genocide, or reassuring those who live in fear of its recurrence, if people who have committed this most heinous of

crimes are left at large, and not held to account. It is therefore vital that we build and maintain robust judicial systems, both national and international – so that over time, people will see there is no impunity for such crimes.”

12 There is also wide agreement that the national court system of Sudan is not able or willing to carry out the investigations necessary nor to assure fair trials to those accused. In response to international pressure, there seems to have been some trials in Sudan of people accused of war crimes. However, according to the Sudanese Human Rights Organization-Cairo “the rushing of the South Darfur Judiciary to sentence citizens accused of the Janjaweed militia crimes against humanity by secretive non-public special courts with death sentences and amputations without proper legal procedure makes a mockery of due process.”<sup>5</sup>

13. Notwithstanding the recent Report on the Sudan, the Commission on Human Rights is the major UN body for the law of human rights, the end to impunity and a structuring of prosecution for crimes against humanity and genocide should be its main focus in the discussion on Sudan. The Commission can usefully build upon its earlier work on non-impunity and help to structure the legal framework of what promises to be a long process coloured by political considerations. However, establishing the rule of law is a task which requires constant attention and continuing efforts. Darfur is a blatant case of genocide that can no longer be obfuscated and should be called by its name. The hundreds of thousands of Darfur’s victims ask for no less.

14. Surely, the time has come for a State to invoke the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and for States – under its article VIII – “to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.”

*Notes*

1. Africa Action Press Release, Washington DC, 15 June 2004
2. “Physicians for Human Rights Calls for Intervention to Save Lives in Sudan: Field Team Complies Indicators of Genocide,” 3 June 2004 [www.phrusa/research/sudan/](http://www.phrusa/research/sudan/)
3. Associated Press, 8 May 2004.
4. For an extensive analysis of the 1948 Genocide Convention see William A. Schabas “Genocide in International Law” (Cambridge University Press, 2000, 624pp.)
- 5 Report released on 23 July 2004

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