



**Submission to the
Universal Periodic Review
Concerning Sudan**

Eleventh Session of the UPR Working Group of the Human Rights Council

The Centre on Housing Rights and Evictions (COHRE)

November 2010

I. Failure to implement the decision of the African Commission on Human and Peoples' Rights in *Centre on Housing Rights and Evictions (COHRE) v. Sudan*

1. In May 2009, the African Commission on Human and Peoples' Rights issued its decision in *Centre on Housing Rights and Evictions v. Sudan (COHRE v. Sudan)*. This decision held Sudan accountable for several violations of the African Charter on Human and Peoples' Rights for human rights violations that have occurred in the Darfur region of Sudan.
2. The case dealt with the human rights violations in the context of Darfur, including violations of economic and social rights that occurred as an intentional means to force Darfurian residents to flee their homes and lands. These means included forced eviction of entire communities and the destruction of water resources, agricultural production and livestock.
3. Specific violations found by the African Commission included violations of the right to life and integrity of the person; the right to the respect of the dignity inherent in a human being; the right to be free from torture and other cruel, inhuman or degrading treatment; the right to liberty and to the security of her or his person; the right to have her or his cause heard; the right to freedom of movement and residence; the right to property; the right to adequate housing, including the prohibition on forced eviction; the right to water; and the right of all peoples to their economic, social and cultural development.
4. The Commission found that Sudan "failed to show that it refrained from forced eviction or the demolition of houses and other property, and that it did not take steps to protect the victims from the constant attacks and bombings, and the rampaging attacks by the Janjaweed militia."¹
5. With respect to the right to water, the African Commission looked at the obligations to respect and to protect and held that "the destruction of homes, livestock and farms as well as the poisoning of water sources, such as wells" amounted to a violation of the right to the highest attainable standard of health.² Regarding the obligations to respect and to protect, the Commission noted that "violations of the right to health can occur through the direct action of States or other entities insufficiently regulated by States" and that "States should ... refrain from unlawfully polluting air, water and soil, ... during armed conflicts" and "should also ensure that third parties do not limit people's access to health-related ... services" and that "failure to enact or enforce laws to prevent the pollution of water [violated the right to health]."³

¹ *Communications 279/03 – Sudan Human Rights Organisation & 296/2005 – Centre on Housing Rights and Evictions/The Sudan*, ACHPR/LPROT/COMM/279/03 & 296/05/674.09 (29 July 2009), at para. 205.

² *Communications 279/03 – Sudan Human Rights Organisation & 296/2005 – Centre on Housing Rights and Evictions/The Sudan*, ACHPR/LPROT/COMM/279/03 & 296/05/674.09 (29 July 2009), at para. 212.

³ *Communications 279/03 – Sudan Human Rights Organisation & 296/2005 – Centre on Housing Rights and Evictions/The Sudan*, ACHPR/LPROT/COMM/279/03 & 296/05/674.09 (29 July 2009), at para. 210.

6. The gender dimensions of the violations were also addressed by the Commission, which found that women and girls have been targeted with rape and other violence when seeking water or food.⁴

7. To date, Sudan has failed to abide by and implement the decision in *Centre on Housing Rights and Evictions (COHRE) v. Sudan*. The Commission has stated that “IDPs and refugees can only return when security and safety is guaranteed and the Respondent State provides the protection in the areas of return.” Sudan has failed to take the steps necessary to end the human rights violations in Darfur or facilitate safe and dignified return of those displaced by those violations.

II. Recommendations

8. The Human Rights Council should urge Sudan to abide by and implement the decision of the African Commission on Human and Peoples’ Rights in *COHRE v. Sudan*, and specifically the remedies ordered by the African Commission, namely to:

Take all necessary and urgent measures to ensure protection of victims of human rights violations in the Darfur Region, including to:

- a. conduct effective official investigations into the abuses committed by members of military forces, i.e. ground and air forces, armed groups and the Janjaweed militia for their role in the Darfur;
- b. undertake major reforms of its legislative and judicial framework in order to handle cases of serious and massive human rights violations;
- c. take steps to prosecute those responsible for the human rights violations, including murder, rape, arson and destruction of property;
- d. take measures to ensure that the victims of human rights abuses are given effective remedies, including restitution and compensation;
- e. rehabilitate economic and social infrastructure, such as education, health, water, and agricultural services, in the Darfur provinces in order to provide conditions for return in safety and dignity for the IDPs and Refugees;
- f. establish a National Reconciliation Forum to address the long-term sources of conflict, equitable allocation of national resources to the various provinces, including affirmative action for Darfur, resolve

⁴ *Communications 279/03 – Sudan Human Rights Organisation & 296/2005 – Centre on Housing Rights and Evictions/The Sudan*, ACHPR/LPROT/COMM/279/03 & 296/05/674.09 (29 July 2009), at para. 178.

issues of land, grazing and water rights, including destocking of livestock;

- g. desist from adopting amnesty laws for perpetrators of human rights abuses; and
- h. consolidate and finalise pending Peace Agreements.

9. Finally, COHRE recommends that Sudan ratify international human rights instruments to which it is not a party, including the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the [First] Optional Protocol to the International Covenant on Civil and Political Rights; the Second Optional Protocol to the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.