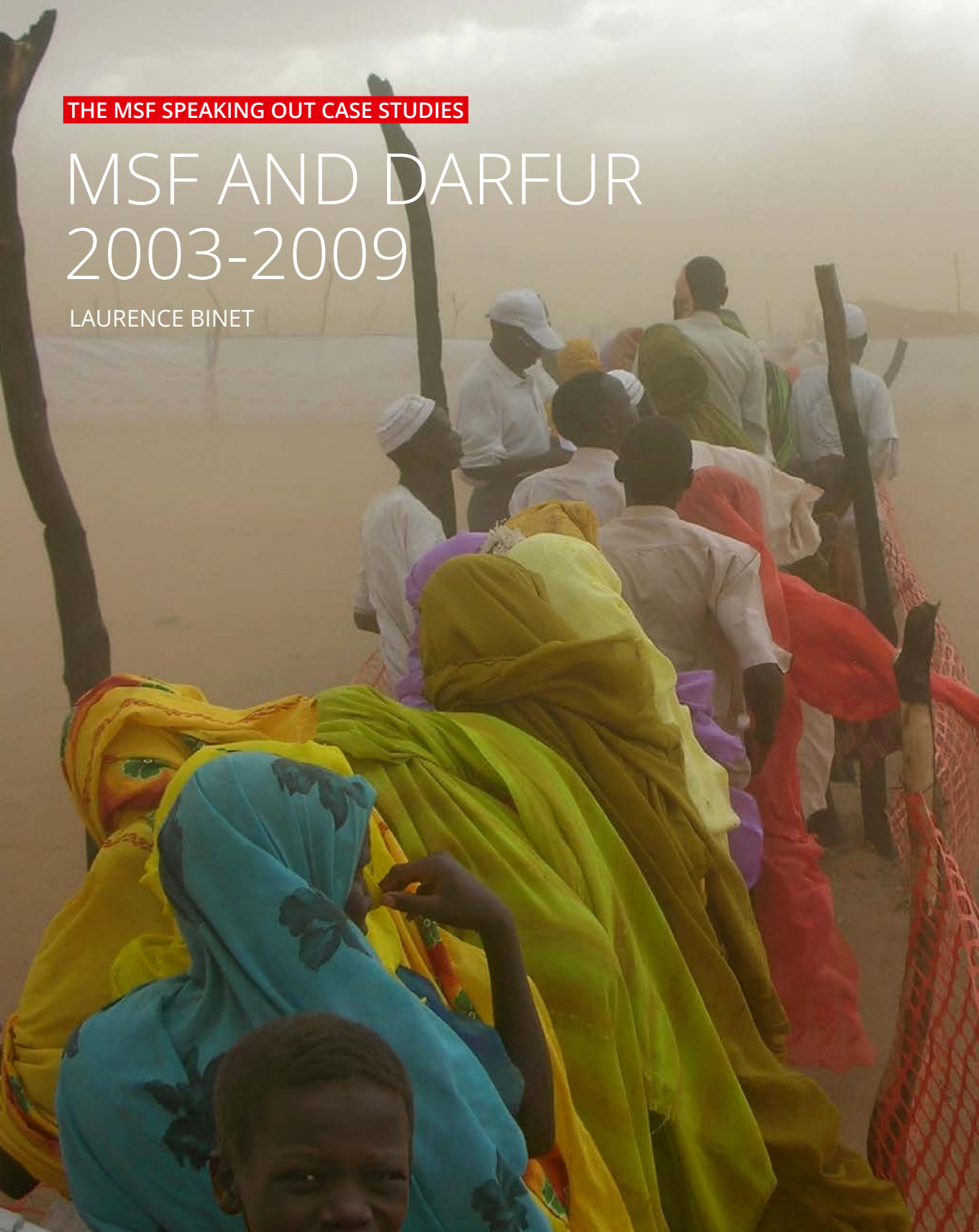


THE MSF SPEAKING OUT CASE STUDIES

MSF AND DARFUR 2003-2009

LAURENCE BINET



THE MSF SPEAKING OUT CASE STUDIES

MSF AND DARFUR 2003-2009

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Produced by Médecins Sans Frontières International Movement

FOREWORD

This publication is part of the 'Médecins Sans Frontières Speaking Out Case Studies' series prepared in response to the MSF International Council's wish to provide the movement with literature on MSF *témoignage* (advocacy).

The idea was to create a reference document that would be straightforward and accessible to all and help staff to understand and adopt the organisation's culture of speaking out.

It was not to be an ideological manual or a set of guidelines. *Témoignage* cannot be reduced to a mechanical application of rules and procedures, as it involves an understanding of the dilemmas inherent in every instance of humanitarian action.

The International Council assigned the project to a director of studies, who in turn works with an editorial committee composed of MSF representatives chosen by the International Board for their experience and expertise. They serve in their capacity as individuals and do not represent their national sections.

Faced with the difficulty of defining the term '*témoignage*', the editorial committee decided to focus the series on case studies in which speaking out posed a dilemma for MSF and thus meant taking a risk.

The main source of information for these studies is MSF's written and oral memory. This is done by researching documents dating from the period in question and by interviewing the protagonists of the events selected.

The individuals interviewed speak in the language they choose. They offer both their account of events and their assessment of MSF's response. The interviews are recorded and transcribed.

Document searches are conducted in the operational sections' archives and, as far as possible, press archives.

The research is constrained by practical and financial issues, including locating interviewees, securing their agreement, and determining the existence, quality and quantity of archived materials.

The main text details events in chronological order. It includes excerpts from documents and interviews, linked by brief introductions and transitional passages. We rely on document extracts to establish the facts as described and perceived by MSF at the time. When documentation is missing, interviews sometimes fill the gaps. These accounts also provide a human perspective on the events and insight into the key players' analyses.

This methodology aims at establishing the facts and setting out a chronological presentation of the positions adopted at the time. It enables the reconstruction of debates and dilemmas without pre-judging the quality of the decisions made.

Preceding the main texts collected, the reader will find a list of abbreviations, a map, and a summary that lays out the context of MSF's public statements and the key dilemmas they sought to address.

In addition, a detailed chronology reconstructs MSF's actions and public statements in regional and international news reports of the period.

Each case study is available in English and in French.

These case studies were essentially designed as an educational tool. Some are now being used as the basis for podcasts and training modules. To reinforce this educational objective, access to all this material is available on the www.msf.org/speakingout website.

We hope you find them useful,

The SOCS Editorial Committee,
2026

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ACRONYMS AND ABBREVIATIONS

ACF	Action contre la faim (<i>Action Against Hunger</i>)
AFP	Agence France Presse (<i>French press agency</i>)
AJWS	American Jewish World Service
AMIS	African Union Mission in Sudan
AP	Associated Press (<i>USA press agency</i>)
AU	African Union
BBC	British Broadcasting Corporation
CAR	Central African Republic
CHW	Community Health Worker
CIDA	Canadian International Development Agency
CNN	Cable News Network (USA)
CPS	[African Union] Council of Peace and Security
CRASH	Centre de Réflexion sur l'Action et les Savoirs Humanitaires (<i>MSF France centre for reflection</i>)
DFID	Department for International Development (UK) (<i>replaced in 2020 by FCDO (Foreign, Commonwealth & Development Office)</i>)
DPA	Darfur Peace Agreement
DRC	Democratic Republic of Congo
ECHO	European Commission Humanitarian Office
EU	European Union
EUFOR	European Union Military Force
ExCom	MSF International Executive Committee
GoS	Government of Sudan
HAC	Sudan Humanitarian Aid Commission
HAD	Humanitarian Affairs Department (<i>MSF Holland/OCA</i>)
HoM	Head of Mission (<i>Country Coordinator</i>)
HRW	Human Rights Watch
ICB	MSF International Council Board (<i>until 2011</i>)
ICC	International Criminal Court
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDP	Internally Displaced Person

IGAD	Intergovernmental Authority on Development (<i>East Africa</i>)
IMC	International Medical Corps
INGO	International Non-Governmental Organisation
IOC	International Olympic Committee
IRIN	Integrated Regional Information Networks (<i>UN</i>)
JEM	Justice and Equality Movement (<i>Sudan</i>)
List Press	MSF internal mailing list for press officers
List Web	MSF internal mailing list for internet officers
LRA	Lord's Resistance Army (<i>Uganda, DRC, CAR, South Sudan</i>)
MoFA	Ministry/Minister of Foreign Affairs
MoU	Memorandum of Understanding
MoH	Ministry of Health
MSNBC	Microsoft NBC (National Broadcasting Company) (<i>US cable TV news channel</i>)
NATO	North Atlantic Treaty Organization
NFI	Non-Food Items
NGO	Non-Governmental Organisation
NPR	National Public Radio (<i>USA</i>)
NRC	Norwegian Refugee Council
NSA	Non-State Actor (<i>In this study, used for armed non-state actors only. However, at the time of these events, the term «rebels» was used.</i>)
OCA	Operational Centre Amsterdam (MSF)
OCB	Operational Centre Brussels (MSF)
OCBA	Operational Centre Barcelona/Athens (MSF)
OCG	Operational Centre Geneva (MSF)
OCP	Operational Centre Paris (MSF)
OHCHR	Office of the United Nations High Commissioner for Human Rights
OLS	Operation Lifeline Sudan
OPD	Outpatient Department
PBS	Public Broadcasting Service (<i>USA</i>)
PNG	Persona non grata
PR	Press Release
R2P	Responsibility to Protect
RIOD	Platform of MSF Directors of Operations
ISCF-UK	Save the Children UK

SFC	Supplementary Feeding Center
SGBV	Sexual Gender Based Violence
SLA	Sudan Liberation Army
SLM	Sudan Liberation Movement
SPLA	Sudanese People's Liberation Army
SPLM	Sudanese People's Liberation Movement
SPLM/A	Sudan People's Liberation Movement and Army
SRC	Sudanese Red Crescent
TCB	Témoignage Case Binder (<i>initial name of SOCS – MSF Speaking Out Case Studies</i>)
TFC	Therapeutic Feeding Centre
TP	Travel Pass
UK	United Kingdom
UN	United Nations
UNAMID	African Union-United Nations Hybrid Operation in Darfur
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNHCHR	United Nations High Commissioner for Human Rights
UNMIS	United Nations Mission in Sudan
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
USA	United States of America
USAID	United States Agency for International Development
USG	Under Secretary General of the United Nations
WFP	World Food Programme
WHO	World Health Organization

NB:

In the 2000s, the five MSF operational sections were progressively organised into operational centres (OCs). Each operational centre regrouped supporting partner sections and branch offices into a centre: OCA (Operational Center Amsterdam), OCB (Operational Center Brussels), OCBA (Operational Center Barcelona/Athens), OCG (Operational Center Geneva), and OCP (Operational Center Paris).

Adopting the new OC nomenclature took several years, including the years covered by this study. For clarity, throughout this study the operating entities are cited using both the old and new nomenclatures: MSF Holland/OCA, MSF Belgium/OCB, MSF Spain/OCBA, MSF Switzerland/OCG, MSF France/OCP.



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Extract of interview .



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access the video.

SUMMARY

In February 2003, violent hostilities broke out in Darfur, Sudan between government forces and the Sudan Liberation Movement (SLM), which was created in 2001 to bring together mainly local non-Arab groups: Furs, Zaghawas, and Massalits.

The Darfur population experienced heavy bombing from government forces and attacks from the Janjaweed, a recently reinforced government-supported militia. The Janjaweed conducted a scorched earth policy, burning villages and committing atrocities against civilians. This strategy led to significant population flight and displacement of tens thousands of Darfuris.

This Darfur crisis was ignored by the international community, as it was obscured by the start of a peace process between Sudan and South Sudan in July 2002.

ACCESSING DARFUR

In June 2003, the MSF France/OCP team in Khartoum was informed about heavy fighting in North Darfur but failed to get authorisation to access Darfur.

In July/August 2003, the MSF Belgium/OCB teams in Chad observed an influx of Darfuri refugees on the border. MSF Belgium/OCB immediately launched exploratory missions and opened programmes on the Chad/Sudan border, quickly joined by MSF Holland/OCA and MSF France/OCP teams.

In mid-September 2003, MSF Belgium/OCB issued a series of press releases announcing the start of these operations.

From mid-October 2003, after weeks of negotiations with the Sudanese Humanitarian Action Commission (HAC), MSF France/OCP and MSF Holland /OCA teams conducted exploratory missions in Darfur. They witnessed outcomes of Janjaweed scorched earth policy and the scope of the needs for the population left without any means of subsistence.

In November and December 2003, some UN officials raised the alarm on a “worsening situation in Darfur.”

PRESERVE ACCESS TO DARFUR AT ALL COSTS

In December 2003, the MSF directors of operations (Dirops) embargoed the release of an MSF Belgium/OCB report composed of a retrospective mortality survey and accounts of Darfuri refugees in Chad, who described violence and dire conditions experienced in Darfur. The Dirops feared that the report would endanger MSF's chances to access Darfur.

The content of this report and the timing of a possible release were further discussed, but the report was not publicly issued. A briefing paper, including information from this report, was circulated to INGOs and UN agencies in late January 2004.

This restraint was challenged as a missed opportunity to effectively raise awareness effectively about the fate of the Darfuris.

Over the same period, a cautious communication strategy was set up which excluded any public advocacy on the situation in Darfur. However, journalists could be briefed and supported by MSF teams in Chad. Several reporters published strong descriptions of the situation in Darfur, in the second fortnight of January 2004.

In late 2003, early 2004, MSF Programmes were opened to assist displaced populations in Nyala, North Darfur.

On 15 January 2004, MSF France/OCP publicly denounced the forced relocation of displaced from the Nyala camps to a remote place, as being dangerous for the displaced population's health. MSF France/OCP refused to push the displaced to move, as requested by the authorities and UN agencies, and refused to work in the new camp. After a while, MSF Holland/OCA began work. . .

On 29 January 2004, MSF Belgium/OCB publicly reported that for several weeks MSF teams in Tine, Chad, received patients who suffered severe bomb shrapnel injuries, following aerial bombardments by Sudanese planes.

Although officially authorised to set up programmes in Darfur, most MSF teams were prevented from starting due to drastic restrictions on visas and travel permits for staff.

MSF spent months settling the administrative disputes arising from its past presence in Sudan, before obtaining authorisation to launch operations in May 2004.

In February 2004, an MSF France/OCP team was blocked by heavy fighting in the town of Mornay which hosted 40,000 newly arrived displaced people. Due to delays in obtaining travel permits, there was no doctor in the team. The team had to deal with the daily influx of injured people and to improvise surgical and post-operative procedures.

All over Darfur, assistance to populations was hampered by the Government of Sudan's denial of access for relief organisations, which kept silent in order not to lose the few visas and travel permits the government granted.

On 17 February 2004, despite the Mornay team's reluctance, an MSF press release raised the alarm and called for aid to be urgently brought to the displaced people in Darfur.

This call was renewed in another press release on 26 February 2004, and supported by a round of bilateral advocacy meetings of MSF operational managers with Sudanese representatives in Sudan, and with UN and USA officials in New York.

On 10 March 2004, MSF again raised the alarm on high malnutrition, continued violence, and insufficient international aid in Darfur. Some in MSF regretted not denouncing the violence, which they saw as the root of the disaster, and thought it should play a more important role in MSF's public positioning.

INTERNATIONAL REALISATION ON MASS CRIMES IN DARFUR

In March and April 2004, the 10-year commemoration of the genocide of Rwandan Tutsis put the idea of a similar tragedy, unfolding in Darfur, on the international agenda.

On 19 March 2004, the UN Humanitarian Coordinator in Sudan, Mukash Kapila, was the first to pronounce the word "genocide" stating the conflict in Darfur was comparable in character, if not in scale, to the 1994 Rwandan genocide. On 3 April, based on reports from UN staff in Darfur, Kapila's replacement, Jan Egeland mentioned, "ethnic cleansing not genocide" while UN Secretary-General Kofi Annan urged, "not to repeat the same mistake as in Rwanda."

In April 2004, Amnesty International and Human Rights Watch published reports based on in-depth investigations highlighting the deliberate strategies against the population in Darfur. Amnesty International, referring to Rwanda warned, "not to make the mistake of not acting."

On 8 April 2004, the Sudanese Government and the non-state actors signed a third ceasefire, intended to guarantee safe passage for humanitarian aid to Darfur..

On 7 May 2004, the acting UN High Commissioner for Human Rights presented the report of a fact-finding mission in Darfur. He stated that, "the Government of Sudan and its Arab proxy militia have responded with a "reign of terror" of massive human rights violations, which "may constitute war crimes and/or crimes against humanity." He added, "what appears to have been an ethnically based rebellion has been met with an ethnically based response."

Over late May 2004, the Sudanese authorities started to lift some visa restrictions and allow more access for humanitarian workers to Darfur.

MSF DECISION TO KEEP SILENT ON GENOCIDE

On 8 April 2004, the MSF operational managers agreed that because MSF was the only NGO operational in Darfur, priority should be given to the expansion of operations. Communication should be limited, to focus essentially on calling for improved and increased assistance.

On 23 April 2004, despite being challenged by the communications directors about not denouncing, "the violence committed against civilians and the limited access for aid organisations compared to the urgency and immensity of the needs," the directors of operations confirmed their initial agreement. The MSF general directors of operational sections (ExCom) endorsed this restrained advocacy strategy.

MSF Holland/OCA however, highlighted several possible limits including: the risks of promoting a false perception of the crisis, implying that the Government of Sudan was responsible for security, and weakening speaking out messages and credibility.

In April 2004, MSF France/OCP commissioned a survey from Epicentre in two places in Darfur on “mortality, nutrition, and violence, past to today.” The objective was to show “a possible link between the violence inflicted and the mortality rates.”

In early May 2004, MSF declined to testify in an US House of Representatives’ hearing. MSF saw the context of the hearing as too political, after statements from US officials suggesting that the supply of aid should be conditional on signing a ceasefire.

On 24 May 2004, the former MSF emergency coordinator in Darfur presented at a UN meeting on the inadequate humanitarian response and the obstacles to humanitarian access. He insisted that any large-scale improvements in relief would “not be enough and might even be irrelevant if the violence perpetrated against civilians is not stopped.”

On 21 June 2004, the results of the Epicentre survey, associated with displaced accounts collected in Mornay, West Darfur were published in an MSF France/OCP report entitled, “Emergency in Darfur, Sudan: No Relief in Sight.” The report and the related press release highlighted that the ongoing attacks, food shortages, and threats of renewed displacement were perceived by many Darfuris as, “the continuation of a policy aimed at destroying them as a group and severely exploiting the survivors after resettlement.”

The Sudanese authorities reacted by invoking western propaganda, claiming that figures in the MSF report were fake and threatening to expel the MSF France/OCP coordinator, but did not.

QUALIFICATION OF VIOLENCE AS GENOCIDE

From late June 2004, the international pressure to stop the violence in Darfur increased, particularly from human rights organisations, influencing western public opinion.

In mid-July 2004, the Save Darfur Coalition was founded, which would become the activism core against what they labelled as “genocide in Darfur.”

The idea of an armed intervention to stop the violence was gaining ground. The supporters of this action based their arguments on an extrapolation of their understanding of the Convention on the Prevention of Genocide: an obligation on the part of the international community to intervene militarily to put an end to genocide. Supporters considered that this “obligation” failed to be applied ten years earlier in Rwanda. Therefore, they now pleaded for the creation of a “responsibility to protect” (R2P)¹ clause in international law, that would include this obligation, among others.

¹ The Responsibility to Protect (R2P) was elaborated in the late 1990s and was to be endorsed by the UN in 2005. However, the duty to use military intervention as last resort to stop mass atrocities was always a challenged clause of the R2P.

Until mid-July 2004, the UN and US leaders remained cautious in labelling the situation in Darfur, a genocide. They were focused on pressuring the government of Sudan to stop the violence and allow large-scale humanitarian assistance access, to avoid a catastrophe.

This situation started to change on 22 July 2004, when the US House of Representatives passed a resolution declaring the atrocities in Darfur as genocide and called on the US Government to label the violence with this “appropriate” term.

On 30 July 2004, the UN Security Council adopted a resolution, based on a US proposal, in which they strongly threatened the Sudanese government with sanctions within 30 days if they did not arrest Arab militiamen responsible for atrocities in Darfur.

The resolution endorsed the deployment of 120 international monitors in Darfur, as agreed in the 8 April 2004 cease-fire, and a force of 300 to protect them under the leadership of the African Union. The first contingent composed of 150 Rwandan soldiers arrived in mid-August 2004.

On 31 August 2004, the UN Secretary General, Kofi Annan, reporting on the situation in Darfur to the UNSC, recommended to increase international presence in Darfur, based on a UN plan proposed to the African Union.

On 8 September 2004, the USA proposed a resolution to the UN Security Council authorising the expansion of the African Union forces in Darfur.

On 9 September 2004, based on a US State Department survey conducted in refugee camps in Chad in July - August 2004, the US Secretary of State, Colin Powell, stated to the US Senate Foreign Affairs Committee that the violence in Darfur constituted acts of genocide.

On 18 September 2004, the UN Security Council adopted a resolution proposed by the USA, “determining that the situation in Sudan constitutes a threat to international peace and security and to stability in the region.” The Secretary-General was asked to “rapidly establish an international commission of inquiry to immediately investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable.”

On 30 September 2004, in a report to the UN Security Council, the High Commissioner for Human Rights, Louise Arbour, and the UN Secretary-General's Special Advisor on the Prevention of Genocide, Juan Mendez, concluded, “crimes against humanity, war crimes, and violations of the laws of war are likely to have been committed systematically and on a massive scale.”

MSF INTERNAL CONTROVERSY ON GENOCIDE

MSF's silent stance on the genocide issue was broken on 25 June 2004, in a statement by MSF France President, Jean-Herve Bradol, to the French daily Le Monde, “The accu-

sations of genocide are misplaced. In no case was there a desire to exterminate entire villages or a particular ethnic group. There is no need to use this inaccurate term to describe the ferocious repression carried out by the government in the region.”

This unilateral declaration, without any prior consultation with the other operational centres, was seen as breaking the agreement on a low-profile communications strategy, drawn up in April 2004 by the operations directors.

MSF France’s president’s argument for such a position was that it was necessary for MSF to distance the organisation from the growing trend of labelling the situation in Darfur as a genocide. The fear was that the labelling may lead to an armed intervention, causing more harm, which would be a catastrophe for the population.

The statement gave rise to controversial debates within the movement regarding the reality or not of a genocide in Darfur, the use of a “legal” or of an “historical” definition of the term, mostly based on MSF experience from the past, and the relevance for MSF to speak out on this issue.

While a majority of the ExCom agreed there was no genocide, and that MSF was not in favour of a military intervention, there were doubts about the relevance for MSF to state there was no genocide.

In September 2004, the UNSG report and Colin Powell’s statement qualifying the situation in Darfur as genocide, rekindled the MSF internal debate on the issue. Articles were published in the media by MSF leaders and debates continued at various internal meetings.

Externally, MSF leaders’ statements gave rise to criticism and attempts at political exploitation by both allies of the Sudanese government and those accusing them of committing genocide in Darfur. MSF was accused of “burying crimes against humanity under humanitarian thinking” and of becoming “complicit” in the Government of Sudan’s policies. But MSF was also praised for its statement that “government troops and militias had committed massacres, but not genocide.”

ASSISTANCE VERSUS PROTECTION?

From August 2004, international humanitarian assistance was massively deployed in Darfur, sometimes with the support of military logistical means. This military logistics involvement forced MSF to be clear that despite support for humanitarian operations, MSF was not calling for a military intervention.

However, violence continued to impact people’s living conditions, due to the Government of Sudan’s plan to force the displaced to return to their villages.

Due to security and capacity constraints, MSF teams could not reach several areas of ongoing violence, which lacked assistance. This situation created different internal opinions about which MSF message should be employed.

MSF France/OCP continued to prioritise access for assistance and prevention of armed intervention.

MSF Holland/OCA regretted that the “no genocide” position did not include a stronger denunciation of the ongoing violence against the population.

In early November 2004, MSF Holland/OCA released a report entitled “Persecution, Intimidation, and Failure of Assistance in Darfur.” This report included accounts collected from displaced living in camps in Darfur and results of an Epicentre survey. It revealed that in all surveys conducted by MSF, the leading cause of death for those over the age of 5 years, was violence rather than disease or malnutrition.

On 19 November 2004, the UN Security Council issued a resolution endorsing the increase of the African Union forces in Darfur to 3,320 personnel and a mandate enhancement.

‘THE CRUSHING BURDEN OF RAPE’ REPORT

For months, MSF teams in Darfur and in Chad heard accounts about rape and treated women raped during attacks in villages and in the vicinity of displaced camps, particularly when collecting wood and water.

In early 2005, the MSF Holland/OCA team in Sudan put together a series of data and accounts on rapes, collected in their various programmes in Darfur. Initially the team wanted to use this report as a “lobbying document to draw the attention of all concerned parties and to the relevant actors to put an end to the pattern of violence.” However, MSF Holland/OCA decided to publish the report after realising that MSF’s complaints to authorities about women being raped in prisons led to repeat rapes of some of these women.

The strength of the medical evidence concerning the extent of the rapes was questioned by other OCs as well as the impossibility to discuss amendments and conditions of press release.

Despite opposition and warning from the Sudanese authorities, a four-page briefing paper entitled “The Crushing Burden of Rape, Sexual Violence in Darfur” was publicly released on International Women’s Rights Day, 8 May 2005. The graphic cover included the following quote: “After they abused us, they told us that now we would have Arab babies; and if they would find any Fur woman, they would rape them again to change the colour of their children.”

The media coverage was substantial, and the report was largely circulated to international actors involved in Darfur, including the UN Deputy General Secretary for Humanitarian Affairs.

On 31 March 2005, three weeks after the release of the MSF Holland/OCA briefing paper, the UN Security Council referred the situation in Darfur to the International Criminal Court.

On 28 May 2005, UN Secretary General Kofi Annan visited the Kalma camp in Darfur. He was confronted by displaced people who gave him accounts of rape and murder of civilians. This reactivated interest in the media and with international stakeholders regarding MSF Holland/OCA's briefing paper, 'The Crushing Burden of Rape.'

On 30 and 31 May 2005, the MSF Holland/OCA general coordinator in Sudan and the MSF Holland/OCA coordinator in Darfur were arrested and interrogated about the decision-making process regarding the release and contents of the briefing paper. They were put under house arrest and charged for "crimes against the State, publishing false reports, spying, and undermining Sudanese society."

MSF Holland/OCA, supported by the MSF Movement, led a strong press and advocacy campaign that once again highlighted the issue of rape in Darfur.

On 18 June 2005, the charges were dropped, and the MSF Holland/OCA coordinators were released. However, MSF questioned the negotiating role in the coordinators' release of the UN Special Representative to Sudan for the Secretary General, Jan Pronk, as too compromising.

MSF, ARMED INTERVENTION, AND ICC ON DARFUR

On 6 June 2005, the ICC announced the official opening of investigations on alleged war crimes in Darfur.

In 2004 and 2005, MSF legal advisors negotiated exemptions from testifying at the ICC for the organisation. The issue at stake was to preserve access to populations in need for MSF teams by preventing perceptions that MSF could potentially testify before the ICC about crimes observed in operations. MSF adopted a movement-wide agreement on the modalities of cooperation between MSF and the ICC.

However, some in MSF Holland/OCA continued to question the relevance of not sharing information with the ICC investigators, which fed suspicions about MSF Holland/OCA teams' compliance with these modalities.

On 31 July 2007, after years of procrastination, UN Resolution 1769 authorised the deployment of an international force to Darfur. The United Nations African Mission in Darfur (UNAMID) was a hybrid force composed of AU and UN soldiers and was to be deployed until 31 December 2007. It was accepted by the Government of Sudan, provided it was comprised of majority African nationalities.

On 16 June 2008, ICC Prosecutor, Luis Moreno Ocampo, asked judges to issue arrest warrants for two senior Sudanese officials responsible for crimes committed in Darfur. On 14 July 2008, Ocampo presented the ICC judges with alleged evidence of genocide in Darfur by the Sudanese President, Omar al-Bashir, requesting the issuance of an arrest warrant.

During this period, MSF's advocacy efforts focused on a 'no comment' position on the armed intervention. This position was balanced by a 'we describe what we see' commu-

nication approach, including reports on the dire life-conditions of the population and the perpetuation of violence witnessed by the MSF teams in Darfur.

However, MSF France/OCP leaders continued to point out that an armed intervention would be harmful to the ongoing relief operations in Darfur. They publicly criticised the Save Darfur campaign and its equivalents in Europe for their continuing pressure for 'military-humanitarian' interventions to protect populations in Darfur.

In 2006 and 2007, insecurity seriously increased for populations and humanitarians in Darfur. MSF teams endured violent attacks from armed groups when travelling on Darfur roads.

In the second half of 2008, this situation was exacerbated by the Sudanese Armed Forces offensives in North Darfur, which led to an extension of fighting areas. MSF Spain/OCBA, MSF Belgium/OCB and MSF Switzerland/OCG endured armed attacks on their compounds and had to evacuate staff and suspend programmes. Press releases were issued by the MSF movement to denounce this situation.

All MSF OCs in Darfur faced increasing administrative hurdles to obtaining visas, travel permits, and logistic authorisations.

MSF France/OCP distributions of Plumpy'Doz™, an essential nutritional supplement for malnourished children, were suspended under the false pretext of alleged abnormal levels of aflatoxins in the MSF supply.

The signature of the MSF Holland/OCA technical agreement with the Sudanese Ministry of Health was cancelled after several postponements. The mental health programme was eventually closed. MSF France/OCP home visitor programmes were also closed.

MSF denounced this harassment in several articles posted on MSF websites. The Sudanese authorities replied with statements in Sudanese media, labelling MSF mental health programmes as intelligence-gathering activities.

MSF leaders strived to organise a high-level delegation to Sudan to address the insecurity and administrative blockages with the Sudanese authorities. This meeting was regularly postponed and never happened.

EXPULSION OF TWO MSF OCS

On 15 October 2008, the ICC Pre-trial chamber requested additional supporting materials from the prosecution, for the arrest warrant of Omar al-Bashir, no later than 17 November.

MSF legal advisors worked to mitigate the risk of a possible implication of MSF by the prosecution, reviewing all the documents that could be used by either side in the ICC case.

The MSF directors of communications and fundraising drafted a position paper on MSF's relations with ICC.

On 25 February 2009, the ICC set Wednesday 4 March 2009 as the decision date for the issuance of a warrant for the arrest of President al-Bashir.

On 1 March 2009, the MSF France/OCP and MSF Holland/OCA coordinators, along with coordinators of six other NGOs were instructed by the HAC that they must leave 10 sites in West and South Darfur before 4 March, "due to credible security threats." MSF teams just started to organise treatment for an outbreak of meningitis.

An MSF press release was drafted but not issued, due to calls for caution from both MSF field teams and ICRC.

On 4 March 2009, a project update was finally posted on the international website. MSF informed about the Government of Sudan's demand to remove all MSF international staff from several projects in Darfur and expressed serious concern for the people of Darfur, left without healthcare.

The same day, the ICC issued an arrest warrant for Sudanese President al-Bashir.

In the immediate aftermath, the MSF Holland/OCA coordinator in Sudan was summoned by the Sudanese authorities and informed that MSF Holland/OCA was expelled from Sudan.

The day after, the MSF France/OCP director of operations received a letter from the Sudanese authorities, informing that MSF France/OCP was expelled. Eleven other NGOs were also expelled.

MSF immediately issued a press release, strongly protesting both expulsions and calling upon the government of Sudan to repeal the decision. The press release highlighted the consequences of the expulsion on the population of Sudan and reiterated that MSF was completely independent from the ICC.

In the following days, MSF hammered the same message in further press releases, web updates, and press briefings in Paris, Geneva, and Nairobi.

On 10 March 2009, the MSF ExCom agreed to focus advocacy and public communications on the population's needs and to distinguish MSF from the ICC, "rather than appealing to reverse the decision to expel sections."

On 11 March 2009, accounts of evacuated international staff were published on MSF websites.

On 12 March 2009, five members of the MSF Belgium/OCB team were abducted by armed men in Serif Umra, North Darfur. They were released on 14 March. Later information disclosed that the abductors were militiamen close to the Sudanese regime. During the abduction period, all MSF communications on Darfur were suspended.

After the release of the abducted staff, the MSF Executives decided to keep communications suspended as long a decision on negotiations were pending with the Government of Sudan on MSF's return and its operational future.

OP-ED ON MSF INDEPENDENCE FROM THE ICC

The wake of the expulsions, hostile comments about MSF and the ICC in Arabic-speaking media prompted MSF to draft a specific Op-Ed targeting this audience. The message mostly focused on MSF's independence from the ICC. The relevance of drafting a specific Op-ed for Arabic audiences was challenged internally, and the content of the message was intensively discussed. These discussions led to the idea that the key stakes to be addressed were MSF's positions toward military and judiciary international interventionism.

Eventually, on 27 March 2009, an op-Ed, drafted by Fabrice Weisman, Director of Studies at the MSF France Foundation/CRASH, was published in the *New York Times*, under the title "Punishment or Aid" and signed by the MSF International Council President, Christophe Fournier. The core message was, "humanitarian assistance is not compatible with punishing war criminals."

COMMUNICATION ON CLOSURE CONDITIONS

From mid-March to mid-April 2009, during the closure of the MSF Holland/OCA and MSF France/OCP programmes in Sudan, the teams endured administrative harassment, extortion of funds, looting, threats, and physical retention by refusal of exit visas. These tough conditions remained under wraps for weeks in hopes of preserving any possible chance for MSF to regain full operability in Sudan.

An interview of the MSF France/OCP Director of Operations, Thierry Durand, broadcasted on 17 April 2009 by Al Jazeera was criticised by members of his OC as too complacent with the Sudanese government, and by other OCs for no advance warning of the broadcast.

After several drafts, rejected either by the remaining MSF OCs in Sudan for being "too hard in the language," or by the expelled OCs for being not strong or explicit enough, a press release describing the conditions of MSF programme closures in Sudan, was finally issued on 22 April 2009. It was "tolerated" by MSF Belgium/OCB and MSF Spain/OCBA but seen by MSF Switzerland/OCG as putting field team security at risk.

EPILOGUE

On 16 March 2009, President al-Bashir announced that within one year, Sudan would no longer need active INGOs in Darfur.

On 23 April 2009, the MSF ICB endorsed the 17 April the MSF operational directors' platform (RIOD) decisions on operational and communications strategies for Sudan. The priorities were to "concentrate MSF action on acute emergencies, assist the population's needs in the areas where [the] MoH has no access if this can be done independently."

On 7 May 2009, the Government of Sudan announced they would welcome new aid groups in Darfur and allow non-expelled organisations to expand their activities.

On 14 May 2009, the MSF directors of communications reviewed the MSF communications on Darfur from the last few months. They found that decision-making processes were a mess. More specifically, MSF Holland/OCA and MSF France/OCP communications directors asked why the three sections remaining in Darfur had not publicly relayed their post-expulsion press releases.

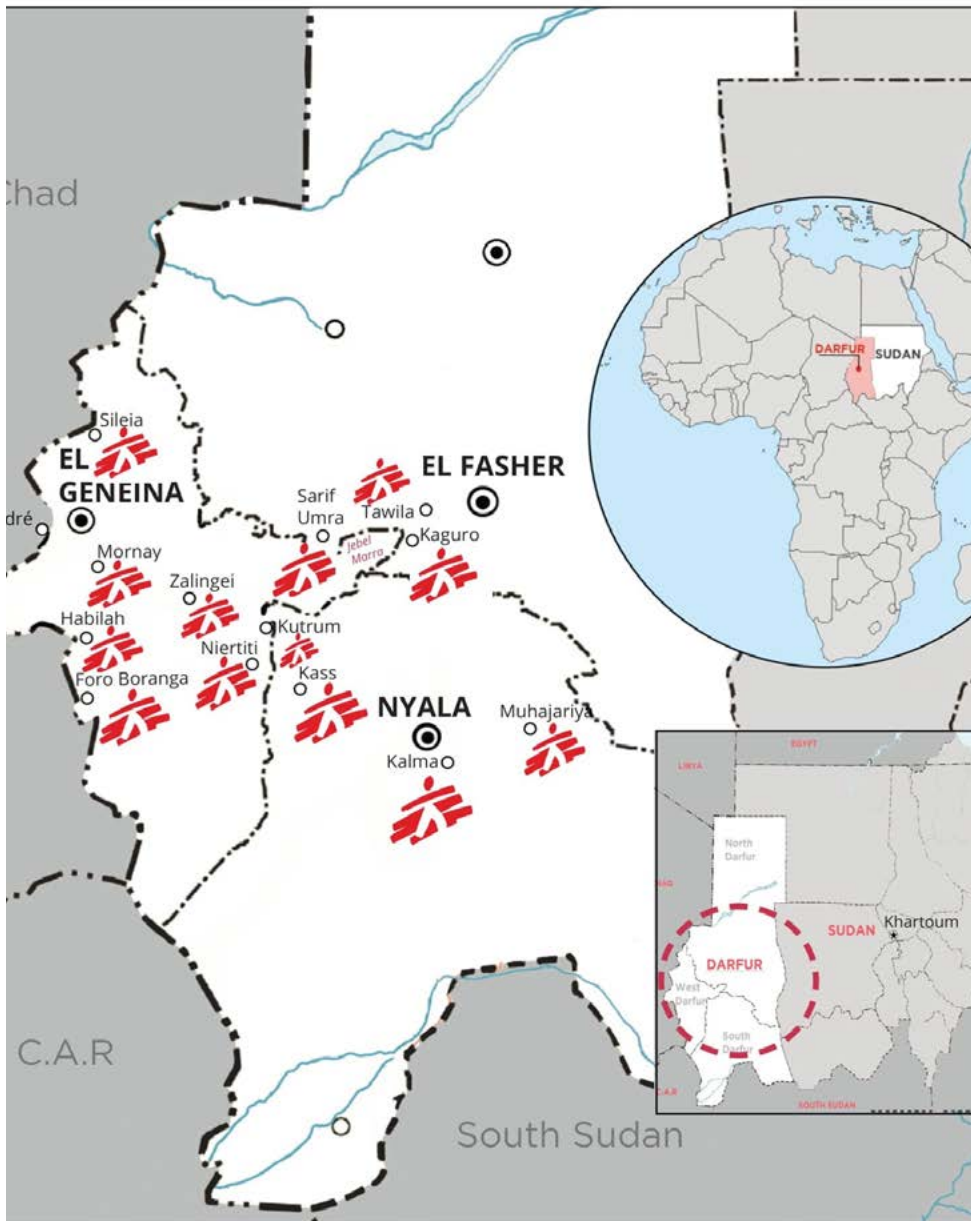
DILEMMAS & QUESTIONS

During this crisis MSF's operational, advocacy, and speaking out choices were the subjects of controversies, dilemmas, and questions including:

- ▶ Should MSF abstain from raising the alarm about extreme violence committed in Darfur, as reported by Darfuri refugees in Chad, so as not to anger Sudanese authorities and to preserve access chances in Darfur?
- ▶ Should MSF take a public position on the existence or not of a genocide in Darfur? Is it MSF's role to do so?
- ▶ If MSF describes the violence in Darfur as genocide, would this risk justifying an armed intervention which would weaken, hinder, or destroy the impact of humanitarian operations?
- ▶ Would an MSF declaration of no genocide serve the Sudanese government's denial of extreme violence by allied militia? Should MSF take the risk of being perceived as serving the government's interests?
- ▶ Should MSF take the risk that, in publicly issuing information on violence committed against the population, this information could be used by international justice? Would this create the perception that MSF will act as informants for future indictments of war leaders? Could this put field teams at risk or block access to populations in need?
- ▶ How could MSF manage potentially being involved in the International Criminal Court's indictment process, which considers the refusal of humanitarian aid as evidence of intent to commit genocide?

To quote this content :

Laurence Binet, 'MSF and Darfur 2003-2009', June 2024,
URL: <https://www.msf.org/speakingout/msf-and-darfur-2003-2009>



○ City, Town

● Regions Main City

★ Capital City

----- International boundary

----- Undetermined boundary

----- Internal boundary

MSF AND DARFUR 2003-2009

ACCESSING DARFUR

Darfur is a region of western Sudan, comprised of nearly 500,000 square kilometers / 200,000 square miles, bordered by Libya, Chad, Central African Republic (CAR), and the Republic of South-Sudan.¹

The Darfur region consists mostly of a semi-arid plains, apart from the Marrah mountains, which have a temperate climate. The Darfur populations are of Arab and non-Arab origins and include multiple ethnicities. Most of Darfur's population is Muslim and are farmers and cattle breeders, long-surviving through sharing of scarce resources. By the 1970s, Darfur began experiencing regular episodes of severe drought, which undermined this balance between nomads and sedentary Darfuris.

In 1994, constitutional reform introduced federalism to Sudan and Darfur was divided into three provinces: North Darfur, South Darfur, and West Darfur. Violence erupted, triggered by land claims, inter-ethnic disputes, and was exacerbated by lack of basic services. The federal government attempted to settle these disputes using proxy militia, recruited among populations of Arab origin, and commanded by local leaders.

Violence in the region was also fuelled by external factors. Libyan leader, Muammar Khadafi, flooded Darfur with weapons in efforts to create a larger "Islamic legion" in the subregion. Based on the presence of the Zaghawa population on both sides of the border, Chad rebel leader Idriss Deby exported violence to Darfur from Chad's internal conflict, using Darfur as a rear base.

In the early 2000's, the decades-long brewing conflict in Darfur was overshadowed by the ongoing rebellion from the Sudanese People's Liberation Army (SPLA) led by John Garang, in South Sudan, against Sudan's federal government led by President

1. The Republic of South Sudan became officially independent on 9 July 2011, after a long conflict with Sudan from 1983 to 2005 and a period of restored autonomy from 2005.

Omar Al-Bashir. Since the start of a peace process between Sudan and South Sudan in July 2002, the breakaway conflict garnered a central spotlight in the region, further obscuring the Darfur crisis.

In February 2003, violent hostilities broke out in Darfur between the government forces and the Sudan Liberation Movement (SLM), which was created in 2001 to bring together mainly local non-Arab groups: Furs, Zaghawas, and Massalits.

SLM pointed to the federal government's continuing neglect of Darfur, particularly in protecting the farming communities. SLM called for economic development in the region and better distribution of wealth. They felt discarded in the sharing of power and excluded in the ongoing peace process with South Sudan.

The Darfur population experienced heavy bombing from government forces and attacks from the Janjaweed, a recently reinforced government-supported militia. The Janjaweed conducted a scorched earth policy, burning villages and committing atrocities against civilians.

In late April 2003, SLM changed their name to Sudan Liberation Army (SLA), and were joined by a newly created armed group, the Justice and Equality Movement (JEM), which defeated the government in Al Fasher, the capital of North Darfur.

In the following months of 2003, the Janjaweed scorched earth strategy intensified and led to significant population flight and displacement of tens thousands of Darfuris.

In February, April, June, and July 2003, Amnesty International and Human Rights Watch repeatedly warned of a "looming" crisis in Darfur, called for the government of Sudan to protect civilians and for human rights monitoring in Darfur to be integrated in the peace process between North and South Sudan.

FIRST MSF EXPLORATORY MISSIONS IN EASTERN CHAD (August-September 2003)

In June 2003, MSF Belgium/OCB teams in Eastern Chad observed a large influx of Sudanese refugees seeking healthcare in their clinics and were alarmed. This influx corroborated the information from MSF France/OCP teams in Sudan concerning heavy fighting in North Darfur.

Despite MSF France/OCP's requests for authorisation to conduct an exploratory mission in Darfur, the Sudanese Government's Humanitarian Aid Commission (HAC) rejected the efforts.

In mid-August 2003, the MSF Belgium/OCB teams in Chad conducted a first exploratory mission / pre-assessment, as the UNHCR reported a sudden arrival of thousands of Sudanese refugees in Chad.



'Minutes of the MSF France Operations Meeting,' 1 July 2003 (in French).

Extract:

Darfur – Christophe [...]

In addition, fighting is underway in North Darfur, in an area that is not currently accessible to humanitarian organisations.



In June-July 2003, François Delfosse [MSF France coordinator], who was on site, began to sound the alarm. We didn't have a view of what was going on there. There was a terrible lack of concrete information on the magnitude of the crisis. MSF didn't have anyone in Darfur. We knew that things were very, very tense, but because we weren't there, we still did not know the scale of the disaster. And then, in mid-August, the MSF Belgium head of mission in Chad sent an alert saying, 'Listen, things are really heating up there.' His team organised an exploratory mission.

Dan Sermand, MSF Belgium/OCB, Emergency Coordinator in Chad, September to December 2003, General Coordinator in Sudan, January to June 2004 (in French).



In fact, we were aware of the Darfur problem before it became visible because of the refugee influx into Chad. We submitted an initial visa request in June 2003. It wasn't in response to a refugee situation in Chad, which did not yet exist at that time, but based on the sense that something serious was happening in Darfur, we didn't have a clear picture and we didn't know what was going on there, but it was worth going to look. Our request for authorisation to go to Darfur was rejected and we didn't follow up.

Looking back, I think that if we'd pushed further in June, we might have got access. But it was complicated. I had some pretty heated exchanges with the members of the MSF France coordination team in Sudan about the need to conduct exploratory missions in Darfur. They would say, 'Yes, but what are we going to do in Darfur? We don't have capacity, we're overwhelmed with the programme at the Mygoma orphanage, we can't.' I think this factor of internal dis-sension played a part.

And then the coordination team changed, and things opened up. We had support from Paris. They said, 'We're going to Darfur. We'll assign resources to intervene if necessary. This talk about 'capacity' has got to stop. In fact, we were very involved, with lots of staff at the Mygoma orphanage, and the rest of the mission was humming along.' And then there was this background noise from Darfur. I think we had blinders on.

François Delfosse, MSF France/OCP, Coordinator in Sudan, April 2003 to April 2004 (in French).



I was the MSF programme manager in South Sudan, and during my visits to Khartoum I would meet with the authorities. I requested authorisation several times for our teams to access Darfur, but it was always denied. They told us that what was going on there didn't concern us, that there were no humanitarian needs and, consequently, no authori-

sation to be given. At that point, we decided that, if we wanted to go to Darfur, we'd have to go through Chad and that the emergency team would be responsible.

Dr Christophe Fournier, MSF France, Programme Manager, 2003-2006, MSF International Board President 2006-2007 (in French).



There were warnings. I was in Khartoum in early 2003 for family reasons. Researchers were already sounding the alarm about what was going on in Darfur. MSF programme managers were hearing that serious politically related violence was going on in Darfur, but there weren't many opportunities to go look.

Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007 (in French).

On 11 August 2003, the non-state actors accused the pro-government militia, Janjaweed, of having massacred 300 people in Kutum, in North Darfur. Amnesty International said that Khartoum had increased “arbitrary arrests” in Darfur. According to diplomatic sources, the Sudanese Air Force continued indiscriminate bombing in the area in North Darfur.

On 3 September 2003, the Sudanese Government and the SLA signed a ceasefire, which was immediately broken.



'Darfur rebels accuse militias of killing 300 people,' AFP (France), Cairo, 11 August 2003 (in French).

Extract:

On Monday, rebels in Darfur (west of Sudan) accused government militias of killing 300 people in Kutum, the second-largest town in North Darfur state.

In a telephone call with AFP, Mani Arkoi Minaoui [Minni Minnawi], General Secretary of the Sudan Liberation Movement (SLM) said, “We call on international organisations to investigate what happened in Kutum.” He said that approximately 350 pro-government militiamen entered Kutum on 5 August, after the SLM withdrew from the town. “They killed around 300 civilians, whom they accused of sympathising with us ... They burned and destroyed houses and stores,” the rebel chief added, noting that he was speaking from an area close to Kutum.

Mr Minaoui [Minnawi] further stated that the Sudanese air force had bombed Kutum and neighbouring villages before the militiamen entered the town, also resulting in deaths and destruction.

On 5 August, the SLM had announced that it was withdrawing “voluntarily” from Kutum to spare the population an assault by regular forces after the rebels had taken the town on 1 August.

The Sudanese government regularly uses local militias to confront rebel movements, particularly in the south of the country, which is partially controlled by the Sudan People's Liberation Army (SPLA).

The Sudanese army also uses Antonov cargo planes to indiscriminately bomb regions held by the rebels, according to diplomatic sources.

Last week, Amnesty International noted that Khartoum had increased the number of “arbitrary arrests”, particularly in Darfur, an isolated and partially desert region bordering Chad.



‘Darfur rebels accuse the government of violating the truce,’ **AFP** (France), Cairo, 7 September 2003 (in French).

Extract:

On Sunday, rebels in the Darfur region, in western Sudan, accused government forces of violating the truce that had taken effect the day before.

In a telephone call to the AFP in Cairo, Mani Arkoi Minaoui [Minni Minnawi], General Secretary of the Sudan Liberation Movement (SLM), said that “on Sunday morning, two government helicopters bombed one of our bases, located in an uninhabited area of Kutum province.” On Wednesday in Chad, the Sudanese government signed a six-week temporary ceasefire agreement, which took effect on Saturday.

In early September 2003, the UNHCR reported that an estimated 65,000 Sudanese refugees had crossed the border to Chad following fighting in Darfur. The refugees crossed the border in small groups, which spanned over 400 kilometres, making them difficult to locate.

In mid-September 2003, the MSF Belgium/OCB Emergency Cell sent a team of a dozen staff to explore the Chad/Sudan border and start operations immediately. They set up relief programmes in the villages of Tine and Birak, in eastern Chad to help the Sudanese refugees arriving en masse.

MSF Belgium/OCB issued several press releases informing about MSF’s intervention in Eastern Chad, to alleviate the dire situation of thousands of refugees.

MSF mentioned sending a team of psychologists to eastern Chad to address the issue of sexual violence, which was presented as “a common tool of war in Sudan.”

The content of some press releases first appeared as articles in Belgian newspapers.



‘Thousands of Sudanese refugees caught in humanitarian disaster,’ **Press release**, MSF Belgium, Brussels/N’djamena, 16 September 2003 (in English).

Extract:

Thousands of Sudanese refugees have fled Darfur state, western Sudan, to escape fighting between the government and rebels, seeking refuge in neighbouring Chad. A charter with medical and logistical equipment will be sent to eastern Chad tomorrow (September 17).

“Thousands of Sudanese refugees, mainly women and children, had to flee their homes and country completely empty handed, and are arriving in Chad in bad shape,” says Sonia Peyrassol, MSF operational coordinator for Chad. “Many of them are staying in the villages of Tine and Birak, in eastern Chad.”

“At first the local population took care of them but while the number of refugees is still rising, the coping mechanisms of the locals are stretched to their limits and new arrivals are on their own now. Therefore, there’s no time to waste, we have to send staff and supplies immediately to respond to the increasing needs.”

The north-eastern part of Chad is dry and desert-like with only little possibility for agriculture. The availability of food and potable water is therefore very limited. The climate conditions are extreme with high temperatures by day and very cold nights while the rainy season has not ended yet.

Due to these circumstances, the refugees who lack shelter are vulnerable to respiratory infections. Other health risks are potentially deadly diseases such as measles and whooping cough. The malnutrition level, higher than average, is not alarming yet. However, since there is hardly any food to find, this might change soon. “For the time being, our assessment team has not yet discovered epidemics or starvation, but conditions are in place for a rapid deterioration of the situation. There is no infrastructure for the reception of refugees, local health centres are empty and the reference hospitals of Iriba and Guereda have no water, no medicines, no lab. Setting up health posts for the refugees is therefore crucial, although we will also donate medicines and medical equipment to the health structures for the local population,” Sonia Peyrassol continues. This evening, 11 expatriates – medical doctors, nurses, logisticians, and administrators – will leave from Brussels to eastern Chad. They will work in the villages of Tine and Birak, helping the refugees by setting up health posts and providing medical consultations. Major health problems are currently respiratory infections and diarrhoea. The latter is especially a problem in Birak where the only available water comes from a small river. On September 17, at 8pm local time, a full charter will leave from Ostend, Belgium, with 42 tons of material. It contains sanitary, medical, surgical, and nutritional kits, medicines, water purification and logistical equipment. “The supplies will fly via N’Djamena to Abeche and from there on it will be transported by road to Tine and Birak. Our teams on the ground should have the emergency operations up and running by the beginning of next week,” concludes Sonia Peyrassol.

Later, MSF will also send a team of psychologists to eastern Chad to address the issue of sexual violence that is a common tool of war in Sudan. Darfur state in Sudan is confronted with ongoing fighting between the government and the SLA-SLM [Sudan Liberation Army and Sudan Liberation Movement]. The refugee population in eastern Chad consists for 75% of women and children. Many women do not know the whereabouts of their husbands since they stayed behind with the cattle to protect it against theft.



‘Humanitarian drama on Sudan-Chad border,’ MSF Belgium/OCB **Project Update**, MSF Website, 16 September 2003 (in English).

This article first appeared in the Belgian newspaper, **De Morgen** (Belgium), on 16 August 2003.

Extract:

An exploratory mission by Médecins Sans Frontières (MSF) has confirmed the appalling situation. “Thousands of people, mainly women and children, are packed together in the village of Tine. There is no aid.”

“Most of the refugees arrive in Chad in a dreadful condition. They arrive empty-handed with nothing but the clothes they are standing in. They did not have the chance to bring other possessions, food, and water with them. At first the refugees were supported by

the local population but that is now beginning to change. The number of refugees is continuing to grow, and the infrastructure is now already stretched to the limit."

This plea for help was made by Virginie Cauderlier, a nurse, on September 10 to her headquarters. Since then, the situation has not improved. "On the contrary," says Aine Markham, operational director of MSF Belgium, "It is just getting worse."

Markham explains how the refugees started arriving at the end of July but only attracted attention at the beginning of September when, following a reconnaissance mission, the UNHCR reported that an estimated 65,000 refugees had crossed the border with Chad following fighting in Darfur, in Western Sudan.

The human tide remained undetected for so long because they crossed the 400-kilometre border in small groups. The UNHCR reported on Friday that the refugees are now present at about 20 locations in Chad. Due to the insecurity and lack of roads not all the refugees have been located.

The MSF reconnaissance workers managed to get through to the villages of Tine and Birak where they found a truly dreadful situation.

"In Tine in particular, the situation is appalling," says Markham. "Between six and ten thousand refugees are packed in there so tightly together that there is scarcely 20 centimetres between the families. Seventy-five percent of the refugees are women and children. They are receiving no aid at all. There is little water, no food (the stocks of the local population are insufficient), no shelter and they are not yet receiving any medical aid. As the present season is one of high day-time temperatures which drop sharply at night, and the rainy season is not yet over, many of them are suffering from chest infections."

In Birak, where there are currently between four and six thousand refugees, the only water available comes from a river. As the water is not purified many of them are suffering from diarrhoea. Without clean water and care this can quickly result in dehydration. As it is the rainy season, malaria flies are also abundant, with all the consequences for the unprotected victims. [...]

The UNCHR has asked the Chadian authorities to assemble the refugees in four camps to permit easier access for aid organisations. But MSF does not want to wait so long and has already sent out a team. Psychologists are to follow later "because our teams report that many of the women are in a state of shock," says Markham. "In Sudan sexual violence is all part of the practice of war."



The manager of the emergency pool decided to send a team. At that point, we had a pretty good idea of what was going on there because the MSF Belgium team in Chad had conducted an initial assessment of the situation. We left right away with lots of supplies and a team of about 12 medical and non-medical staff. We had a dual objective: to establish a rear base in Abeche, which was no small task in the middle of the desert, and to get to the border quickly. We had identified three or four villages where we could set up a tent and start working. The Antonov had to make four or five trips to bring all the supplies from N'Djamena to Abeche. From Abeche, we left in a convoy with about 10 large trucks carrying all the supplies. We set up a large base in Tine, at the Sudanese border, and then a medical base in Birak, three hours south by road. When we arrived in Tine, everything moved very quickly because there were already more than 10,000 refugees in a makeshift camp, built of bits of wood and plastic and torn fabric that the Sudanese had brought. Access was not a problem because the border was very porous, practically non-existent. In this part of Chad, in about 50 to 60 km, you're in Zaghawa territory, which covers about 100 km inside Darfur – or nearly half of North Darfur. Everyone speaks the same dialect there. They look alike – it's the same ethnic group. The governor of Abeche was waiting for us and, after two cups of tea,

the matter was settled. The Chadian authorities didn't put any obstacles in our way. That's undoubtedly because we were the first. The UNHCR had already done some scouting but that was it. And then we turned up with 10 fully stocked trucks. They saw us coming and had no interest in telling us to turn around and head back. Within 48 hours, we were already operational in Tine and Birak. From the moment we set up the tent, the number of refugees exploded at the speed of light because people were spreading the word. A crowd of refugees arrived very quickly, especially at the Tine camp.

Dan Sermand, MSF Belgium/OCB, Emergency Coordinator in Chad, September to December 2003, General Coordinator in Sudan, January to June 2004 (in French).

Alerted by MSF Belgium/OCB, MSF Spain/OCBA and MSF Holland/OCA teams carried out a joint exploratory mission on the Sudan/Chad border.

MSF Holland/OCA set up a programme in Adre and was soon joined and supported by an MSF France/OCF team.

MSF Spain/OCBA did not see any opportunity to set up operations in this area and did not manage to access Darfur through this part of the border.



'MSF France **Update**,' 19 September 2003 (in French).

Extract:

Large population displacements occurred following the confrontations in Darfur province. Nearly 70,000 Sudanese were reported to have taken refuge in Chad, close to the border. MSF Belgium carried out an initial exploratory mission, MSF Spain was preparing to intervene on the Chadian side, and MSF France was trying to get access to this region from Khartoum.



And then a team arrives to conduct a joint evaluation for MSF Holland and MSF Spain. I briefed them, with maps, and told them, 'If you draw a line from Tine to Adre (the town at the Chad-Sudan border, which is 800 kms long), you can set up a tent anywhere along it and the refugees will show up.' Eight days later, the team came back, and the Spanish guy told me, 'We didn't find anything so I'm back.' The Spaniards didn't set anything up in Chad. The Dutch guy, a watsan [water and sanitation] logistician, said, 'I'm going to stay on for a bit. You never know. And I'm going to go a little further.' He notified Amsterdam from Adre, and they launched an operation. Then the French arrived to back up that position in Adre. And from the moment these programmes were launched, there was a refugee inflow nearly as large as the one that arrived at the northern part of the border, in Tine.

Dan Sermand, MSF Belgium/OCB, Emergency Coordinator in Chad, September to December 2003, General Coordinator in Sudan, January to June 2004 (in French).



I sent four people there to the corner of Chad, to check if people really were crossing the border, which was the case, but not as much as we were expecting. I sent them also to try to get into Darfur from the west south part. They spent a month waiting on the border and they couldn't access Sudan. So, they came back.

*Aitor Zabalgogezkoa, MSF Spain/OCBA Emergency Programme Manager, 2003-2005,
General Director, 2006-2012 (in English).*

FIRST INTERNATIONAL ALARM ON WORSENING SITUATION IN DARFUR (September 2003)

On 15 September 2003, an agreement allowing “free and unimpeded” humanitarian access to 20 percent of the Darfur territory was signed by the Government of Sudan (GoS), the Sudan Peoples’ Liberation Movement and the Sudan Peoples’ Liberation Army (SPLM/SPLA).

The same day, UN Secretary General Special Envoy for Humanitarian Affairs in Sudan, Tom Wralson, and UN Resident and Humanitarian Coordinator for Sudan, Mukesh Kapila, announced a plan for future development projects in Darfur entitled, “The Greater Darfur Special Initiative.”

In late September, the UNHCR appealed for US\$16.6 million in urgent funds to avert a humanitarian disaster on the Chad-Sudan border.

On 14 October, UN Humanitarian Coordinator for Sudan, Mukesh Kapila stated that humanitarian access was hampered by the government of Sudan’s restriction on travel permits. He said that “a humanitarian clause should be added to the currently negotiated ceasefire, allowing for unimpeded access to all vulnerable populations and for the protection of vulnerable civilians and humanitarian personnel.”

On 9 December, UN Secretary General (UNSG) Kofi Annan stated that due to insecurity, more than one million people in Darfur were beyond the reach of humanitarian aid.

On 15 December, members of Sudan’s National Assembly from Darfur appealed for an international intervention to stop the killings and displacement in the region.

On 16 December, US State Department spokesman Richard Boucher said they were, “deeply concerned over the rapidly deteriorating humanitarian and security situation in the Darfur region of western Sudan.”



'Agreement reached allowing humanitarian access to Darfur Region of Sudan," **M2 PressWire**, New York (OCHA) 17 September 2003 (in English).

Extract:

The Government of Sudan and the Sudan Liberation Movement/Army (SLM/A) signed an agreement today that would allow "free and unimpeded" humanitarian access to Sudan's Darfur region, which covers some 20 per cent of that country's territory.

The humanitarian situation in Darfur has deteriorated over the past six months due in part to fighting and banditry that has resulted in the displacement of large numbers of civilians. There had been reports of deliberate attacks against civilians by armed groups. Access constraints caused by both fighting and adverse weather conditions brought on by the rainy season had caused a sharp reduction in the number of people who were able to receive aid. United Nations humanitarian agencies hope to regain access to all of the 500,000 people who had been receiving aid before the access constraints began in March.

The Government of Sudan estimates that most of the estimated 223,000 internally displaced persons in Darfur have been displaced since the beginning of this year. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that another 65,000 people have fled into Chad from Darfur since April. The refugees are mainly living in villages along Sudan's border with Chad, where they have little access to clean water, food, or health care. No humanitarian aid is currently being provided to them. On 15 September, the Special Envoy of the Secretary-General for Humanitarian Affairs in Sudan, Tom Vraalsen, and the United Nations Resident and Humanitarian Coordinator for Sudan, Mukesh Kapila, announced a plan for future humanitarian operations called the Greater Darfur Special Initiative. The objectives of the initiative are to accelerate humanitarian relief provision to the most vulnerable population groups; to help defuse immediate triggers to violence through 'quick start-peace impact' measures; and to assist Sudanese stakeholders to build confidence and begin addressing the longer-term underlying factors that generate conflict. The United Nations seeks \$22.8 million for this Greater Darfur Special Initiative.



'Concern grows over deteriorating situation in Darfur,' **All Africa/IRIN**, Nairobi, 14 November 2003 (in English).

Extract:

The UN warned that the situation in Darfur may emerge as the worst humanitarian crisis in Sudan since 1998, owing to rising displacement and declining access to the area because of insecurity.

In a statement, the UN Office for the Coordination of Humanitarian Affairs (OCHA) said that insecurity had continued to cause displacement of hundreds of thousands of people and had hampered relief operations.

"Humanitarian access is in some cases non-existent, and there are few aid workers in the area," the statement said.

OCHA said despite ceasefire agreements between the Sudanese government and the Sudan Liberation Movement/Army (SLM/A) – the rebel movement operating in the region – humanitarian access was also uneven due to travel permit restrictions.

The UN Humanitarian Coordinator for Sudan, Mukesh Kapila, said a humanitarian clause should be added to the currently negotiated ceasefire, allowing for unimpeded access to all vulnerable populations and for the protection of vulnerable civilians and humanitarian personnel.

And the UN High Commissioner for Refugees, Ruud Lubbers, who this week visited Sudan in preparation for the possible return of thousands of Sudanese refugees from neighbouring countries, also expressed concern over the deteriorating situation in Darfur. He urged the authorities to grant full access to humanitarian organisations. [...] Abdulaziz Yahya, a political director of the SLM/A, told IRIN that no humanitarian assistance had so far reached the displaced people of Darfur, and he accused the government of restricting access to the area. [...] On 4 November, the Sudan government and SLM/A extended a ceasefire agreement for one month at a signing ceremony in the Chadian town of Abeche.



'Annan 'alarmed' about the situation in Darfur (Sudan),' **AFP** (France), 9 December 2003 (in French).

Extract:

United Nations Secretary-General Kofi Annan on Monday expressed "alarm" at the "rapid worsening of the humanitarian situation" affecting a million people in Darfur (western Sudan).

Mr Annan's spokesperson, Fred Eckhard, stated that the Secretary-General is "also alarmed by the information received that civilian populations are subject to systematic ill treatment, such as killings, assassinations and looting," adding, "Because of the insecurity, more than one million people are unable to obtain humanitarian aid ... The Secretary-General calls on all parties to the conflict to take all possible measures to reduce the suffering of the civilian population to the absolute minimum, specifically by allowing access to humanitarian organisations."



'Sudan: Darfur MPs urge international intervention,' **All Africa/IRIN**, 15 December 2003 (in English).

Extract:

"There has to be a quick international intervention to protect civilians because they are dying – nearly 50 to 100 a week," one MP told IRIN. "There is an international responsibility to intervene as quickly as possible." [...]

The Sudanese government strongly denies backing the militias, known as the Janjaweed (meaning "a man with a horse and a gun"). It says it has urged all tribes in Darfur to "defend" themselves against rebels in the region.

The MPs have demanded that the Darfur issue be discussed at peace talks underway in Kenya between the government and main rebel group, Sudan People's Liberation Movement/Army (SPLM/A).



'U.S. expresses concern over deteriorating situation in western Sudan,' **Associated Press** (Washington, DC), 16 December 2003 (in English).

Extract:

The United States is deeply concerned over the rapidly deteriorating humanitarian and security situation in the Darfur region of western Sudan, the State Department said Tuesday. [...]

“The United States deplores the parties’ lack of engagement to end hostilities in Darfur despite efforts by the United Nations and the government in Chad to facilitate talks and a humanitarian cease-fire,” he said.

Boucher said reports indicate more than 600,000 people have been internally displaced and 75,000 refugees have fled to neighbouring Chad and as many as 3,000 unarmed civilians killed.

“The United States calls on all parties to agree an observable humanitarian cease-fire and engage in substantive dialogue on ending the hostilities in Darfur,” Boucher said. [...] A third round of talks aimed at bringing the conflict in Darfur to end broke down in Chad Tuesday.

FIRST EXPLORATORY MISSIONS IN DARFUR TERRITORY (October-November 2003)

In mid-October 2003, MSF France/OCP managed to get authorisations to conduct a first exploratory mission in North Darfur. However, they suspected that the epicentre of the crisis was in South and West Darfur.

These suspicions were confirmed by MSF Holland/OCA teams after they also managed to get authorisation and conducted an exploratory assessment in this area witnessed direct results of violence. All were convinced that “a big crisis” was to come.

In December 2003, after a second exploratory mission, MSF France/OCP started to set up a programme in Nyala, in South Darfur.

It took weeks for both sections to staff the programme due to administrative barriers imposed on visas and travel permits by the Sudanese authorities.



‘Preliminary Trip report to Darfur, 21st to 29th of October 2003,’ François Delfosse, MSF France/OCP General Coordinator in Soudan and Aban Deng, MSF France/OCP Coordinator of Bentiu programme, 3 October 2003 (in English).

Extract:

The objective of this trip was to get an overview of situation in Darfur and get a first contact with local authorities & humanitarian actors on the spot, so as to get a better understanding of problem’s magnitude. [...]

5. Conclusion; action plan:

- We saw a population used to usual yearly local conflict, with displacement in consequences.
- People we reached during this short trip are dealing with the situation with usual coping mechanisms.
- But the scale of the ongoing situation is obviously unusual, both for IDPs and for hosting population, either directly affected or not.
- Unusual in terms of geographical area affected, and in terms of number of people affected. Proportion of population affected in regards of total population is big, and creates a dangerous imbalance.

- Another difference with the previous localised conflict is the fact that IDPs so far have no possibility to go back home. Without a soon improvement in security situation, coping mechanism will soon be insufficient. Added to the big number of affected people is the fact that process to go back to normality is highly uncertain, with regards to what people lost already (crop, stock, cattle, houses...).
- A large part of area and population affected have not yet been accessible for proper assessment: Jebbel Mara and West-Darfur. North Darfur, including SLA zone, is supposed to have been visited. Unfortunately for SLA zone, no independent information is available (SCF-UK did assessment with HAC and MOH mid-October, and since then are not willing to provide ANY information about what they saw, kind of Flag Planting strategy also for them).
- People are mainly scattered, except some few regroupment spots (Kutum, Kabkabiya, Korma, Nyala...), where agencies are already dealing with the situation, and relief doesn't reach most of them by outreach.
- Health and nutrition data are poor in quantity and quality (reliability). However, ICRC doesn't feel it's an emergency to work on health in the Northern area where they work already, focusing on NFI & watsan. Priority for them is to push for SLA access, then Jebel Mara and West Darfur.
- Access uncertain from one day to another. TP or visa for expat to come can be blocked at any time all along the process.
- So far, we have 4 expats travel permit available, 2 MSF France & 2 MSF Holland
- Sudanese so far don't need travel permit.
- The door is open, and a proper assessment should start ASAP.

Proposals have been made to MSF Holland team to run a join assessment, putting together our limited resources, allowing us to start soon, while waiting for more HR to come from Amsterdam and Paris.

Security issue is a main concern, but outreach is still possible (cf WFP distribution). First priority in Nyala will be to set up an information network.



Travel authorisation requests were submitted in late August/early September. At first, we received just a few authorisations at a time and encountered all sorts of problems. But right away – for reasons unknown to me – it began to open, and things got underway. I conducted my first exploratory visit, together with a Sudanese colleague, in mid-October. Ten days later, the medical coordinator also visited. I don't think we clearly understood the severity of the crisis. We had requested authorisations in June but hadn't insisted. There was no sense of urgency about that first exploratory visit. It was just to get an idea of what was going on. We started meeting NGOs and humanitarian actors who were already on site. But even on the ground, we had very little information about what was happening. We went to Al-Fashir, in the north, and didn't see any displaced persons. Some towns were functioning normally, while others had been completely emptied of their population. But we didn't have access. We couldn't see what was going on with this crisis. What we did realise from this first exploratory visit (quick visits, etc.) was that in the north, in Al-Fashir and Kutum, the crisis had already passed. A few scars remained – more in material terms than on the people. You could see traces of conflict. We visited an empty hospital that had been destroyed by fire, so it wasn't functioning. But we didn't see any displaced populations. Initially, from late October through all of November, we focused on where the conflict appeared to have shifted – that is, to the southern and western parts of the Jebel Marra. After the medical coordinator carried out a second exploratory mission, towards Nyala, in the areas we hadn't scouted at the beginning, we realised that people had also moved slightly more to

the south, towards Nyala, and then west, as far as Al-Geneina, at the border with Chad. In January 2004, we decided to push a bit further, towards Nyala, Zalingei, and El Geneina. The Dutch, who had really travelled quite far to the southwest, had just missed witnessing the violence for themselves. They arrived a few hours after villages had been attacked, emptied, razed to the ground. But they didn't have access to the populations in the region.

*François Delfosse, MSF France/OCP Coordinator in Sudan, April 2003 to April 2004
(in French).*

Chapter 1

ACCESS AT ALL COSTS, RISE OF AID, GENOCIDE CONTROVERSY, AND THE RAPE REPORT (2003-2005)

I. PRESERVING MSF'S FIRST OPERATIONS IN DARFUR (From December 2003)

A. THE 'CHAD SILENT REFUGEE CRISIS' MSF REPORT ON REFUGEES ACCOUNTS

From the onset, MSF Belgium/OCB included a photographer and an advocacy / humanitarian affairs officer, with the first emergency team in Chad.

Liesbeth Schockaert was to support the team in negotiating with authorities and gather background information that might help set up an operational strategy.

Liesbeth collected many accounts describing the high level of violence the refugees experienced in Darfur. What was reported was beyond the expectations of the team.



We thought that this couldn't have happened without anyone knowing about it, so it wasn't a bad idea to send someone from the Advocacy Unit who had already worked in similar kinds of situations. Liesbeth left on the charter flight with a photographer. They gathered a huge number of witness statements, as well as photos, to document the crisis. Liesbeth spent hours and hours with translators, listening to the refugees' stories. We quickly realised that the most significant concern was the psychological aspect of the violence associated with this migration. People spoke about abuses, about villages that had been burned by the Janjaweed from the other side. At that point, we had a lot of information showing that the violence that had led people to flee Sudan was already very intense. That's what really hit us when we got there, more than the health situation.

Dan Sermand, MSF Belgium/OCB, Emergency Coordinator in Chad, September to December 2003, General Coordinator in Sudan, January to June 2004 (in French).



It was the director of operation's idea to include me from the start in the first emergency team that left for Chad. The idea was that I could talk to people, that I would understand better what was going on. I think that's the first time we did that. As soon as we arrived, I started talking with people in the camp. In the end, that's where all the statements came from. In general, when you're sent out to the field, the idea is to draw up a report based on those statements. That wasn't the case in this situation. Every night, I was able to

provide a lot of information to the doctors about what was going on. That dynamic was very interesting.

*Liesbeth Schockaert, MSF Belgium/OCB, Humanitarian Affairs Officer, 2003-2004
(in French).*

A humanitarian affairs officer, Aurélie Lamazière, was also included in the MSF Holland/OCA exploratory team. In the camps, she collected refugees accounts of what they endured in Darfur. This information helped to build an analysis of the situation and thus, to anticipate operational needs.

Like Liesbeth, Aurélie collected accounts describing a scorched earth strategy implemented by the Janjaweds. She shared some information with a Human Rights Watch field researcher.



It was really the beginning of the beginning. Our very small team discovered camps that were not yet well organised. But the MSF Holland managers thought it was important to have someone on the exploratory mission from the very start to gather information. They thought that because we didn't yet have access to Darfur, there was a lot we needed to understand and prepare for.

I was one of the few people to question the refugees so intensively. I interviewed hundreds and hundreds of people. I was moving all day long among the tents and I worked alongside my medical colleagues. The idea was to assess the assistance that these people needed so that we could adapt our aid.

It wasn't about assembling statements or publishing them in the press but using them to understand the mechanisms of what had happened to people. I gathered a lot of information that I organised in somewhat analytic fashion, describing what we were seeing: in rural areas, it happened this way; in urban areas, that way; in the camps, people lacked access to this or that; the United Nations wasn't doing enough, etc.

I accompanied the head of mission to meetings with the UNHCR, OCHA, donors, etc. and I told them, "This is what we're hearing." That way, we can correct what certain UN reports were saying.

Not many people were speaking with the displaced persons, which, in a sense, prevented the statements from being "contaminated".

It was more in line with the work that Human Rights Watch does. I was also in contact with HRW, and we shared information. I sent them refugee statements to illustrate the information that they were providing in their reports.

Everyone was saying the same thing. This was really a scorched earth tactic. To summarise it in harsh terms: the Janjaweed were making a clean sweep of everything. They were burning villages, killing men, and raping women. Based on the number of interviews that I had done; it was clear that certain forms of violence recurred every time. I concluded that if everyone was saying the same thing, it matched the reality.

Aurélie Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan, April 2004 to April 2005 (in French).



In late 2003 in Chad, Aurélie was picking up on the fact that these weren't just wounds that were random, it wasn't just, a village was attacked, and some people went to Chad. They were targeting certain ethnic groups; they were targeting young men... We both recognised that something was happening, but we didn't recognise enough of what was happening to the point of saying: 'wait, this is really something different.'

Marc DuBois, MSF Holland/OCA, Humanitarian Affairs Advisor, 2001-2004, Head of Humanitarian Affairs Department 2005-2007, Senior Researcher, 2007-2008, MSF UK Executive Director, 2008-2014 (in English).

In November 2003, using these accounts, Liesbeth Schockaert drafted a report describing the violence the refugees experienced in Darfur, and their dire situation in Chad. She added testimonies collected from Sudanese refugees in MSF programmes in Italy, where MSF had already publicly raised the alarm in October.

In her draft, Liesbeth included the results of a retrospective mortality study, carried out by MSF Belgium/OCB from 4 to 7 November, among Sudanese refugees in Eastern Chad. The draft was circulated to the various people in charge of Darfur programmes in the movement.

While the work and the will of MSF Belgium/OCB to raise the alarm was not questioned, the report was first considered not robust enough in terms of content, and thus, possibly dangerous.

Some criticized the work for presenting a “racial” reading of the events, pitting Arab executioners against black African victims. Others questioned the methodological soundness of the retrospective mortality study used in the draft.

However, the main issue was the timing of the release. At that time, MSF France/OCP and MSF Holland/OCA were still negotiating with the Sudanese authorities to get access to Darfur, particularly to get visas and travel permits for the staff.

Fearing that the report would endanger their chances to get access, the directors of operations put an embargo on the report's release until they obtained access.



'Chad's invisible and silent refugees' Report, [Draft 3], MSF Belgium/OCB, 2 November 2003 (in English) [Link to full document](#).

Extract:

Introduction

There are currently close to 90.000 Sudanese refugees who have crossed the border into eastern Chad. They have been entering Chad since April 2003, with 26.000 people arriving since the start of December alone. These refugees are scattered over an area of 600km, close to the Sudanese border. Some have grouped together in over 30 different locations; others are widely scattered along the border region.

Sudan has been ravaged by violent conflict and humanitarian crises for much of the years since independence in 1956. Today in Darfur, the people of Sudan suffer from yet

another conflict leading to mass displacement; a conflict which is being ignored in the climate of the current peace process, aimed at ending the 20-year conflict between southern rebels and the Sudanese government.

According to the UN, the conflict has resulted in 3000 deaths and displaced more than half a million people in Sudan since March 2003 when the upsurge in violence started. The conflict and its consequences remain under-reported and needs to be given more attention by the international community.

The refugees arrive in Chad in a deplorable state, often without any food or blankets and with minimal possessions. They are traumatised by the atrocities from which they have fled and are in dire need of assistance. In Chad they have little or no food and difficult access to water, they live in precarious shelters and suffer badly from extreme weather conditions. In some areas their security is not guaranteed. Younger children and the elderly are especially vulnerable.

Despite their situation they hardly receive any assistance from (inter)national governmental and non-governmental organisations.

MSF is one of the few operational organisations currently working in eastern Chad.

Since October 2003, its teams have given medical care to Sudanese refugees around the towns of Tine, Birak and Adre providing primary health care to around 26.000 refugees through medical consultations, nutritional support, vaccinations, and mobile clinics.

MSF currently assists 150 (add MSFH figures) refugees per day with medical consultations, vaccinations, and mobile clinics.

This document aims to bring greater attention to the refugee crisis in eastern Chad and calls for immediate assistance and protection to the Sudanese refugee population. It is based upon the experiences of MSF teams on the ground and stories of the Sudanese refugees collected by MSF staff. [...]

CONCLUSION

Refugees continue to arrive daily in eastern Chad where they remain near to the border, still close to the fighting and atrocities, which continue to take place on the other side in Darfur. In the first week of December a further 26,000 refugees crossed the border into Chad and these influxes may not be the last seen in the coming months.

While the local communities were able to cope to a limited extent with the first refugee arrivals from April 2003 resources are becoming exhausted and MSF is seriously.

concerned about the lack of assistance being provided to the refugees.

The refugees currently receive scant assistance with insufficient actors on the ground to cope with the current caseload of refugees - the new arrivals have fared even worse in terms of assistance.

These people are in dire need of humanitarian assistance including sufficient food, clean water, adequate shelter, and protection against violence.

MSF urgently asks the Chad government, the United Nations and individual governments to ensure that people who have fled Darfur receive, without delay, sufficient assistance and protection.



'Re: Draft report Sudanese refugees in Chad/ MSF Belgium/OCB,' **Message** from Catrin Schulte-Hillen, MSF USA Programme Director to Patrice Page, MSF USA Advocacy Officer cc: Kevin Phelan, MSF USA Communication Officer, Kris Torgeson, MSF USA Communications Director, Nicolas de Torrente, MSF USA Executive Director, 17 December 2003 (in English).

Extract:

Thanks for the draft. Let's discuss some feedback. [...] I admire MSF-B reactivity and desire to get information out. However, as the report is now, there are political statements and assumptions that seem dangerous and without adequate support to me – apart from the fact that I consider part of them inadequate for MSF to make. The personal statements: idem Liberian stories, the format generalizes the overall situation from selected statements, without sustaining them with MSF experience. No medical data, little info on the actions of the UN agencies in the different settlements - bref [in brief] - how does MSF respond to a lot of these issues??? Little link is established, little hard data provided (eg. recommended distance of refugee settlements to the boarder, UN, and host government obligations, ...) I find this way of presenting the situation anecdotal and little serious. The information however is extremely valuable and needs to get out. Conclusions are weak. Issues with the presentation of MSF operational plan/execution phases ex [e.g.]: MSF does a field hospital, in part because the refugees think they get better treatment with MSF then in the nearby hospitals.



'Re: Draft report Sudanese refugees in Chad/ MSF Belgium/OCB,' **Message** from Patrice Page, MSF USA Advocacy & Representation Officer to Catrin Schulte-Hillen, MSF USA Programme Director, 17 December 2003 (in English).

Extract:

I just got MSF Holland/OCA on the phone, they had a teleconference today (Belgium, Holland, France) on Darfur/Chad and it seems that the MSF Belgium report will still be on hold until after the holidays (mainly because the teams of Holland and France in Nyala/Darfur are just arriving and more time is needed to let them set up their operations but also, because it will be difficult to get attention on the report before January).



'A critique of MSF France/OCP operations in Darfur October 2003 - October 2004,' **Review** by Dr Corinne Danet (MSF), Sophie Delaunay (MSF), Dr Evelyne Deportere (Epicentre) Fabrice Weissman (CRASH/Foundation MSF), January 2007 (in English, in French).

Extract:

4.1.2 Paris justified its embargo on MSF Belgium December report on two grounds. First, it was not considered a 'good' report. Some doubted the methodological soundness of the retrospective mortality study [...] Others criticized the narrative: MSF-Belgium had produced a racial reading of the conflict which closely followed the escapee's accounts of atrocities that 'Arabs' had inflicted on 'Africans'. But the real reasons were to be found elsewhere. Paris feared that the dissemination of an MSF document attacking Khartoum would antagonize the regime and compromise its attempt to develop relief operations in Darfur.



I went to Lampedusa, where many refugees and migrants were arriving. I met people from Darfur there. I heard the same accounts that I'd heard in Chad.

During a meeting of the RIOD (the MSF movement's operational platform), Christopher Stokes [Director of Operations for MSF Belgium/OCB] announced that he wanted to publish this report and it was distributed to the managers of the other operational centres. There were questions about the risks regarding access. The quality of the report also came in for criticism, which now, in retrospect, I understand. Some of the quotes I took from the witness accounts were crude, with references to ethnic groups that I should have put in better context.

*Liesbeth Schockaert, MSF Belgium/OCB, Humanitarian Affairs Officer, 2003-2004
(in French).*



In addition to the information that we'd collected during the exploratory missions, we used the information that the Belgians were gathering in the camps in Chad.

The epidemiological data in their report helped me better understand the magnitude of the disaster. But we were in the middle of the process of obtaining our visas and it was a mess. So, it's quite possible that we just said, 'Let's get into Darfur first – don't make too many waves.'

Thierry Allafort-Duverger, MSF France/OCP, Emergency Programme Manager, 2003-2006 (in French).



We were uncomfortable, but it was an overall discomfort that led to a lot of discussions: serious things are going on and we're not managing to get a grip on the situation, other than with the refugees, as is often the case. Because quite often, we find out what's going on in a country through the refugees in the camps on the other side of the border. That gives us a picture – which is often distorted – but a picture, nonetheless. So, we were quite aware that very serious things were happening in Darfur – repression, population displacement, etc. But because we didn't have any operations in the field, that remained ... [an assumption].

*Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007
(in French).*



One of the major points of tension was the Belgians' communication on the situation – their report included statements from the Darfur refugees in Chad. Wasn't there a risk that this report might block our chances of launching operations in Darfur from Khartoum? There was a lot of discussion about that. Things went on standby briefly, but in fact I don't think that it had an impact. Starting in late November, emergencies became the priority. And once we had access to Darfur, we weren't worried about being kicked out of the country.

*François Delfosse, MSF France/OCP, Coordinator in Sudan, April 2003 to April 2004
(in French).*



It was the eternal dilemma: if we speak out, we'll be kicked out. As we do every time in this kind of situation, we had lengthy discussions with the operations managers, who believed that it would be simpler if we just let things ride without speaking out publicly. We'd already had experience with this regime in southern Sudan. The actors remained the same, the government was the same. But we weren't dealing with the SPLA or the other South Sudan rebel groups any longer. This was Darfur and the Janjaweed. So even if we had some knowledge of the situation, we still had a lot to learn. In the beginning, we were naïve in the same way that we had been in terms of South Sudan, and we undoubtedly took shortcuts in our analysis. And then, little by little, we tried to understand things better. But it was really, difficult for us. Even in talking with the researchers, we still didn't really understand the dynamics.

Stephan Oberreit, MSF France, Communications Director, 2000-2006 (in French).



It was when we conducted a retrospective review of MSF France operations in Darfur in 2003-2004 that we realised we'd been slow to mobilise on Darfur. By the time our operations started, most of the killings were already over. Looking back, I think we can say that earlier mobilisation might have helped reduce the violence. In that regard, the refugee survey conducted in Chad might have helped gain several months. But OK, when we came out against disseminating the report, we still weren't aware of the gravity of the situation, the intensity of the violence and the scale of the crisis. Our priority was to go and see. At the time, that was very complicated – it was completely locked down. And we were afraid that things would tighten still further when the report was disseminated. I don't remember whether there was a debate within MSF France at that time. Clearly, the first thing was to send teams – and it was not a good idea to put the report out if we wanted to expand the little bit of space that we had. It was later that we were able to see, with our own eyes, the intensity of the violence and the displacements. We said that perhaps we should have issued a warning sooner.

Fabrice Weissman, MSF France Foundation/CRASH, Director of Studies from 2000 to present, MSF France/OCP Coordinator in Darfur, August 2005 to August 2006 (in French).



The discussions around the publication of this report went on for a long time. They were rough with Paris. Access was totally blocked for all MSF sections. We certainly understood the security issues but questioned whether we should remain completely quiet about a situation we'd witnessed, as we were one of the main actors along the border with Chad. What finally convinced us not to issue it was that we had teams that were really stuck in Darfur, and we didn't have a good reading of the risks they were facing. So, the report did not come out, but there was a lot of tension over that between the managers of the two sections. Several years later, the review of MSF France's operations in Darfur criticised MSF France for sort of vetoing MSF Belgium on publishing the report.

Jerome Oberreit, MSF Belgium/OCB, Programme Manager, Operational Director, 2003-2009 (in French).

B. MSF LOW PROFILE STRATEGY

In late November 2003, MSF Belgium/OCB, MSF France/OCF and MSF Holland/OCA agreed on a communication strategy for Darfur. It included the drafting of a "question and answer (Q&A)" memo and an "off the record" briefing to journalists.

This communication strategy excluded any public advocacy message on the situation in Darfur, to "not jeopardise access." Therefore, the public release of the MSF Belgium/OCB 2003 report on Darfuri refugees in Chad, was not to be considered.

In the following weeks, this report continued to be internally reviewed, praised, and criticised. Some asked that it be published, others asked to never publish the refugee report. The embargo on the release was regularly extended.



'Comms Strategy Darfur,' **Message** from Marieke van Zalk, MSF Holland Press Officer to MSF Holland, MSF France, MSF Belgium and MSF Spain Operation and Communication managers, 26 November 2003 (in English).

Extract:

During the teleconference of this afternoon MSF B, H and F agreed upon the following communications strategy for Darfur.

Taking the dilemma between access<--> operability <--> advocacy into account:

** Pre-phase

- develop Q & A to be able to respond to current media questions and to back up upcoming external communication.

** Phase 1

- timing: as soon as operations will be actually started up by MSF Holland & MSF France
- factual international press release about start-up of operations (incl. MSF Holland, Belgium & France)
- message: focus on medical needs and operability MSF (NO advocacy message to not jeopardize our access)

** Phase 2

- Off-the-record briefing to selected journalists on more details about 'hidden war in Darfur' and motivate them to raise awareness about the situation in Darfur. We will approach trustworthy journalists who will not reveal MSF as a source (via press office in Nairobi, Holland, France, Belgium, UK, USA, ...).
- timing: as soon as operations have been started up

** Phase 3

- advocacy message/testimonies report combined with Chad
- timing: to be decided

Action Points

- Draft press release (action: MSF Holland), input and check (MSF France, MSF Belgium)
- Make draft Q & A (action: MSF Holland), input and check (MSF France, MSF Belgium)



'Question and Answer Sheet' - Darfur Crisis, MSF, Draft, 3 December 2003 (in English).

Extract:

1. What is MSF doing in relation to the Darfur crisis?

Chad: Since October, MSF has been providing assistance in Chad to refugees that have fled Darfur since April, along the border in Tine, Birak and Adre. In refugee camps in these locations, MSF is running basic health clinics, providing nutritional support, and undertaking vaccination campaigns. The refugees are dispersed over a large area and have congregated in more 30 places. In total MSF is helping some ??? refugees.

Sudan: MSF has just completed an assessment mission in West Darfur and is about to undertake an intervention there in response to recent fighting in the area that has resulted in the displacement of up to approximately 60,000 (plus) people in the Wadi Sali and Mukjar Mahalias provinces. In addition, MSF plans to provide some basic support to the 37-bed hospital in Garsilla and provide mobile teams to the towns of Mukjar and Bindisi where many of the displaced have gathered. MSF is also preparing to support the 90-bed hospital in Zalingei and surrounding villages and also set up activities in the Intifada IDP camp that has an approximate population of 10,000, it is located on the outskirts of Nyala in South Darfur.

2. From what MSF has seen, what is the humanitarian situation like in Darfur and Chad?

Since the escalation of the conflict in February this year, 3,000 people are thought to have died and up to 600,000 (10% of the population) displaced according to the UN.

A further 70,000 refugees have crossed the border into Chad. [...]

From what MSF has seen the local authorities and communities in Chad have been able to provide some support to the refugees there. The situation is of concern and MSF is carefully monitoring the situation if there were to be a further influx of refugees into Chad. The refugees are very reluctant to return to Sudan in view of the harrowing experience they have had.

In Sudan an escalation of fighting in the last couple of months in west Darfur has led to the displacement of 60,000 people. The civilian population have had to flee their burnt villages and seek refuge in the larger towns. For the people MSF has spoken to security remains a key concern. There is also a mounting food problem.

3. What are the key health concerns being addressed by MSF?

Local health services in Sudan and Chad have either been destroyed by the conflict or been unable to respond to mounting health needs of the affected population. The Garsilla hospital was described to MSF by local counterparts as having been, in the previous months, "overwhelmed by wounded and sick people from the recent fighting." Drug supplies are running low, medical staff have fled and the infrastructure is inadequate for dealing with the crisis. Because many of the displaced have been grouped into specific locations, there is the risk of possible outbreaks of diseases such as diarrhea, cholera, etc.

There is malnutrition present and there is the potential for pockets of severe malnutrition to develop in Darfur and Chad. MSF is closely monitoring and assessing the nutritional situation, which is likely to deteriorate in the winter months.

Adequate supply of drinking water is also an issue, especially in the remote areas along the Chad border where people have to rely on unclean water sources.

[...]

6. What has MSF seen in terms of attacks on civilians in Darfur, which have been reported on?

There have been various reports of killings, burning of villages, aerial bombardments, looting, rape, and abduction in Darfur. In October MSF released a press briefing of stories it had collected from the refugees it is assisting in Chad that detail such atrocities.

(Refer to this document but no commenting on other events. An electronic copy can be sent.)

MSF teams in Sudan conducting assessment have heard similar stories and seen from the roads villages that have been burnt. MSF does not presently, though, have verifiable information on such occurrences.

(Refer to the account of the MSF Head of Mission on the MSF website and no speculation of what else has happened in Darfur. Also, Amnesty International issued a press release on 27th November highlighting human rights concerns in Darfur and the Government of Sudan's responsibility for these.)

7. Why are there problems gaining access to Darfur and what has MSF's experience been?

MSF was quickly able to respond to the Darfur crisis as it already worked in Chad and was able to respond to the refugees there.

In Sudan the lack of travel permits being granted by the Sudanese government, coupled with general insecurity, is preventing aid agencies from supplying urgently needed humanitarian assistance in Darfur. At the moment, MSF Holland has a technical agreement with the Government of Sudan to become operational within 2 weeks in Mukjar, Bindisi and Garsilla, while MSF France will work in Zalingei & Nyala.

Since the conflict escalated in February, receiving permits to access Darfur from Khartoum has been seen as extremely difficult. In September, the UN negotiated an agreement between the Sudanese government and the SLA to ensure "unimpeded access" to Darfur for aid agencies. The UN has openly criticized the Sudanese government for blocking access to Darfur. For its part, MSF has been busy processing the lengthy procedures by the Sudanese authorities to get needed drugs and humanitarian staff into the country and to Darfur.

The MSF presence in Eastern Chad attracted more refugees, knowing they could find assistance. Week after week, the growing influx of refugees led to a deterioration in health conditions.

On 17 December 2003, MSF publicly called for other agencies to increase humanitarian assistance before the situation further deteriorated.



'Refugee crisis in eastern Chad worsens,' MSF **Press release**, 17 December 2003 (in English).

Extract:

Since the beginning of December, at least 26,000 refugees have arrived in eastern Chad having fled the escalating conflict in the Darfur region of northern Sudan, according to MSF teams working at the border. "Conditions they face on arrival are harsh," explains Sonia Peyrassol, MSF Emergency Coordinator at the Chad/Sudan border, "having walked

for up to three days to escape the violence around their homes, they are greeted by totally inadequate shelter, a dire lack of protection and insufficient food.

This is exacerbated by extreme weather conditions, with the temperature fluctuating between 0 degrees at night and 30 during the day." Many of the people are in a deplorable state, with younger children being especially vulnerable. A large number of them have also lost family members following attacks on their villages, and there are clear indications that sexual violence against women has been frequent, although shame prevents rape victims from coming forward for treatment and counselling.

Finding clean drinking water is also likely to become a serious problem over the coming weeks. "MSF have made assessment visits to six towns along the border during the last week," says Peyrassol, "and while the need for basic aid is critical, agencies such as the UNHCR have been slow to react. Over the last two weeks, thousands of new families have arrived, and they are currently receiving absolutely no assistance."

The first refugees from Darfur arrived in Chad in July 2003 and MSF set up health posts in the border towns of Tine and Birak soon afterwards. Although the first wave of refugees, estimated to be up to 60,000, was assimilated into local communities, the increasing number of arrivals has now left the region entirely unable to cope. "We are currently giving about 150 consultations per day in our clinics," explains Peyrassol.

"The main health problems that we are seeing are malaria and respiratory infections, but there is also a threat of a meningitis outbreak, and with more people arriving daily, MSF is calling on other organisations to take up their responsibilities before the situation further deteriorates."

In the second half of January 2004, articles by journalists began to appear in the international press. These journalists visited Darfur in November and December of 2003 and were aided and supported by MSF teams. They described the scorched earth policy suffered by the people of Darfur and the desperate situation.



'Interesting info on Darfur!' **Message** from Aurélie Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad to Ton Koene, Agnes Wagenaar, Diana Numan, MSF Holland/OCA, 13 January 2004 (in English).

Extract:

Jean-Philippe, the journalist from *Le Monde* who stayed at our base for a few days, came back 2 days ago after a 17-day trip in Darfur. Very interesting experience that he shared with us when he arrived.

He entered Darfur with the help of SLM members, who accompanied and "protected" him during those 17 days. There were 15 of them; the SLM always move in big contingents to fight back the Janjaweed, who always attack in big groups as well.

He was quite shocked by the violence of the conflict (and it's not his first time in a war area in Africa) and described images of desolation, deprivation and very harsh living conditions for the villagers who still remain in Darfur.

He said that they travelled mainly at night (only on horses, a car would be too dangerous because of the noise and would be ambushed immediately). Most people stay quiet and hidden during the day. As far as he could see (when he was not travelling at night), there were still a lot of people living in the area. He was even surprised to see, in such an underpopulated and devastated area, so many people on the move. They were going in all directions: towards Chad, further inland in Sudan. Everywhere he could see people

on donkeys with few belongings moving from one place to another. From the people he has been speaking to, it seems that they feel very strongly about going back to their home village (their land), even if it is completely ... burnt and destroyed. They are very eager to go back as soon as possible to their land, even if the attacks have not stopped (which contradicts somewhat what we heard here in Chad: the refugees unanimously expressed that they will NOT go back to Sudan in the near future).

He confirmed that MANY villages have been completely burnt, nothing left from the huts and all the belongings inside have been burnt as well (trunks with clothes for instance) or stolen. He also reported that most of the war wounded that he saw had leg injuries. This does not mean that the Janjaweed shoot only in the legs but that those who have more serious injuries (gunshots on more vital organs) cannot survive due to the lack of medical services. He visited the SLM "hospital", which is located at the bottom of a gorge, in a hilly area. Almost no equipment to treat the wounded, who basically die slowly on a mat on the floor. [...]

Another very long email to read (sorry about that!) but Jean-Philippe is probably the only one who was able to access this region (difficult to track exactly where he went on a map: probably 120 km inland) and his stories confirm more or less what we have heard so far.



'Khartoum crushes the Darfur rebellion with fire and blood,' Jean-Philippe Rémy, **Le Monde** (France), 19 January 2004 (in French).

Extract:

Tulus, Achamara, Tur (Darfur) from our special correspondent [...]

During the day, government troops and their allies, Janjaweed militias ("horsemen") recruited from among Sudan's "Arab" groups, crisscross the bush. Unable to quell the rebellion, the regular army has armed them. In exchange for their aggressiveness, the militias loot the region. This tactic – the scorched earth approach – has been tried and tested in Sudan. It was used for 20 years in the other war, the one in the south, which the world hopes will be resolved soon through a peace agreement.

Just as the day belongs to the Janjaweed, the night in the savannah scrubland belongs to the rebels. [...]

When daylight arrives in this region without roads, schools, or clinics, it reveals a scene of desolation. Since spring 2003, the militias, backed by the army and its cannons, have been sowing terror out of sight. In the capital, Khartoum, and in neighbouring countries, humanitarian organisations and the United Nations have been waiting for months in vain for the promised authorisations to enter Darfur. In Chad, they watch as streams of refugees continue to arrive, scattered over more than 500 km along the border and numbering now around hundreds of thousands. In Darfur itself, nearly 700,000 people – perhaps one million, according to the highest estimates – roam villages that have been attacked, pillaged, and sometimes destroyed, far from the eyes of the world.

They flee at the slightest sound of hoofs. The name Janjaweed – sometimes called Peshmerga – is always on their lips. A 150 km voyage to the interior of the region explains this haunting fear better than words. The town of Tulus, for example, is one of many martyred villages. It was known for its weekly market, the wealth of its traders and its oil press. A Janjaweed raid on 16 October wiped out that peaceful prosperity. "They arrived at dawn, from three sides of the town at once, and they started shooting," recalls Mariam Abdallah Mohammed, whose husband was killed in the attack. "Some came on foot so that they could approach silently, followed by others on camel. There were several hundred men, all in uniform. They were shooting everywhere."

According to inhabitants, nearly 200 people died that day. They rest in large common graves, spiked with thorny branches to keep scavengers away. The lucky ones were whipped with a *chicotte* [a braided leather whip] and bear the marks of that beating.

Lists are being drawn up with the number of victims, dates of the attacks, and precise details of the number of cattle stolen by the militias. The rebels have tallied more than 2,300 villages attacked throughout Darfur. These places all look alike: families sheltering under trees, sleeping in the dust in the dry season's freezing temperatures and harsh winds. The remains of wrought iron beds emerge from circles of ash and blackened stones, which have replaced the huts of straw and mud. Soot marks on shop walls, their doors ripped open, are the marks of fire.

"Black versus red"

Inside one of these buildings in Tulus, Al-Tayeb Suleiman crumbles a charred bloc, the last remnants of a torched millet harvest. "Over the last two or three months, they systematically burned what they couldn't carry off," he says. "They want to starve the population to chase them out of Darfur and seize the lands for their Arab brothers!"

In this prosperous agricultural region, peasants who define themselves as "black Africans," or black-skinned, have coexisted for centuries with tribes of Arab origin, "redskins." The former are primarily farmers, while the latter raise cattle, creating inevitable conflicts that were previously resolved by local custom. That is only a memory now, destroyed in the blaze of the civil war. "Blacks against Reds, now they hate each other," one resident whispers. A woman next to him counts the number of her family members who have been killed in attacks: more than 17. "They even kill the village wise men and burn the mosques." The group leader adds, "Many women are raped. When we found one of them, she could no longer walk. Now our sons want to join the rebellion over there, on the rock."

Over there, further south, the Jebel Marra, a steep mountainous massif, rises. The rebel leader has established a new headquarters there on a summit, defended from below by the immense marshy bed of a wadi, then by a gorge and, finally, a steep talus slope. In his hideout overlooking the plain, the SLM/A leader, Abdul Wahid Mohamed Al-Nur, sits on a mat. An array of satellite telephones, which he uses to reach his sector commanders, is spread out in front of him. New attacks are occurring, and new villages are being burned everywhere. For him, the rebellion had become inevitable: "Darfur has been marginalised since independence because the Arabs in power in Khartoum wanted to keep us in primitive conditions. Now, we are fighting for our rights. We want schools, hospitals, and our share of the national wealth. All the Arab tribes are united against us. Some are coming from the countries of the region, from Central Africa, Cameroon, and Niger. They've been promised our land, but now all our peasants want to fight. I don't have enough weapons to supply all the recruits."



'Conflict in Darfur, Sudan crosses the border into Chad,' Jean-Philippe Rémy, **Le Monde** (France), 27 January 2004 (in French).

Extract:

Toumtouma, Adré, Ouandalou (eastern Chad), from our special correspondent
There are only a handful of them, sitting on their heels, tiny silhouettes shivering in the cold morning air. A few children, alone and silent, waiting for the Médecins Sans Frontières (MSF) vehicle. The mobile clinic stops weekly in Toumtouma, a village in eastern Chad, where 2,000 Sudanese – men, women, and children – together with their flocks, took refuge in December 2003, after fleeing neighbouring Darfur. In the west of

their country, where a war of rebellion is underway against the Khartoum government, government troops have armed “Arab” militias who are ransacking the region and driving the villagers to take refuge in Chad.

In Toumtouma, a crowd had gathered the last time the MSF vehicle stopped there. This morning, there is not a living soul – other than a few ill children awaiting treatment. Behind them, hoofprints and makeshift shelters made of broom corn, now deserted, are the only traces left by the refugees. “But where did all the people go?” asks Dr Ahmed Abdelbaghir, with surprise. Finally, after several hours of questions to the distrustful residents of the neighbouring villages, he was able to determine that two days before, “armed men on horseback” from Sudan had made an incursion into Chad, stealing the refugees’ livestock, and killing one man. The refugees fled yet again. Only a few families have dared come back to bring their children for medical care from MSF.



There was still no information available publicly about what was happening, so all the journalists came to see and understand what was going on, who was fighting whom, and what the civilian populations were experiencing.

Jean-Philippe Rémy, from Le Monde, left one night on horseback. When he came back, he had lost 10 kilos in one week. We figured that he must have had a gruelling experience.

Aurélié Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan, April 2004 to April 2005 (in French)

C. NYALA: FORCED RELOCATION OF INTIFADA CAMP

Meanwhile, in December 2003, MSF France/OCP and MSF Hollande/OCA managed to open programmes to assist displaced populations in Nyala in South Darfur. Exploratory missions were implemented in the area during which, the MSF teams witnessed the outcomes of the Janjaweed’s scorched earth policy: arson attacks on villages, killings, and rapes.

They also witnessed an escalation of the military means deployed by the regime, particularly flyover fighter planes in the region on national day.

MSF opened a clinic to take care of the displaced, mostly women and children since the men were killed. There were many wounded among the displaced, who were crammed in the Nyala camps. MSF teams began to witness arrivals of malnourished children.

The displaced struggled daily against the precarious living conditions and obstacles to access aid posed by the Sudanese administration, represented by the HAC. The authorities did not want the displaced near Nyala and were planning a camp relocation to outside of Nyala in mid- December.



'Re: Draft report Sudanese refugees in Chad/MSF Belgium,' **Message** from Patrice Page, MSF USA Advocacy Officer to Catrin Schulte-Hillen, MSF USA Programme Director, 17 December 2003 (in English).

Extract:

So, both MSF Holland and MSF France are now in Nyala. [...] Of course, both sections have a technical agreement from the GOS to work in southern and western Darfur, but this is only for GOS controlled areas. They think that they still have leverage to try to get the green light at field level to access SLA areas as well as to bring about, with local leadership, the agreement to move freely to GOS areas. At least they want to try step by step at field level before coming to any conclusion on the access issue. Marcel was describing a little bit of a "humanitarian circus" situation, with a significant number of NGOs stuck in Nyala and Al Fasher, not able to move around. So, for the moment, very low profile on communication/ advocacy issues as situation on ground very tense, agreement with GOS very fragile and needing to be tested on ground, communication with SLA needs to be established as well on ground (they apparently had contacts in Chad up to now). Of course, MSF needs to move around/start operations in Darfur to have a better understanding of the humanitarian situation there. A combined Chad/ Darfur message is therefore more realistic beginning of next year.



'Darfur-Sudan: MSF in Nyala, Zalingei, Mornay,' MSF France/OCP **Update**, 9 January 2004 (in English, in French).

Extract:

Our activities in Darfur, a province where SPLA rebels (Liberation Army of Sudan) and government forces are confronting each other, started three weeks ago. In southern Darfur, our team is running a camp of 6,000 displaced persons in Nyala, the main city of the province. Fighting is taking place at 20-30km from the city. MSF has set up a clinic and provided first emergency equipment and water. To be continued. The authorities want to move this camp 20 km out of the city. However, the displaced do not want to move as the security situation has not improved. Other activities were started in Zalingei (clinic, distribution of equipment, mobile clinic). 7,000 to 8,000 displaced persons are living in schools, mosques, etc. They are gradually regrouping in different sites, especially near markets. IDPs are arriving every day with nothing, and a lot of people say they do not want to go back home and cannot go back home.



We received authorisation to open an office in Nyala and launch activities there in an informal camp for displaced persons. The emergency team arrived in December with a full charter plane. When we decided to conduct the exploratory mission and push to launch operations, we didn't have any medical data yet. The only displaced people we saw when we sent the full charter were the several thousand people in the Nyala camp. That's what triggered things. But we still hadn't seen what was happening in Darfur, particularly in western Darfur. Our operations in Nyala helped us get a foot in the door and then conduct more exploratory missions out towards Zalingei. In fact, we were the only ones who could start working because we were funded with our own resources. Most of the NGOs depended on institutional donors who were saying 'don't go.' Their priority was the peace agreement

between North and South Sudan, and they didn't want to annoy Khartoum above all. Later, we were authorised to extend the exploratory missions out towards Zalingei.

*François Delfosse, MSF France/OCP, Coordinator in Sudan, April 2003 to April 2004
(in French).*



Right at our first meeting, the Humanitarian Aid Commission (HAC) announced that we were no longer authorised to work in Nyala. Then they gave me authorisations to continue to conduct exploratory missions. At the time, we were the only ones travelling through the region by car for these missions. The HAC guy came with us to Mornay. He was very open to talking with patients. I had passes in my name, pre-signed, and I wrote whatever I wanted on them.

We also went out towards Garissa to visit the nomadic tribes in the camps, and I held some medical consultations. I informed the tribal chiefs about what we were doing.

The HAC had authorised us to go to the interior of the Jebel Marra, but the soldiers didn't let us through. And, in those cases, they were not very pleasant.

We tried to go at times when there was less risk of attack, to find out if there were even a few people, in places where attacks had already occurred. Things went OK along the Zalingei road. But there were hot spots, such as Nertiti. And for other areas, we had less information because the group of soldiers was different.

We entered a village during my first visit to Mornay. On the way there, everything seemed normal, even if the villagers were suspicious. On our way back, they were fleeing the Janjaweed and asked us to notify the authorities so that they would come to protect them ... They didn't think that these Janjaweed were linked to the government. They assumed they were looters. I saw the Janjaweed, from a distance, attacking villages on horseback. But when there was an attack and we could see that the entire village was fleeing, we didn't hang around. When I went to see the military authorities in the barracks, I met the Janjaweed leaders.

We also heard the statements of displaced persons who arrived in Zalingei on market day. As the wounded flooded in, we noticed that their wounds matched what people were saying: not many wounded men, which meant a high number of deaths; women with burns from having been thrown into fireplaces; and a lot of wounds, primarily in the back. I talked about this with the military zone commander.

Dr Jean-Clément Cabrol, MSF France/OCP, Emergency Coordinator in Darfur, December 2003 to January 2004 (in French).



There were already 10,000-20,000 displaced persons on the periphery of Nyala. Jean-Clément conducted an exploratory mission to Zalingei, then Mornay and then El Geneina. He spent a week going there and back. During that time, we set up the clinic in Nyala. We hired medical assistants – a position somewhere between a doctor and a nurse – because it was difficult to find doctors.

The authorities in Nyala put a lot of obstacles in our way: 'We're not authorising you to be there, those people shouldn't be there, they should go home.' And as time went on, more and more people arrived. We were already seeing cases of malnutrition.

Jean-Sebastien Matte, MSF France/OCP, Logistics Coordinator in Nyala then Mornay, Darfur, December to March 2004 (in French).

The Sudanese authorities wanted to relocate the displaced in Nyala to Belel, a new camp in the middle of nowhere, 20 kilometres from the city centre, in a conflict zone.

MSF and other agencies opposed this dangerous relocation for health and security reasons.

Subsequently, MSF France/OCP was asked by the authorities and by OCHA to inform the displaced that their services would be transferred from the Nyala Intifada camp to Belel.

On 14 January 2004, MSF France/OCP opposed the authorities' request to inform the displaced and transfer their services. MSF closed their clinic in Intifada but refused to open in Belel, deeming the action as forced displacement.

MSF Holland/OCA eventually accepted to work in the new camp.



'Nyala, Darfur, Sudan', **Situation Report**, MSF France, 8 January 2004 (in French).

Extract:

Intifada Camp:

Estimated population: 6,000-7,000 people as of 15 December 2003. Probably close to 9,000 as of today.

New arrivals daily in small groups of 10-50 people.

In the last two days, 100-150 people arriving/day ...

Always the same awful stories of villages burned after slitting children's throats, women burned, and men shot to death.

People usually arrive in the camp in the late afternoon, with trucks full of goods, some riding on donkeys, others on foot.

The last arrivals from Kodjia (approximately 70 people) fled to Nertiti to reach Nyala. The road is blocked in Nertiti and many of them haven't reached Nyala yet. Apparently, four people with bullet wounds (unconfirmed) were taken to the Nyala hospital. The others reportedly went to the hospital in Zalingei.

People are saying there have been a lot of deaths (Kodjia is a collection of 20 villages) and attacks by men on horseback and uniformed men in pick-up trucks.

Today, 80% of the camp's population are women and children who've come directly to Nyala because it's the only 'safe' place and the only "displaced person's camp that's really organised". The most recent arrivals include more men.

Since this camp was created, the HAC has sought, at all costs, to move the displaced persons to a different one – Belel – located 20 km from the centre of Nyala.

The only (valid) reason that the HAC has offered is that the land where the displaced populations are currently staying is private and the owners want it back.

This single reason is creating a lot of problems, if only in terms of providing the minimum required for the displaced persons: water, latrines, distribution of non-food items (NFI) and food distribution.

On 22 December, the negotiations resulted in an agreement to set up an outpatient clinic with the Ministry of Health (MOH), Sudanese Red Crescent (SRC) and MSF France. Ultimately, this OPD [Outpatient Department] has become an MSF OPD because since the clinics opened, the MOH hasn't been paying salaries and the SRC has been late in paying theirs, so we have taken responsibility for everything.

Despite this small "victory" in terms of a concrete approach to helping the displaced persons, it's been very hard to act and make decisions regarding the camp.

By "getting around" certain of the HAC's "restrictions", we've used several criteria for distributing the NFI (blankets, fuel containers and soap): children, pregnant and nursing women from the SFC [Supplementary Feeding Center]. Children from the clinic's TFC [Therapeutic Feeding Center]. Vulnerable.

=> 1,100 beneficiaries to date.

Today, the most important development remains moving the population from the Intifada camp to Belel. Talks have been underway for months and months, without even knowing if the people themselves have agreed to move. Ill-defined confabs among the displaced persons' committee, the HAC and the SRC.

The HAC has been talking up a meeting on 15 December with all the Intifada A and B leaders, at which all the leaders reportedly gave their agreement.

Surprisingly, the leaders and the population are saying something completely different. We note that MSF has never been the leader of the "no" position. The people themselves – staff, patients, leaders – come to us, in the camp, in the clinic. [...]

We are concerned because:

- The so-called "camp" is in no way any better than the Intifada camp. In addition, it's not ready to accept the displaced persons and could be flooded (we're not geologists so this needs to be confirmed!!!). Visit on the 8th and confirmation by MSF France and MSF Holland [...] that NOTHING is ready for the arrival of 7,000 people, other than a hand pump and other so-called buildings that we can't find and latrines that have been dug in defiance of common sense.
- What's more, it's far from everywhere and people don't feel safe going there. None of our medical assistants want to work there and it's not just a matter of getting there. They also mention insecurity and danger to women and children. They point to the Janjaweds every time.
- The decision was made without the agreement of the main actors involved, even if they say the opposite.
- The WFP (not the worst) and OCHA (especially) are clearly not fulfilling their mandate. Even if there's pressure from the HAC/government, they're not doing their job.
- An OCHA representative who's usually based at El Fasher confirmed that, in terms of security, Belel was a perfect place and that all the displaced persons were welcome in the town. He showed up but knew nothing about the area and lacked the slightest knowledge of the history of the Intifada camp. He came for a few days, to replace the Nyala delegate who's on vacation. Khartoum wants progress on this!!! Likely pressure on Khartoum, too.

The WHO delegate was clear that even if we (NGOs and international organisations) don't agree, they'll move people by force. The guy from WHO is clearly pro-HAC.



'Minutes of MSF Holland/OCA Field Meeting with HAC in Nyala,' 11 January 2004
(in English).

Extract:

Special meeting focusing on Intifada Camp relocation.

Introduction to meeting agenda by [J] of HAC; [J] started the meeting in Arabic and stated that it would be conducted solely in this language and that the WHO representative could translate for the two English speakers from OCHA and MSF Holland. It should be noted that throughout the translation WHO often referred/translated as "we" not HAC when presenting the thoughts of the government.

- First point was that MSF France & Holland had problems pertaining to the government's plan to relocate the population of Intifada IDP camp to a new site near Belel.
- [...] I strongly emphasized that no organization has the right to make contact with the IDP's regarding this move except for HAC and (maybe) OCHA.
- [...] had contact with HAC Khartoum after this morning first meeting with OCHA and MSF and stressed that it is only HAC (through the government) who is solely responsible for, the safety and security of the IDP's.
- Stressed the point that the present Intifada camp lacks basic services and in an earlier meeting between the Minister for Social Welfare and the x 11 leaders of the camp IDP committee the population requested the move to a new location with better services.
- Accordingly, the government decided to happily provide for this request from the IDPs.
- The new site has been chosen with great detail and the end result will be a camp with x 6 pumps, sufficient latrines, a Mosque, x 3 schools and a police station with 35 officers.
- Stressed that the government does not differentiate between ethnic groups, and this has been considered with this move.
- Also, that HAC and the authorities have a great deal of experience in providing IDP camps in the area.
- Again, stressed that the only authority to discuss relocation is the Government of Sudan and no one else.
- The meeting held today regarding the move will only be with the camp leaders, the Commissionaire of Nyala and the Minister for Social Welfare and HAC.
- NOTE: This differed from the promise of the earlier morning meeting in which it was decided that OCHA and UNICEF representatives would be present to hear the wishes of the IDP committee.
- HAC also stated that the meeting was not to ask them if they wanted to move, but ONLY to reassure them that security at the new site is fine.
- Stated that x 6 trucks with fuel stood ready, now, to move the camp population.
- HAC said that the only people resenting the move were NON-IDPs and that these people were from Nyala, and they wanted to keep accessing services at the present location to then sell on the local market. WHO representative at this time decided it was important to reaffirm this item to MSF, as he (personally) knew that this went on.
- HAC reaffirmed that the land the current site occupies is private and these people want their land back as soon as possible.
- [J] then stated very strongly that 'a warning' was being given to MSF France not to intervene in this matter. If they do intervene, then they should seriously consider NOT working in the state.
- Stated that the authorities have a problem with MSF criticizing the government.
- HAC clearly stated that MSF France has been approaching the people and asking them if they want to move and this will not be tolerated. MSF cannot approach the people and ask these questions – it is only the government that can speak with the IDPs on

this matter. It should be noted that this was the first time that anyone else was allowed to speak other than HAC or the WHO representative who was translating.

MSF comments to HAC and other agencies present:

- MSF Holland stated (very diplomatically) that the point now being made was a very critical one; MSF France or Holland personal, are not approaching persons in the camp and asking them whether they want, or have agreed, to be relocated. It is the population of the camp who is approaching the workers of MSF, both in the clinic and outside, stating their desire not to be relocated.
- MSF would never presume to represent the IDPs on this matter; we are only relaying stated concerns regarding their anxiety around the proposed relocation.
- All agencies, not just MSF, must listen to these concerns about any resulting insecurity, isolation from Nyala (again security), access to proper shelter, food and health care that might occur from this move.
- We are speaking about a group of people who have already experienced displacement and the pain that accompanies this terrible event. It is for this reason all agencies present at the morning meeting (including the Humanitarian Aid Commission) agreed that any apprehensions the IDPs might have regarding any relocation must be addressed.
- MSF is not in any way criticizing the government, or HAC; we are commenting on the same concerns as have been pointed out by OCHA, UNICEF, WFP (and HAC) in earlier meetings. The people must agree to move and all technical details (proper water & sanitation, transit shelter, NFI items, food distribution etc.) must be met before any move is undertaken.
- HAC replied that maybe MSF is too ready to believe what they are being told by only a few people. The security apparatus has been reporting to HAC that x 2 persons are benefiting from services at the camp, who are not IDPs, and these persons are providing MSF false information.
- MSF replied that it is not only two persons approaching them about not wanting to move; the OPD sees approximately 200 consultations per day and a significant number of people are stating their concerns about being relocated.
- OCHA representative (finally) stepped in at this point and stated that upon his very first visit to the camp he was approached by many people, including members of the leaders, who emphatically stated that they did not want to be relocated.
- WFP representative at this point also interjected that the government cannot blame MSF for bringing the requests of the camp population to the authorities.
- HAC then admonished the WFP representative [on the grounds] that WFP had not provided food for some time in the camp and wanted to know why.
- WFP representative stated that it was the technical committee and HAC who had requested that food and NFIs [non-food items] be distributed only when the population arrived at the new camp. HAC had to accept this point, agreed, and then redirected blame back to MSF again.
- [J] stated that MSF France resented an MD [medical doctor] presented to them and this seems to be a problem with MSF. We must remember that the information the people are giving you (MSF) is doubtful.
- [J] and HAC are not trying to be reproachful towards MSF but as only a few people are objecting to the move and MSF seems to be encouraging this amongst others. [...]
- OCHA reminded [...] that he had also been approached by some of the camp population and asked why had the thoughts/decisions made at that morning meeting changed. Why is the meeting at the camp aborted in which they could ask the people directly and hear their response as a concerned group?

- HAC replied that since the morning meeting there had been a decision made by the Commissionaire that the government would meet with the leaders of the IDP committee and that this would be a closed meeting as it was only the government's affairs. These are affairs of security and state. We requested to be part of this meeting and the reply was NO.
- A separate meeting with OCHA would (inshallah) occur the next day.
- At this point all agencies requested that the Commissionaire and the Minister for Social Affairs meet with all involved; [...] said he would relay this request and let us know.
- [J] concluded by saying that it was only a very small group that wanted to stay at Intifada and the reasons why they did not want to move was known to them.



As usual, the HAC has blocked efforts to ensure that the conditions for assistance can be met. This created a critical humanitarian situation and sent the message to the authorities and the United Nations that people couldn't be housed in this camp under decent conditions and had to be moved by force to another one. However, what was preventing things from operating normally in Nyala were the obstacles that the authorities placed in our path to supplying water, etc. This situation was being maintained knowingly and OCHA was aware. We 'fought' to show that the issue in Nyala camp was, above all, access to aid. It happened quickly, and it was brutal. Within two or three days, they emptied the camp and people ended up in trucks. Living conditions in the first camp were horrible, but that was because assistance was being blocked. On the other hand, it was authorised in the new camp. The transfer was carried out with OCHA's support. We – MSF France – didn't want to follow the move. The Dutch let several days pass before finally agreeing to work in the new camp.

*François Delfosse, MSF France/OCP, Coordinator in Sudan April 2003 to April 2004
(in French).*

In anticipation of a peace agreement on South Sudan planned for around 20 January 2004, the MSF operational and communications departments decided to issue a “factual” and “comprehensive” press release gathering information from all MSF operational sections in Darfur. A draft was written by MSF France/OCP, describing “violence against people in both South Sudan and Darfur and the lack of assistance to those who fled Chad.”

The MSF Belgium/OCB report which was built on accounts of Darfuri refugees in Chad, was again praised but challenged for giving no overview of MSF activities in Chad and Darfur.

On 9 January 2004, UNHCR issued a press release based on a series of interviews with Darfuri refugees in Chad, describing an increase in militia attacks on Sudanese villages bordering Chad. The UNHCR release further emphasized MSF's public inertia in releasing similar information documented and described in the unpublished MSF Belgium/OCB Chad report.

While some MSFers continued to recommend a low profile on the Chad Report, to be able to develop operations, others wondered if it was not “unethical for MSF to sit on this information when the possibilities to really help the people in Sudan itself are [were] limited?”



'The Coms week ahead (12-18 January),' **Message** from Anouk Delafortrie, MSF International Communication Coordinator to LIST Press, LIST Web, Phil Clarke, MSF UK, Marine Buissonnière, MSF International Secretary General, 9 January 2004 (in English).

Extract:

Dear all, [...]

Advocacy and communications strategy is currently being discussed among sections. [...] A factual communication on Darfur is in the pipeline, to be expected as of next week. MSF France started operations in Darfur and the idea is to communicate before an attempted Sudanese peace deal around 21st Jan.

On the situation in Chad, where MSF is witnessing a lack of assistance and protection for the tens of thousands of Sudanese who have fled the Darfur region since June 2003, a lobby strategy will also be pursued from next week onwards. As soon as the green light is given to go public, back-up from all sections would be appreciated as this is a terribly underreported drama.



'**Minutes** of MSF International Directors of Communication Meeting,' 12 January 2004 (in English).

Extract:

Violence against people in Darfur, Sudan, and lack of assistance to those who fled to Chad: Stephan [Oberreit, MSF France Communications Director] thinks the MSF Belgium [...] report is okay, although shame it focuses on refugees only and does not give a brief overview of MSF actions over the last 6 months. MSF France operational in Darfur for 15 days but very difficult. It will be a struggle to communicate. But aiming to have press release out before attempted Sudanese peace deal and to incorporate info from other sections (21 January).

Questions/remarks:

The press release is unlikely to be hard-hitting and effective.

Is it not unethical for MSF to sit on this information when the possibilities to really help the people in Sudan itself are limited?

Risk of sections communicating unilaterally if no progress.

Suggestion to move forward: 1st step = have the refugees in Chad talk about the situation in Darfur to visiting media, without referring to MSF; MSF only to be quoted on the situation of refugees in Chad.



'Sudanese refugees report atrocities, says UNHCR in Chad,' **Message** from Patrice Page, MSF USA Programme Officer to Nicolas de Torrente, MSF USA Executive Director, Kris Torgeson, MSF USA Communications Director, Kevin Phelan, MSF USA Press Officer, 12 January 2004 (in English).

Extract:

Hey guys,

Our organization likes to talk about the inefficiency of the big UN bureaucracy ... Well, one week after the arrival of the UNHCR/ER team in Abeche, a press release on the testimonies from the refugees about Darfur's nightmare ...

Sudanese refugees report atrocities, says UNHCR in Chad ABECHE, Chad, Jan 9 (UNHCR) - An emergency team from the UN refugee agency visiting the Chad-Sudan border has heard reports of killing and looting in western Sudan, and witnessed poor living conditions for thousands of Sudanese refugees in Chad.

On Thursday, the UNHCR team concluded a two-day mission to the north-eastern Birak area, where they visited the site of Djoran, 15 km from the Sudanese border. They found thousands of refugees (estimates range from 4,000 to 8,000) living in precarious conditions after fleeing western Sudan's Darfur region. [...]

According to the refugee leader at Djoran – who himself arrived last August – 20 to 30 people are still arriving every day due to an increase in Arab militia attacks on Sudanese villages bordering Chad in the last 10 days.

UNHCR interviewed some of the recently arrived refugees, who gave similar accounts of their flight: Militia men – known as the Janjaweed – usually attack the villages in the early morning. They shoot people in the streets before raiding the houses and stealing everything, including the cattle.

There have also been reports of rape and kidnapping of women and girls by the militia. These incidents could not be confirmed by humanitarian agencies – who are not allowed to work in the Darfur region nor by the refugee women themselves due to communication problems and the fact that rape is a taboo subject. [...]

An estimated 95,000 Sudanese refugees have crossed into Chad since last April, with 30,000 arriving in the month of December alone due to an increase in militia attacks in Sudan's Darfur region.

MSF France/OCP decided not to let forced relocation of the Intifada camp population go unexposed. On 15 January 2004, an MSF press release denounced this forced relocation explaining that 90% of the new camp was empty, because people fled. MSF addressed concerns about the health status of the fleeing population again, and for the 10% who remained in the camp, living in dire conditions.

The release of the planned MSF “factual” and “comprehensive” press release, based on information from all MSF operational sections in Darfur was postponed.



'Darfur – urgent,' **Message** from Stephan Oberreit, MSF France Communications Director to List Press, 14 January 2004 (in English).

Extract:

Hi All

We were planning a comprehensive PR for Monday 19th at the latest (currently gathering more info on situation of population & MSF activities), but things in the field are getting worse in Nyala, so we decided on more immediate com:

- the Sudanese authorities have talked for some weeks of moving the 7,000 IDP living in Intifada camps in Nyala to another location, because the current camps are on private land – this population is in bad states (estimated high mortality), growing malnutrition
- authorities announced yesterday that they will move the Nyala IDPs to a location 20 km away, but in a place where nothing is ready in terms of water, shelters, ... to accommodate them – today the police have moved into the camp creating some panic and later started to pick up people
- then they stopped, and no one was driven away, but the pressure is still on.

Our communication plan as of now:

- come out tomorrow Thursday with a PR specific on the Nyala situation and general info on Darfur context
- have a more comprehensive PR with all info we have on the various areas we are operational in and what MSF is doing by Monday



'Sudanese authorities begin forced relocation of vulnerable populations in Nyala - MSF staff prevented from distributing drinking water - MSF concerned about the health status of this displaced population and their intended relocation sites in conflict zones,' MSF France **Press release**, Paris, 15 January 2004 (in English, in French).

Extract:

Sudanese authorities have begun the forced transfer of displaced people from two camps in Nyala, to new camps located some 20 km from the city in a zone that is not safe and the assistance in place is insufficient for this already vulnerable population. Some 10,000 people had been living in the camps until now. This relocation started yesterday (January 14) when Sudanese authorities arrived at the camps and began the forced transfer of people by trucks to the new sites. This operation was suspended later in the day when, to escape the intended relocation, a number of the displaced fled in panic. Amongst those who fled were families with severely malnourished children who had been under the care of MSF and did not arrive for their treatment. MSF had almost 30 children in these two camps receiving treatment for malnourishment.

This morning, when Sudanese police and other authorities arrived, the camps were up to 90% empty, the population having already fled. MSF teams were prevented from distributing drinking water to the people who remained. For the second consecutive day, some malnourished children have not been able to receive the vital care their condition demands.

This displaced population is spread around Nyala in two impromptu camps where between 50 and 150 newly displaced arrive every day.

These people usually arrive at Nyala, empty handed – after having suffered from some act of violence and having had their village and their harvests plundered and burned – in the hope of finding a safe haven and vital assistance. In the Nyala camps, MSF provides basic health care and treats the severely malnourished children, as well as distributing basic goods (blankets, jerrycans, etc.) and drinkable water.

The relocation is being undertaken even when indicators show that the health of the population is already precarious. At present, mortality rates are already high in the camps where there is minimal help: in the last two weeks, there have been 6 deaths/per 10,000 people/per day for children under the age of five. This is a rate that indicates an emergency medical situation.

This transfer promises to have greater consequences for this already vulnerable population. The new locations are in an area where access by humanitarian organisations is difficult because of insecurity. In addition, little has been prepared to accommodate those who are being forcibly relocated to these sites. The absence of shelter and food distributions, insufficient access to water and latrines render these locations unsatisfactory. Moreover, the population fears for its own safety as these new camps are located in a region where there is ongoing fighting.

For more than a year, Darfur, located in western Sudan and about two-thirds the size of France, has been a conflict zone which has caused the displacement of some 600,000 people and affects almost one million people in entire province. MSF has been providing medical and nutritional care to the displaced here since the end of December 2003, particularly those in Nyala, the largest city of Darfur, where nearly 10,000 people have found refuge fleeing the violence and attacks on their villages. However, the majority of the displaced remain inaccessible to any aid.

Following the press release publication, Jean-Clément Cabrol, the MSF France/OCP Emergency Coordinator in Darfur, sent a letter to the governor of the region explaining why MSF opposed the transfer of displaced population to Belel.

The MSF France/OCP Coordinator in Sudan, François Delfosse, was summoned by the Sudanese HAC and received a warning for “lack of collaboration with the government in Nyala.” The coordinator was informed that this was the last warning before his own expulsion from Sudan. The authorities said that in any case, the Emergency Coordinator in Darfur, Dr Jean-Clément Cabrol, was to be expelled. Dr Cabrol already left Sudan, so the authorities asked the French embassy to have him returned, so they could expel him formally. This did not happen, but Cabrol was persona non grata (PNG) in Sudan for several years.



I was called in and I received this official letter saying that if we spoke out again, as the Head of Mission, I would be expelled. They wanted Jean-Clément, but he had already left! They wanted him to come back so that they could throw him out! It was a very symbolic game: ‘We’re going to throw the coordinator out.’

*François Delfosse, MSF France/OCP, Coordinator in Sudan April 2003 to April 2004
(in French).*



I wrote a letter of protest to the governor. Our Sudanese deputy, who translated the letter for me, had a brother who worked in the intelligence service. He said to me, ‘You’re overstating, the governor isn’t going to be happy.’ In any event, I was leaving. I said to myself, ‘We’ll see what they’re made of.’ They weren’t happy because they had decided

to throw me out, but I had already left the country. So, they asked the French Embassy to return me to Sudan so that they could expel me formally. François was summoned by the Khartoum authorities. I didn't come back, and they declared me persona non grata in Sudan.

Dr Jean-Clément Cabrol, MSF France/OCP Emergency Coordinator in Darfur, December 2003 to January 2004 (in French).

On 20 January 2004, the MSF international communications coordinator suggested a rework of the draft on the Darfur “factual and comprehensive” press release, previously suspended for MSF communications on Nyala. The coordinator reported that, “the report on the situation of refugees across the border in Chad and their testimonies (why they fled Darfur) could be possibly greenlighted.”

The draft press release included information from MSF Holland/OCA and MSF Belgium/OCB teams in Chad concerning severely wounded patients due to bombardments in Darfur. However, the release was withheld again.

On 22 January 2004, MSF France/OCP, MSF Belgium/OCB and MSF Holland/OCA confirmed that “all communication on Darfur will be without any mention of MSF activities in the wider region.”

Only “trusted” journalists would be given a “briefing paper” drafted by MSF France/OCP, entitled 'Darfur-Sudan - A War Behind Closed Doors: Conflict in Darfur Rages Against the Backdrop of the Sudan Peace Process.'



'Darfur comms,' Message from Anouk Delafortrie, MSF International Communications Coordinator to MSF Movement Darfur Communication Network, 20 January 2004 (in English).

Extract:

Dear all,

Briefly on Darfur communications: MSF France is preparing a new press release. Realistic aim is to issue it on Thursday morning (slight chance: tomorrow). The release will incorporate info from MSF Holland and MSF Belgium, which has received severely wounded people due to bombardments in Darfur.

Caroline, Lucy, and Marieke are working together on this. POSSIBLY with the press release: - the report on the situation of refugees across the border in Chad and their testimonies (why they fled Darfur...) might be green lighted for public communications. But wait & see here. – MSF HoM Jean-Clement Cabrol should be back from the field and maybe available for interviews.



Minutes of the MSF France Board of Directors Meeting, 20 January 2004 (in French).

Extract:

Sudan (Darfur)

A meeting was held with the Sudanese Minister of Humanitarian Affairs, who warned MSF about its lack of cooperation with the government. Total expulsion from Sudan is unlikely, but the opportunities to work in Darfur could be compromised.

This situation raises questions about our communications strategy, which we should coordinate with the other sections.

We should focus on direct contacts with journalists to help ensure that articles like the ones in *Le Monde* and the *New York Times* are published.

The items to work on are:

Contact with Dominique de Villepin, French Minister of Foreign Affairs, before his planned visit to Sudan.

Visit to Sudan by an MSF board member, accompanied by an Arab speaker.

Briefings of individual journalists.



'Darfur com intention,' **Message** from Stephan Oberreit, MSF France Communications Director to MSF Darfur Communication and Operations Network, 20 January 2004 (in English).

Extract:

Hi all,

Following the PR on Nyala/Darfur, the govt of Sudan has reacted very strongly, warning the HoM of MSF orally & by writing that this was the 'final warning' before expelling MSF. This comes at a time when we are trying to open more doors for operations and therefore the field and Ops would like for the time being that com on Darfur continues but without MSF being quoted or mentioned at all on the context. This means doing 'off' briefings of 'trusted' journalists. So, the intended 'comprehensive' PR is put on hold.

We are going to send someone from Paris asap to discuss with Sudanese authorities/HAC the 'warning' and our operations.

We will be sending to the network by Thursday morning at the latest a briefing paper that com officers can use to brief journalists insisting on the off status for MSF. [...]

All this com strategy will be regularly re-evaluated according to the situation in the field.



'Fwd: Conclusion of teleconference/Darfur-Chad,' **Message** from Jerome Oberreit, MSF Belgium/OCB Operational Coordinator to Mercedes Tatay, Thierry Allafort, Xavier Guinotte, Christophe Fournier, Pete Buth, Marcel Langenbach, Aine Markham, Christopher Stokes, Ibrahim Younis, Jan Weuts, MSF Belgium/OCB Khartoum, Cellule 2, Cellule 4, 22 January 2004 (in English).

Extract:

Dear all,

Following the teleconference on 22/01/04 on Darfur between MSF France, Holland and Belgium, here are the conclusions:

1. MSF Holland HoM will officially request the Gouvernement of Sudan for the permission to access Western Darfur from Chad.
2. All communication on Darfur will be without any mention of MSF ('off' approach as the comms would say) and done through 'trusted' journalists. MSF F to circulate the 'off' briefing paper.
3. A guideline on how to communicate for the team in Chad will be drawn up to ensure we can communicate if needed (i.e. if press interest starts focusing on Chad and refugees) but as MSF we will remain very factual and medical about what we are seeing in Chad and no speculation about what is going on in Darfur.
4. Should journalists want more information on Chad they can also be directed towards
 - Human Rights Watch, [...]
 - Amnesty International, [...] I have not contacted either directly but have been getting general information from HRW [...]
6. MSF France are preparing the visit of Karim [Laouabdia, MSF France General Director] who will go to Khartoum to discuss the 'warning' with HAC/Government of Sudan [Humanitarian Affairs Commission/Government of Sudan]. We will discuss closer to the visit whether there will be a need for a joint MSF message but at this stage we still play on the sectional difference.



'Darfur-Sudan – a war behind closed doors - conflict in Darfur rages against the backdrop of the Sudan peace process,' MSF **Briefing Document**, 26 January 2004 (in English, in French). [Link to full document.](#)

Extract:

[...] How has this war affected the population?

- Tens of thousands of people have fled the violence

People are forced to flee attacks on their village, which are carried out with heavy weaponry and airborne armaments (tanks, helicopters, and combat planes). In addition, the Janjaweed practice a 'scorched earth' policy. Villagers are first run off their land by threats or violence and after turning over grazing lands to cow and camel herds, the militias loot residents' possessions and burn the villages. [...]

- The health situation is precarious and potentially catastrophic

There have been no reports of either epidemics or massive malnutrition yet, but these people are in a precarious health situation.

Mortality is already very high. In Nyala, for example, the rate over the last two weeks rose to 6 deaths/10,000 people/day for children under 5, which constitutes a health emergency. Over a period of two weeks, 90 deaths were recorded in Mornay. [...]

- Large areas of Darfur and great numbers of people are inaccessible

Access is available only to a few areas, essentially those along the road from Nyala to El Genina in the east. As a result, much of the population is invisible. Given the breadth and violence of the conflict, the total number of displaced persons visible along roads or sheltered in camps or cities (around 100,000, according to our evaluations in the zones we have been able to reach) and the displaced who have been counted is very low. Based on accounts from refugees who have reached Chad, one can only imagine what living conditions – or survival conditions – must be like for civilians in a large part of Darfur made inaccessible because of poor security conditions.

- Minimal international presence and assistance

Several international aid organizations and U.N. agencies are present, including Unicef, the World Food Programme (WFP) and the Office for the Coordination of Humanitarian Affairs (OCHA). [...]

As a result, nearly a year after fighting started, international assistance remains weak, primarily because of insecurity but also because the volatile setting makes it difficult to obtain visas and travel authorisation. It should be noted that the international community tried to hide the conflict in Darfur, focusing instead on the resolution of the north-south conflict and the imminent signing of the peace accords between central government and the SPLA.

- Situation under control?

Authorities claim that the situation for displaced people is under control. Authorities encourage them to return to the countryside, since security would be guaranteed there, or to confine themselves to camps in distant locations to prevent large cities from being surrounded by displaced people, as occurred in Nyala (see box). But this minimalist aid policy does not take into account the reality of the suffering and problems the war has generated: a scorched earth policy, with deliberate use of force against people suspected to have links to rebel groups.

On 22 January 2004, MSF decided that the MSF Belgium/OCB report on refugees fleeing from Darfur to Chad was to remain confidential and thus, not distributed to journalists. In case of leaks, MSF also decided that the report should not be sourced as an MSF document.

However, a briefing paper using information taken from this report and describing the dire situation of refugees in Chad was finalised in mid-January. The paper, entitled "Refugees in Eastern Chad - Urgent Assistance and Protection Required," was circulated to INGOs and humanitarian agencies to help strengthen arguments for more assistance and protection. The paper was not given to journalists because some information regarding the level of assistance was old and because it included some information that could hamper MSF access efforts in Darfur.

A year later, in an MSF France/OCP sponsored review entitled, 'A critique of MSF France/OCP operations in Darfur October 2003 - October 2004,' the relevance of the decision not to publish the MSF Belgium/OCB briefing paper on refugees in Chad from Darfur was challenged.



'Refugees in eastern Chad – urgent assistance and protection required,' **Briefing Paper** from Médecins Sans Frontières Belgium/OCB, 14 January 2004 (in English).

Extract:

Introduction

Sudan has been ravaged by violent conflict and humanitarian crises for much of the period since independence in 1956. Today, the people of Sudan are suffering from yet another civil conflict – this time in Darfur, in the west of the country. It is a conflict which is being ignored in the climate of the current peace process aimed at ending the 20-year war between southern rebels and the Sudanese government.

There are currently close to 100,000 Sudanese refugees who have crossed the border into eastern Chad. They have been entering Chad since April last year, with over 26,000 people arriving since the beginning of December 2003.

These refugees are scattered over an area of 600km, close to the Sudanese border. Some have grouped together in over 30 different locations; others are widely scattered in pockets along the border region. According to the UN, the conflict in Darfur has resulted in 3,000 deaths and displaced more than half a million people in Sudan since March 2003 when the upsurge in violence started.

Yet, despite this, the conflict and its consequences remain profoundly under-reported by the media and neglected by the international community. The refugees arrive in Chad in a deplorable state, often without any food or blankets and with few possessions.

They are traumatised by the atrocities from which they have fled and are in dire need of assistance. In Chad they have little or no food and very limited access to water, they live in precarious shelters and suffer badly from extreme weather conditions. In some areas their security is not guaranteed. Women, younger children, and the elderly are especially vulnerable.

Despite their situation they have received hardly any assistance from (inter)national governmental and non-governmental organisations. MSF is one of the few operational organisations currently working in eastern Chad. Since September 2003, its teams have given medical care to Sudanese refugees around the towns of Tine, Birak and Adre; providing primary health care to around 26,000 refugees through medical consultations, nutritional support, vaccinations, and mobile clinics.

This document aims to bring greater attention to the Sudanese refugee situation in eastern Chad. It is based upon the experiences of MSF teams on the ground and accounts of the Sudanese refugees collected by MSF staff. [...]

CONCLUSION

Refugees continue to arrive daily in eastern Chad where they remain near to the border, still close to the fighting and atrocities which continue to take place on the other side in Darfur. In the first week of December a further 26,000 refugees crossed the border into Chad. Many more could well follow in the coming months as the fighting intensifies in Darfur. Whilst the local communities were able to cope to a limited extent with the first refugee arrivals from April 2003, resources are becoming exhausted. The refugees are in dire need of humanitarian assistance including sufficient food, clean water, adequate shelter and protection against violence.

MSF is seriously concerned about the lack of assistance and protection being provided to the refugees. There are insufficient actors on the ground to cope with the current volume of refugees.

MSF calls for immediate assistance to and protection of the Sudanese refugee population in Chad. MSF urges the Chad government, the United Nations, and individual governments to ensure that the people who have fled Darfur receive, without further delay, sufficient assistance, and protection.



'Fwd: Conclusion of teleconference/ Darfur-Chad,' **Message** from Jerome Oberreit, MSF Belgium/OCB Operational Coordinator to MSF Operational staff in charge of Sudan, Mercedes Tatay, Thierry Allafort, Xavier Guinotte, Christophe Fournier, Pete Buth, Marcel Langenbach, Aine Markham, Christopher Stokes, Ibrahim Younis, Jan Weuts, MSF Belgium-Khartoum, Cellule 2, Cellule 4, 22 January 2004 (in English).

Extract:

5. For the Chad refugee report: It remains a lobby document and should not be actively given to journalists. If journalists do get a copy and contact us, we once again stress the need to keep the name MSF out. Also, no more mention of HCR as things have drastically changed in recent weeks and they are active.



'Chad communication,' **Message** from Lucy Clayton MSF Belgium/OCB Communication Officer to List Press, List Web, 30 January 2004 06:15 (in English).

Extract:

5. With several different briefing documents on Chad/Darfur flying around the network, things are getting a bit confusing in terms of what can and cannot be used publicly. To try and clear things up:

1. The lobbying document/report produced by MSF Belgium on 14th January, called "Refugees in eastern Chad", is still not for release to journalists at all. It has been shown to many different agencies and NGOs to lobby for more humanitarian assistance to refugees in Chad, and so is to a certain extent already 'out there'. However, we do not want journalists to quote from this report, partly because some of the information is about Darfur but also because our recommendations regarding assistance are now fairly out of date.

2. The briefing document sent around by Caroline Livio on Monday (26th Jan) is still for strictly off-the-record use with trusted journalists. Caroline sent around clear instructions about how this doc can be used, and nothing has changed with regard to this.



'A critique of MSF France/OCP operations in Darfur October 2003 – October 2004,' **Review** by Dr Corinne Danet (MSF), Sophie Delaunay (MSF), Dr Evelyne Depoortere (Epicentre) Fabrice Weissman (CRASH/MSF France Foundation), January 2007 (in English, in French)

Extract:

With hindsight, the French section's position seems less defensible. Although the report contained serious flaws, it was the first document to describe a situation of total war in Darfur, a fact denied by both the Sudanese government and the international community (the United Nations, Europe, and the United States). Moreover, a report produced in Chad by the Belgian section would not necessarily have compromised the possibility of an MSF-F intervention in Darfur. The publication of the Intifada press release on 15 January 2004 did not prevent us from obtaining, one week later, permission to open a mission in Mornay, at the centre of the Khartoum-orchestrated spiral of destruction. In retrospect, a more constructive attitude urging MSF Belgium to put the accounts of displaced persons into perspective – particularly by specifying who are the so-called 'Arabs' responsible for the devastation and massacres (i.e. proxy forces recruited by the Sudanese government among nomadic communities rather than the 'Arabs' globally

stigmatized as an 'evildoer race'.) While the final decision to publish the report rested with Brussels, it is a cause for regret that Paris opposed.

On 9 February 2004, an MSF Belgium/OCB communications officer informed the MSF communications network that MSF was still not using the MSF name to denounce what was happening in Darfur. However, MSF was now "on the record" reporting the stories of refugees in Chad to journalists.



'Chad/Darfur communication line ...' **Message** from Lucy Clayton, MSF Belgium/OCB Communication Officer to MSF Belgium/OCB Operations, Communications teams, List Press, 9 February 2004 (in English).

Extract:

The VPR [Video Press Release] released last week and the audio interview that Barry did with Peter Casaer (sent around last Friday) go a bit further than we have previously done. Both involve MSF spokespeople reporting the stories that they have heard from Darfur refugees. Previously, we only talked about what we had heard from refugees 'off the record'. So just to clarify the current line:

- We are still not denouncing what is happening in Darfur in the name of MSF. However, we are reporting to journalists 'on the record' the stories of refugees that we meet in Chad. Therefore, both the VPR, Peter's interview (audio and transcript) and photos can be used for all public purposes. Barry expects to get the audio onto the international website tomorrow, as well as two short mpeg internet video clips.

- We are still not denouncing our lack of access to Darfur. However, this may change later this week, depending on the outcome of an operations teleconference on Wednesday. According to MSF-Belgium's man-in-Khartoum, it is increasing unlikely that we (MSF Belgium) will get access, in which case we are keen to talk about it. To be discussed ...

FYI – MSF Belgium emergency coordinator in Chad - Jean de Cambry - is still available for interviews – give me a call if you want to arrange this. There is still a steady trickle of journalists visiting the Chad border area, including a BBC film crew.

D. DENOUNCING SUDANESE AIR ATTACKS ON CIVILIANS IN CHAD

On 26 January 2004, MSF Belgium/OCB planned to issue a press release reporting on the Sudanese air attacks on civilians in Chad. These bombings were witnessed by MSF Belgium/OCB and MSF France/OCP teams. This release was promptly cancelled due to possible risks for the teams in Darfur.



'MSF Belgium update on communication around Chad/Darfur,' **Message** from Lucy Clayton, MSF Belgium Communication Officer to MSF List Press, 27 January 2004 (in English).

Extract:

Dear all,

As you know from Caroline's message yesterday, communication around the Darfur crisis is extremely delicate due to MSF Belgium/France/Holland/ trying to work in the region.

MSF Belgium had proposed putting out a press release yesterday about what teams working on the Chad side of the border are witnessing. However, since this might pose a risk to our teams working in Darfur, and since Reuters/AFP/AP are in the border region at the moment and reporting this information anyway, we have decided against it.

However, we will do our best to facilitate interviews with the team in the field. Sonia Peyrassol (Emergency Field Coordinator) and Jean de Cambry (taking over from Sonia this week) will be spokespeople (French and English). Spanish speaker also possible. They can talk about the increasing number of casualties with bomb shrapnel injuries arriving in Tine; the poor conditions for the refugees; new arrivals at the weekend, etc., but not about the situation in Darfur itself.

On 29 January 2004, MSF Belgium/OCB eventually issued a press release reporting that, for several weeks in Tine, Chad, MSF teams received patients who suffered severe bomb shrapnel injuries, following aerial bombardments by Sudanese planes.

Both the content of this press release and its distribution strategy were challenged by MSF USA, for putting MSF teams on the ground, at risk. They asked if the policy of "only to trusted journos [journalists], not using MSF as a source" was abandoned and if MSF was still "trying to be careful?" MSF USA specifically questioned the sourcing of MSF in identifying the fighter planes as Sudanese, and for stating that Chadian territory was bombed.



'Chadian civilians killed and injured by aerial bombings,' MSF **Press release**, Tine, Chad, 29 January 2004 (in English, in French).

Extract:

Several bombs hit the border town of Tine in Chad today, killing and maiming Chadian civilians. According to volunteers working in Tine for the medical aid organisation MSF, the aerial bombardment, carried out by Sudanese planes, occurred at around 8 a.m. this morning. Thousands of refugees escaping the Darfur region of Sudan are seeking shelter in Tine, camping out beside the dry riverbed ("wadi") that marks the border between Chad and Sudan. Some of the bombs fell directly on this wadi and at least two people were killed, including a two-year old child. The MSF hospital has so far received 15 wounded people, two of which are severely injured.

"Most of the injured we have received so far are women or children," says Sonia Peyrassol, MSF Field Coordinator in Tine. "Two of the heavily wounded are elderly. All are clearly civilians."

For the past ten days, the MSF team in Tine has been receiving patients who suffered severe bomb shrapnel injuries following aerial bombardments in Sudan. This morning's incident is the first time that bombs have been dropped on Tine-Chad.

"The majority of the patients we have treated over the last ten days required urgent surgery," continues Peyrassol. "Many people need to have limbs amputated and others have suffered severe internal injuries such as perforated intestines."

This morning's bombing has caused panic amongst the Darfur refugees gathered in Tine and many are now fleeing further into Chad, away from the Sudanese border.



'Chad press release,' **Message** from Kevin Phelan, MSF USA Communications Officer to Lucy Clayton, MSF Belgium/OCB Communication Officer, 30 January 2004 (in English).

Extract:

After discussions with Nicolas and Patrice here, we had a couple of questions about yesterday's press release:

What is the strategy for external use? Does it represent a shift/abandonment in the earlier strategy (i.e. only to trusted journos, not using MSF as a source for fear of endangering programs in Darfur, etc.). Or is this for wide distribution, up on web sites etc? While we would obviously want to denounce, are we still trying to be somewhat careful? Especially if this is a 'normal' press release going out widely, shouldn't we be careful about what can be considered 'political', 'military' type of information? Our concern is that civilians were bombed, we treated victims, the situation is outrageous. We want to be the medical humanitarian source confirming this awful event. Do we really want to be the source for identifying the planes as Sudanese? Do we really want to be the source for saying that Chadian territory was bombed? The Sudanese, in any case, will be really angry at us for putting out this release, it will put pressure on teams in Darfur, and we should not give them arguments for accusing us of collecting 'political' or 'military' type of information.

Without changing the content of the press release, the wording of the title could be altered e.g. instead of "Chadian civilians" put "Civilians (in Chad, in border area between Chad and Sudan etc)". In the press release, for example, references can be made to "the border town of Tine, or the border area between Sudan and Chad"? It doesn't change the content; it just minimizes our exposure to being criticized for the wrong reasons.



'Re: Chad press release,' **Message** from Lucy Clayton, MSF Belgium/OCB Communications Officer to Kevin Phelan, MSF USA Communication Officer, 30 January 2004 (in English).

Extract:

We don't feel that the information we give in the PR is too 'military' – we are simply stating what the teams have seen. I do agree that the title could be phrased as "civilians killed and injured by aerial bombings in Chad" if you prefer ...

OF COURSE, we don't want to jeopardize the teams in Darfur. That's why we have spent the last two weeks discussing communication strategy with the cells in Paris and Amsterdam and the guys in Khartoum. But Paris, Amsterdam and the field agreed with us yesterday that we simply had to talk about the things we were seeing in Chad.

E. HELL IN MORNAY

After being expelled from Nyala, the MSF France/OCP team redeployed in the region to places previously assessed by Emergency Coordinator Jean-Clément Cabrol (in Zalingei and Mornay). On the road, the team witnessed people fleeing burning villages following Janjaweed attacks.

With a small team of 12 MSF Sudanese logisticians and medical assistants, along with 2 international staff members, MSF organised water provision, measles vaccinations, and malnutrition treatments for thousands of displaced in Mornay.

In early February 2004, 10,000 displaced Darfuris arrived in Mornay, and were added to the 30,000 displaced already struggling to survive in a village initially home to 3,000 inhabitants.

MSF staff observed an increasing number of raped women in clinics reporting that rapes occurred when the women went to collect water at remote watering holes, outside the camp. Hence, MSF decided to secure a water collection system in a safer location.



'MSF France **Point info**,' 10 February 2004 (in French, in English).

Extract:

Sudan – Darfur: the situation is becoming more and more critical.

Our teams based in Darfur are finding it more and more difficult to provide aid to the displaced (IDPs). Meanwhile, the authorities in Khartoum have announced the imminent return of peace and are encouraging the refugees in Chad to return home.

However, in the field, the MSF teams report that the general situation is far from being appeased and that the condition of the IDPs is becoming more and more critical. For example, in Mornay, where 30,000 IDPs have already sought refuge, the MSF team cannot leave the city due to the security situation. The Janjaweed, an Arab militia on horseback, continue attacks destroying the few neighbouring villages which are still standing – again causing the populations to flee. So, in two days, 10,000 new arrivals packed into Mornay, where the health situation is critical: wounded patients requiring surgery cannot be referred to facilities outside the city; 100 severely malnourished children are being treated in a TFC and 400 in an SFC.

On the other Darfur sites where MSF is present, particularly Zalingei and Nertiti, the teams are still carrying out vaccination campaigns against measles, distributing emergency non-food items and potable water. But our means of intervention are more and more limited. For example, a doctor who was to join the Darfur team is still stuck in Khartoum waiting for the necessary travel permits. The MSF Belgium team, who arrived in the capital many weeks ago, has not yet received authorization to go to northern Darfur either.



On the trip, we saw that most of the villages that Jean-Clément had shown us on his map had disappeared. The destruction of the villages and the movement of people occurred simultaneously. We could still see smoke in the houses that were being destroyed.

Coralie Lechelle, MSF France/OCP, Field Coordinator in Nyala then Mornay, Darfur, December 2003 to March 2004 (in French).



Jean-Clément told us, 'You're going to Mornay where there are at least 20,000 displaced persons compared to an initial population of 3,000-5,000 people.' So, we assembled the team: nine Sudanese, Coralie, and me. We left in a convoy of two or three cars and five trucks carrying around 12,000 jerrycan kits, blankets, tarps, measles vaccine and Plumpy'Nut®. We stopped in Zalingei, where we helped the MSF team there set up food distribution activities for the most malnourished children.

We set off again after three days. Between Nertiti and Mornay, we passed through several villages that were on fire and completely empty. A Janjaweed ordered us to stop and said, 'Follow me, we're going to take this road.' I looked at Coralie, I looked at Safi Bushra, the Sudanese deputy logistician – the key member of the team – I looked at everyone and I said, 'No, let's get moving!'

In a small wadi (a dry riverbed), we found some 30 elderly people who had been abandoned there, apparently because they could not keep up with the people fleeing. We loaded them into the trucks and took the most vulnerable people with us in the cars. In the meantime, a bullet struck a tire on one of the trucks. Because we didn't have time to fix it, we installed a dual tire. We ended up arriving in Mornay at the end of the day. And then everything happened at a crazy pace.

We quickly set up one tent for logistics and two for nutritional care. There were a lot of children in poor nutritional health. But we had Plumpy'Nut® to treat them. We alternated days between vaccinating for measles and distributing food and non-food items.

We had several bags of flour and oil that we used to feed the women and moderately malnourished children under five.

In Darfur, every family has a few donkeys for transportation and agriculture. But the grazing resources were exhausted and there was an epidemic of donkey deaths in the town, which led to odours and flies everywhere. So, we used donkey-drawn carts to gather the dead donkeys. We managed to find an excavator to dig pits to bury them because the dirt was too hard to dig by hand. After one of the tires went flat, we had to get a huge tractor tire delivered from Khartoum. Increasing numbers of women who went to fetch water at the wadi were being sexually assaulted. During the rainy season, the wadi would fill up and empty out relatively quickly. If you dug one or two metres, you could access the water that remained underground. So, we brought a pump and bladders and set up a water line that ran 200 metres away from the wadi.

Using my experience building swimming pools, I dug a pond two metres deep and we piled empty rice sacks in it. The water in the pond was clear, so the only treatment needed was to chlorinate it in the bladder. With these two 15 cubic metre bladders used on a rotating basis, we could get around 150,000 litres of water/day. Crowds of people came immediately because this new water point was located outside the wadi, so it was safer. There were always people nearby, everyone was quite visible, so it was harder to attack the women directly.

Jean-Sébastien Matte, MSF France/OCP, Logistics Coordinator in Nyala then Mornay, Darfur, December to March 2004 (in French).

When negotiating authorisations with authorities in El Geneina, to work in Mornay, the team was firmly warned that MSF should not speak out on Mornay as they had done with the Intifada displaced camp in Nyala.



We had a meeting with the governor of El Geneina and the HAC to request work authorisations for Mornay. They told us, 'There is no way that you will do what you did at the Intifada camp. There will be no communication.'

And then, neither Jean-Sébastien nor I, who represented MSF to the authorities in El Geneina, were doctors. Then it turned out that the Sudanese authority's medical director wasn't a medical doctor either – he was a veterinarian. So, I put him in an awkward position, saying, 'If you think that there is a shortage of doctors in Mornay, either you issue work authorisations for the MSF doctors who have been waiting in Khartoum for weeks or you come with us and provide medical care yourself.' In the end, negotiation by negotiation, we finally obtained that much-talked-about authorisation. I sensed that things were tense, that the security wasn't great, but in any event, we had the right to set up in Mornay.

Coralie Lechelle, MSF France/OCP, Field Coordinator in Nyala then Mornay, Darfur, December 2003 to March 2004 (in French).

On mid-February 2004, the town was completely blocked due to heavy fighting between the non state actors, Janjaweed, and the military. There was no way to refer the wounded for care.

There was no medical doctor in the MSF team because of travel permit delays in Khartoum.

The field coordinator/nurse, Coralie Lechelle, had no choice but to organise a team of unexperienced nurses and medical assistants to handle the daily influx of wounded, in a field hospital hastily set up. This make-shift team was responsible for surgical and post-operative procedures, where they had to invent and adapt meagre means to an environment where lives were in danger.



'MSF France Update,' 13 February 2004 (in French).

Extract:

The situation is very tense in Mornay, in Darfur, where the population is virtually being held hostage, as the Arab militia on horseback (Janjaweed) have returned to the town and are looting. Our team can no longer provide the population with proper care. 40 people were injured, 10 of them seriously, requiring to be transferred for surgery. It took 48 hours to organise this transfer to El Geneina, which had previously been impossible for security reasons.

The situation has calmed down a little and the Janjaweed have finally left the town. But on the ground, the general situation of the displaced continues to deteriorate and more than 10,000 new displaced persons have been added to the 30,000 already present.



And then, things took off. There were as many as 40,000 displaced people. They completely closed off Mornay very quickly and it was 'under embargo'. No one could enter or leave the town and we couldn't get supplies. There were shootings, bombings. From the small room at the health centre where we all slept, we saw the Janjaweed firing point-blank at kids in the nearby school. We gathered the bodies. It was really horrifying. Every day, we thought we were going to die.

We were dealing with a constant stream of wounded people every day. We didn't have a doctor. The nurses on the team, who had just graduated, were inexperienced. They didn't know how to give injections and there was a limited inventory of supplies and drugs.

I'm a nurse but I had to become a surgeon, anaesthetist, and post-surgical nurse. We worked 20-hour days. We stopped sleeping and eating.

We took in all the wounded: civilians, soldiers, Janjaweed. I had organised several 'wings' to avoid problematic encounters. I did dressings, gave injections, then I would go back to the 'operating room', and then I would see my post-op patients. It was like being in a spin dryer, it was non-stop. One day, a man showed up with his three children in a wheelbarrow, all shot on sight. The most seriously wounded, Adam, had been hit by a burst of gunfire in the shoulder. His rotator cuff was destroyed. I convinced myself that if I could save him, I'd be able to do everything else. I had a very strong background in anatomy, which I'd gained during my three years of medical study. So, I rebuilt his rotator cuff by inventing techniques to make drains, etc. After he recovered, to retrain his shoulder, I would throw him boxes that contained 1,000 pills. He would catch them and arrange them on the shelves. Despite their lack of experience, the nurses and medical assistants would help me as best they could. One of them was particularly effective. In the operating room, even though he couldn't open, remove bullets, close, etc., he understood and anticipated everything I was doing and immediately gave me everything I needed – thread, clamps and so forth. He made splints from bits of wood. Although the situation was horrifying, we all came together.

The people in the camp understood that our resources were limited, so they gave priority to the wounded. When the volume of wounded began to climb, admissions for all other illnesses fell. Every morning and every night, I would hide in the latrines with the satellite phone that we had brought in surreptitiously. And very quickly, in three or four minutes, I would be on the phone discussing clinical cases with the doctors at headquarters. I would tell them, 'I had this-and-such a case, this is what I did. This is the antibiotic I used.' They would answer, 'Go for it, Coco, we couldn't have done any better!'

*Coralie Lechelle, MSF France/OCP, Field Coordinator in Nyala then Mornay, Darfur,
December 2003 to March 2004 (in French).*

F. CALLS FOR MORE AID

What was happening in Mornay was also happening in other parts of Darfur. Assistance to populations was hampered by the Government of Sudan's denial of access for relief organisations. Occasionally, a few travel permits were granted. Organisations, including MSF, understood that any complaint could potentially cut off all permit-granting. MSF France/OCP headquarters wanted to publicly call for more assistance in a press release based on medical data. The Deputy Emergency Coordinator, Mercedes Tatay, reported to the country management team that the Mornay team was in favour of communicating, "since they did not have the possibility to medically treat the population as they saw fit."

However, the field coordinator in Mornay, Coralie Lechelle, remembered that her team clearly expressed a reluctance to any MSF public statement while they were blocked in Mornay, during the attacks. The team already felt pressure from the El Geneina authorities' threats, a few weeks before.

For their part, MSF Belgium/OCB, and MSF Holland/OCA as well as the three coordinators in Khartoum, including MSF France/OCF, explained that focusing only on assistance would play into the Government of Sudan's position. Instead, MSF wanted to highlight the cause of the disaster: the violence and the lack of access granted by the Government of Sudan.

On 12 February 2004, MSF France/OCF announced to the movement that they decided to speak out, based on the following arguments:

- The "team in the field sees every day the consequences of this conflict on the displaced people, and the situation is worsening."
- MSF is almost the only INGO in Darfur. A large-scale commitment of other international aid agencies is necessary to avoid a disaster.
- Sudanese President Omar al-Bashir publicly declared that he would facilitate the access of humanitarian aid in Darfur.
- The UN estimated that only 15% of the people needing aid received any and sends the special envoy to follow up on the Government of Sudan's pledge.

An MSF International press release was finally issued on 17 February 2004. It raised the alarm and called for aid to be urgently brought to the displaced people in Darfur. However, the release did not mention the causes of the crisis.

The press coverage was solid. Several reporters were convinced to travel to Sudan and report on the situation in Darfur.



'Minutes of MSF France Executive Committee Meeting,' 10 February 2004 (in French).

Extract:

Darfur (Sudan) Communication: Mercedes Tatay

The Mornay team is confronted by soldiers and Janjaweed militias. Some 20 people were wounded by bullets.

Khartoum's official line described the situation as under government control. The president issued a declaration appealing to the international community and announcing that humanitarian corridors had been created. All travel by expatriates to Darfur has been suspended, even for those who have a work permit. The only expatriates throughout all of Darfur are the people working with MSF France (6) and the ICRC (1).

We had decided to issue a communication this week with a very factual press release based on the data collected and our observation that assistance is inadequate, including a statement on the recent events in Mornay. The Khartoum team raised questions about the effectiveness and goal of this communication. They asked instead that the president or a board member visit. As for the Mornay team, they're in favour of a communication as it is currently impossible for them to treat the population as they would like.

The message must warn that the current level of aid is inadequate in a situation that points to a disaster ahead. The population concerned totals 60,000. There are not

enough expatriates to respond appropriately given the needs. The goal is to call for the deployment of aid (and not to denounce the obstacles that Khartoum has imposed).

The press release should be ready to go tomorrow.

There were no repercussions in Sudan after the press release on Chad was issued about 10 days ago.



'Teleconference/Sudan 2-11,' **Message** from Patrice Page, MSF USA Advocacy Officer to MSF USA management team, 11 February 2004 (in English).

Extract:

Teleconference this morning (France, Belgium, Holland, US, the three HOMs in Khartoum);

- Operations MSF France:

Security situation is deteriorating in Mornay/western Darfur, military activities by militias in town and surroundings (even shootings today nearby the MSF clinic), total of 29 wounded in our clinic in Mornay since the beginning of the week, the IDP population in Mornay increased from 2,000 to approx. 45,000. [...]

- Press release/ lobbying:

Big discussion on that (MSF France wrote a draft, focusing on lack of assistance in the areas where we are working/nut. problems, increase number of IDPs, etc.), B, H and the three HOMs were against that approach, saying that we play the GOS game if we only focus on assistance (feeding the propaganda from Bashir that it is normalizing in Darfur and that the only problem now is assistance), that we should stress the broader issue of why lack of assistance (key issue access denied by the GOS). So, it was agreed that the HOMs will write a new draft and that a PR should come out by Friday or Saturday (to be a MSF-International PR to protect the teams in Sudan). MSF France was wondering, if necessary, still to send the high-level MSF delegation in Kh to address access issues, all other sections and the HOMs thought that still necessary, maybe perhaps after the 16th of Feb (after the deadline of Bashir for full access).

HOMs received the minutes from NY, they are meeting this USG delegation today, will emphasize on the same issues (Darfur has to be raised at the highest level by the USG, not only USAID people as it is now in KH). The USG delegation still waiting for green light to go to Darfur (like us). HOMs are saying that as of today, the UK ambassador is the most active diplomatically on access issues towards the GOS. EU delegation to be in Kh next week, Vraalsen is coming back to Sudan, de Villepin later this month.



'PR on Darfur-Sudan to come tomorrow,' **Message** from Caroline Livio, MSF France Press Officer to List Press 12 February 2004 12:34 (in English).

Extract:

We will publish a press release on Darfur-Sudan tomorrow.

After several weeks of 'off communication', we have decided to go public again about this extremely serious crisis. The aim of the 'off communication' was of course to ensure the safety of our team in Darfur, as well as to continue and to develop our activities with the displaced people of Darfur.

Now, the situation has changed:

- our team on the field sees every day the consequences of this conflict on the displaced people, and the situation is worsening. Our 6-person expatriate team tries to provide a medical, nutritional and sanitary assistance for dozens of thousands of people gathered in several camps.

- we are almost the only NGO in Darfur. Without a massive commitment of other international aid agencies, the situation of the displaced people can deteriorate dramatically and become disastrous, especially on a nutritional point of view.
- at the same time, Sudanese president Omar al-Bashir has publicly declared that he will facilitate the access of humanitarian aid in Darfur. The United Nations (who estimate that only 15% of people needing aid receive some) is sending Tom Vraalsen, as special envoy in Sudan, to supervise the follow-up of this offer to facilitate access. We therefore think that we must go public right now about this crisis. The objective of this press release is to address a short but precise description of the situation, and to call the other international aid agencies to urgently provide massive assistance for the displaced people of Darfur.

I am sure that the different briefing you have done would have given you the opportunity to make the media aware of this major crisis. The briefing document that I've sent you is still valid to pursue this communication.



'Massive aid urgently needed in Darfur,' MSF **Press release**, Paris, 17 February 2004 (in English, in French).

Extract:

Displaced people in the Darfur region of western Sudan are in extreme danger, and the massive emergency aid needed to ensure their survival is lacking.

Médecins Sans Frontières (MSF) is one of the few NGOs providing aid in Darfur's accessible areas, but a team of six international volunteers cannot meet the needs of the nearly 100,000 displaced people they have encountered so far.

In the last few days alone, 10,000 newly displaced arrived in Mornay in need of basic medical care, including 50 wounded who were treated at an MSF health center managed by a nurse and logistician.

Several patients required emergency surgery, but it was delayed for 48 hours because security conditions prevented their transfer outside the city. Some 30,000 displaced have been in Mornay for several weeks.

MSF field teams notice catastrophic mortality rates within the displaced populations (more than two deaths per 10,000 people per day), that is related to both the displacement and the especially critical living conditions of the people.

Many arrived in towns with nothing, and those who did manage to bring some food quickly exhausted their supplies. The World Food Programme's limited and inadequate distributions have not reached all sites where displaced people have gathered.

MSF's team found a total 258 severely malnourished and 1,190 moderately malnourished children at several sites but could only treat 144 severely malnourished and 350 moderately malnourished children in Mornay and Zalingei. Water is also urgently needed. Many of the displaced are living in makeshift shelters near riverbeds, or wadi, that are almost completely dried up because it is the middle of the dry season. While officials estimate that nearly 600,000 people have been displaced in Darfur, the volume of assistance and the number of humanitarian actors are still too weak.

This dire situation can only be addressed thanks to a massive mobilization of international agencies and a much broader access to the region.

So far, there is still extremely limited access to the region for aid workers.



'Darfur's displaced persons: MSF calls for help,' **AFP** (France), Paris, 17 February 2004 (in French).

Extract:

The non-governmental organisation Médecins Sans Frontières (MSF) called on Tuesday for the strengthening of international emergency relief to aid displaced populations from Darfur (western Sudan) who are in "extreme danger".



Every time I called, I was asked, 'Do you want us to evacuate you?' I always asked the staff if they wanted to leave. But Jean-Sébastien and I knew that, if we left, no one would come back to Mornay. That would mean abandoning the population to its fate. The needs were so huge that it was impossible to meet them. But we were their only glimmer of hope – and what we did, we did well. So, we always refused to evacuate. But every time, we reminded them, 'Be careful what you say in your press releases.' We were afraid that El Geneina would come down on us.

Coralie Lechelle, MSF France/OCP, Field Coordinator in Nyala then Mornay, Darfur, December 2003 to March 2004 (in French).

A few days after the publication of the 17 February 2004 press release, the Government of Sudan delivered the first authorisations to facilitate the deployment of international aid in Darfur. MSF obtained a few travels permits for new staff and several green lights for medicine and medical equipment cargo. MSF Holland/OCA would finally start working in Nyala and assess Garsila.

However, international agencies remained slow to deploy programmes.

For weeks, the MSF International team in charge of bilateral advocacy sought to maintain pressure for support of MSF's public stance on needs and assistance, and to convey information on the violence previously not disclosed publicly.

The team organised a series of meetings in New York and Washington, D.C. with ambassadors to the UN of various countries, including Sudan, and with UN and US officials. All the officials were reminded of their responsibility to secure a political solution for the humanitarian situation.

On 26 February 2004, MSF France/OCP issued another press release, which raised the alarm on the deteriorating situation in Darfur and the urgent need for massive international aid to be deployed. However, once again MSF decided not to mention that one of the causes of the lack of assistance was due to the Sudanese authorities' administrative obstacles. These obstacles were used to prevent access to the Darfuri population, specifically the piecemeal, arbitrary allocation of travel permits for humanitarian workers.

Bilaterally, these issues were addressed by MSF representatives to the Sudanese ambassador to the UN, on the same day as the press release.



'Minutes meetings with US government on Darfur/ February 5-6,' **Message** from Patrice Page, MSF USA Advocacy Officer to MSF France, MSF Holland, MSF Belgium, MSF Spain, MSF Switzerland, MSF UK, MSF International, MSF USA Operations and Advocacy Managers, MSF Belgium Khartoum Explo, 10 February 2004 (in English).

Extract:

Since yesterday, Jean-Clement [Cabrol, former MSF France coordinator in Darfur] is briefing UN counterparts [...] and on Thursday, we go back to Washington [...]

Meetings with USG [US Government] officials on Darfur

Washington, February 5-6, 2004

The meetings occurred two days before the departure of a high-level USG mission to Sudan [...]

Main points addressed by MSF:

- Description of the humanitarian situation in the areas visited by Jean-Clement in Southern and Western Darfur-Nyala, Zalingei, Mornay, Garsila, Dereish, Nertiti (emphasis on the expected worsening of the nutritional situation, response from the other actors – UN agencies, NGOs)
- Deterioration of the situation in these areas between the first and the second assessment missions through direct witnessing and testimonies from the IDPs (violence against the civilians committed by the militias with or without GOS support, increased number of IDPs, the needs, etc.)
- Access issues
- The necessity to immediately assume strong political leadership and to address the Darfur situation at the highest level with the GOS rather than to wait until a deal is finalized between the SPLA and the GOS or to keep the focus solely on that process
- The necessity to address immediately with the GOS the Darfur situation beyond the 'humanitarian problematic', beyond the specific issue of access/humanitarian corridors (violence against the civilians, etc.)
- The refugee situation in Chad (relocation process, security issues in the border areas, humanitarian situation, lack of assistance – other actors) [...]

They want to avoid that the crisis be linked to/or to overshadow the north-south process by taking a strong political leadership towards the GOS about the Darfur (leaving the political leadership on Darfur to others within the 'international community'; the UN, EU, not clear yet) as they desperately need to secure results on the peace process during this election year in the US. At the same time, because of the increased coverage on the Darfur in the US (especially after the bombing in Tine-Chad, statements by Vraalsen and others at the UN, reports from several NGOs), they don't have the choice but to address the Darfur situation, and they do so by disclosing now a two-step strategy; let's push first, with the rest of the international community, for a 'humanitarian cease-fire in Darfur' and later (after an accord on principle between the SPLA and the GOS?), as a second step, we will address the global political problematic in the Darfur by pushing for a real process between the three parties as we did between the SPLA and the GOS. So, the focus now is on the 'humanitarian process' (a good way for them to justify that they are not indifferent to the situation in Darfur while saving time to keep their focus politically on the north-south process). On the other hand, a positive sign is that the upcoming US mission to the Sudan is involving key USG officials on African affairs, and the Darfur situation will be raised (even if the upcoming resumption of the negotiations GOS-SPLA will be the key issue).

Meeting at the National Security Council

Meeting at the State Department [...]

Meeting with ICG [...]

Additional meetings with

- USAID [...]
- Briefing at the committee on international relations of the US House of Representatives
- Bureau for Populations, Refugees and Migration at the State Department



Notes on 'Meetings on Darfur with Dr. Jean-Clement Cabrol in New York, Feb 9-11, 2004', (in English).

Extract:

These meetings took place after Jean-Clement's meetings with USG officials in Washington.

Generally speaking, we were well received by Member States who showed great interest in the situation in Darfur. The most disappointing meeting was certainly with officials from UNICEF.

Please take note that most of our meetings took place after President al-Bashir's statement announcing the end of the military operations and the opening of access to humanitarian relief. It was also after the Government of Sudan has refused to attend the planned conference in Geneva – which was later cancelled.

In each meeting, we reminded our contacts that we were giving them some information only related to the situation and the populations to whom we had/have access, which was quite limited. So, we should not forget about the rest of the 'invisible' populations and could only guess what was happening to them. Like in Washington the previous week MSF raised the following points with our interlocutors: [...]

EU Members – Chaired by Irish Presidency

[...]

- In his reply, Jean-Clement was careful to remind our interlocutors that he was a doctor, and that he could describe the humanitarian and more general situation of the populations in the area of Darfur where we have (very limited) access – so that it was not up to him to advise them on how to find a political solution, but certainly to remind them of their responsibility to do so, and that the humanitarian situation could not be addressed without the political problematic as well. Regarding the UN agencies in the ground, MSF explained in all our meetings that the UN response to the conflict – on both sides of the borders in Darfur and Chad – has been quite weak and late. MSF has been in contact with UN colleagues from the beginning of our operations in the region, including with UNHCR for the refugees in Chad. Some UN representatives, specifically those of UNICEF and WHO in Darfur, have lacked the necessary analysis of the situation, and in some cases have played too much the game of the Government of Sudan instead of supporting the populations in danger, IDPs (ex. When the Government of Sudan decided to close the camps in Nyala and to forcefully relocate these IDPs). Our colleagues from UNICEF didn't do anything to prevent it.
- Although it was a rather short (and not too well attended in terms of representation) meeting, our impression was that it seems that some of the Member States (Sweden for example) have no clue of what the situation is in Darfur today – and therefore, it was useful to brief them on the margin of our bilateral meetings.



'MSF France/OCP **Update**,' 20 February 2004 (in English).

Extract:

Sudan-Darfur: Reinforcing the teams.

Early this week, we obtained new travel permits for three expatriates who will strengthen our team in Darfur. [...]

It appears that international aid is starting to be deployed in the field. UN representatives are now in Nyala, El Fasher and El Geneina. Let's hope that this translates quickly into activities in the field. Last, an MSF Holland team, which also received travel permits, is in Nyala and will go to Garsila (southwest of Zalingei) to start work.

The press release issued on Tuesday [17 February] got a lot of attention. It appears that our request to strengthen international aid – massively and urgently – has been heard. Darfur and our appeal received renewed attention, thanks to the visit on Thursday and Friday from French Minister of Foreign Affairs Dominique de Villepin to Chad and Sudan.



'17,000 extremely vulnerable people are without assistance in Darfur, Sudan,'
MSF **Press release**, Paris, 26 February 2004 (in English).

Extract:

Every assessment conducted by teams from Médecins Sans Frontières (MSF) discovers newly displaced people living in extremely precarious conditions. Nearly 17,000 people have recently gathered in Krenik and Sisi, northwest of Mornay in Sudan's Darfur region. They have no access to drinking water and there is not enough food or medical assistance for them to survive. MSF has also counted 44 fresh graves – 17 for young children, which indicates a very high mortality rate.

Without urgent medical, food and water and sanitation assistance, these people's lives are threatened. MSF is ready to provide medical assistance, as well as to distribute drinking water and emergency non-food items, provide emergency care for the malnourished, and vaccinate children against measles. Such assistance is not possible, though, unless MSF can rapidly reinforce its teams.

Over the past two months, MSF has seen nearly 115,000 displaced gathered in different locations between Nyala and El Genina. As of today, the team of 9 volunteers has only been able to provide assistance to the 45,000 displaced in Mornay and the 15,000 displaced in Zalingei.

Without immediate, large-scale support from other aid organisations, the already alarming situation in Darfur will continue to deteriorate. MSF's team in Mornay is already treating 159 severely malnourished children and 450 moderately malnourished children. Every day, more children are admitted for treatment, and the team is reporting a marked increase in the degree of malnutrition in just the past two months. There is an imminent risk that the nutritional situation will deteriorate even further.



'Meeting w/Sudanese Ambassador,' **Message** from Catherine Dumait-Harper, MSF Liaison with the UN to MSF France, MSF Holland, MSF Belgium, MSF USA, operations and advocacy managers, 26 February 2004 (in English).

Extract:

Dear all,

Michael and I met with Amb. [...] of Sudan this morning. We mentioned MSF's programs in Sudan first, including in Khartoum, and then we briefed him on Darfur:

Raising our concerns regarding the situation in the field: violence against civilians, attacked, looted, and burned villages, forced displacement of IDPs in Nyala, lack of food, water, and basic assistance, also due to lack of access. Very weak and slow response of humanitarian assistance (on both sides of the borders, we also mentioned our work with refugees in Chad).

We gave Amb. [...] our press briefing of today, mentioning El Bashir's statement regarding access for humanitarian assistance, and highlighting the most recent statement by their Humanitarian Affairs Minister Mahmoud Hamid, regarding sufficient relief supplies in Darfur for 4 months – Our assessments and statement press release don't seem to support Minister Hamid's claims. [...]

To the question of visas – after asking if MSF B was trying to get to Al Fasher from Chad– Amb. [...] remarked that it was not easy to get visas anywhere, including from the US; question of reciprocity, care to whom we are delivering visas (not organization but person). He promised to relay our concerns to his capital; to know what the problem was with MSF B and to get back to us on this issue.

Regarding access, he made a good and tricky point when saying that while UN are asking for better access, and when they get it, they don't do much anyway ... He didn't seem to know about either his HA minister's statement of Tuesday, or MSF's activities or Nyala's closure of camps, etc.



'**Minutes** of MSF France Board of Directors Meeting,' 27 February 2004 (in English).

Extract:

Darfur, Sudan (Mercedes Tatay) [...]

Summary

At this pace, in a few months we will be facing a major disaster in the form of pockets of famine and several thousand – or several tens of thousands – displaced persons. Things will improve only if the level of violence against civilians declines and if the Sudanese authorities allow aid organizations to deploy, massively and immediately, assuming that the latter have the will and the means. In summary, we think it is realistic to expect that the situation will worsen in the coming months.



We talked about atrocities, we talked about the situation, etc., but we didn't denounce. We said, "The situation is acute." We had statistics on nutrition and the medical situation, etc., so we were already able to say a lot: "More must be done, more must be done," and that was the priority at the time. We said, "Come, come, come, come." At that time,

the United Nations was still being timid since everyone was freaking because of the security situation.

Dan Sermand, MSF Belgium/OCB, Emergency Coordinator in Chad, September to December 2003, General Coordinator in Sudan, January to June 2004 (in French).

G. MSF BELGIUM/OCB SETTLING THE PAST IN SUDAN

MSF Belgium/OCB continued to struggle to register and obtain authorisation to start working in Darfur. The team in charge had to face the grey zones of MSF Belgium/OCB's past in Sudan: the sudden departure of MSF Belgium from Sudan in 1989 following the loss of 2 MSF France staff when their airplane was shot down, and after issues with the Sudanese authorities following the death of another staff in a hiking accident, an unofficial return as part of the Operation Lifeline Sudan in the late 1990s², then again the withdrawal from OLS in 2000 and years of various statements made on the situation in Sudan.

In early March 2004, after many negotiations and active lobbying by MSF Belgium/OCB, travel permits to Darfur were granted. MSF Belgium/OCB's proposal to the Government of Sudan to open a project in the Red Sea State, facilitated the process.

However, it took several more months for MSF Belgium/OCB to obtain full registration in Sudan and become truly operational.



'Email exchange between Jerome Oberreit, MSF Belgium/OCB Programme Manager and Dan Sermand, MSF Belgium/OCB Coordinator in Sudan,' 27 February 2004 (in English).

Extract:

Hi Dan [...]

For the issue of being out of North Sudan for 18 years:

If they go back to the issue of the departure, which I hope they won't but let's be ready:

- The departure in 1989 was one which was decided following a number of events, which culminated in a plane being shot down with UN and MSF staff. At the time all sections stopped their activities and MSF Belgium, due to varying priorities, never relaunched operations in the north.
- Operations in the South were started under the OLS which is a three-way agreement between the North, South and UN. In our view we were then operational in Sudan and operations targeted areas where no one else was present.
- The north had the representation of 2 MSF sections, due to priorities and resource constraints North Sudan was not considered for a relaunch of operations until MSF Belgium pulled out of the OLS in 2000. MSF Belgium recognized that there was a need for closer and more formal relations with the Government of Sudan as they no longer worked under the binding agreement of the OLS.

2. Operation Lifeline Sudan was established in April 1989 in response to a devastating war-induced famine and other humanitarian consequences of the Second Sudanese Civil War between the Sudanese government and South Sudanese breakaway militias.

- Discussion[s] inside the movement were then launched on the need for another section, both the operational centres of Paris and Amsterdam then recognised the operational need for another section.
 - we were then formally invited to return to the North by both Dr S [...] and the Sudanese Ambassador to Belgium (spring of 2002). [...]
 - Our operations in South Sudan were not seen as operations going counter to the general interest of Sudan. There was exchange between the MSF International president and the Government of Sudan [...] and meetings between MSF Belgium representatives and both Southern and Northern health representatives (London 2001??? need to confirm this meeting and who attended)
 - Since our departure from the OLS, each year MSF has presented a full overview of the operations run in Sudan, regardless of North or South, to the Sudanese authorities to ensure all operations were transparent and could be discussed if necessary.
 - In order to ensure proper access to populations in Southern Sudan and retain a fully independent approach to the provision of aid to the populations MSF Belgium pulled out of the OLS in 2000. This position was clearly shared with the Sudanese authorities in 2000.
- After operating outside the OLS, MSF Belgium sees the need to reestablish a full representation in the north to ensure a coherent exchange of information for Southern projects as well as relaunching operations in the North



'Minutes of the Meeting with HAC Commissioner, MSF Belgium/OCB Coordinator in Sudan,' 29 February 2004 (in English).

Extract:

Subject: Clarification on MSF Belgium operational in North Sudan

4- Conclusions

General feeling is it is now clear 100% that we tried to convince the ones who are already convinced, and who helped us [as much as they were able to] (registration, work/stay permits, visas...and it is true up to now we didn't get any trouble to obtain them, we even get them faster than the other INGOs).

So, I'm convinced that we were putting pressure on the one who is already the most helpful and has himself (as we thought) a lot of pressure on his shoulder and that it's gonna be an arm wrestling in between him and the MI [military intelligence] guy who blocked our dossier (he even mentioned it during the meeting..., and I can confirm about the link to 1989 now!, they put me on the way without mention[ing] it clearly). Dr S [...] seems tired about this issue (in a sense maybe that he is looking for a way out for everyone without losing face) and he wants now to put a full stop [to] this story by this Tuesday's meeting ("you will have a clear Yes or No!").

If Tuesday it will be "No", a plan B will be needed!



'Minutes of MSF RIOD [Directors of Operations] Meeting,' 16 March 2004 (in English).

Extract:

4. Darfur

MSF Belgium is being blocked by military intelligence and has not received visa to date. There was a discussion with the Military Intelligence resp. which clarified the reasons why MSF Belgium is not allowed in Darfur:

1. MSF Belgium is working outside of the OLS and only on the rebel side.
2. Report on the Mandiere bombing that is claimed to be issued by MSF B. It is, however, probably issued by MSF Switzerland. To be clarified.
3. The way MSF Belgium left in 1989 and the problem we had with an expat then.

MSF Belgium has been asked to send a letter of apology (a diplomatic letter). In the meantime, MSF Belgium has been welcomed in north Sudan in the Red Sea area. This is positive news, but the priority remains Darfur.

Plan A: See if MSF Belgium can solve the problem with the military intelligence.

Plan B: Discussion at desk level on whether MSF Belgium will be able to enter Darfur under MSF Holland or MSF France.

MSF Holland feels that these operations should be semi-transparent in order to avoid a negative outcome for both sections in case they are found out.

MSF France is not so concerned about the issue of transparency.

Both sections are open to offer support.

MSF Holland is still present in Darfur with 4-6 expats.



I had a quick briefing on MSF Belgium's history in Sudan, but they didn't tell me the whole story. The year when Omar al-Bashir took power, 1989, was a very troubled time. MSF Belgium was Darfur's pharmacy during that period. We had nine projects there. There were health centres everywhere and plenty of logistical supplies. Then two things happened in the same year. A UN plane, with two MSF France members on board, was shot down near Bentiu. Several weeks later, an MSF Belgium expatriate who was hiking in the Jebel Marra fell and died. Getting his body out was very complicated. The authorities wanted to put the head of mission in prison. Then MSF Belgium decided to leave the country. So just like that, we abandoned nine projects in Darfur.

Three years later, in 1992, MSF Belgium was in South Sudan with everyone in the UN compound. The UN had launched Operation Lifeline Sudan. But MSF Belgium wasn't registered with the North Sudan authorities to operate in South Sudan. So, the facility that had been operating in Sudan since 1992 was illegal and remained so. The Sudanese authorities certainly knew that because we had issued press releases in which our successive coordinators in South Sudan condemned the bombings by North Sudan. They had printed out all the releases. When I got there in 2004, they said, 'Look, in 1992, you said this, then in 1993 you said that, and in 1994 you said this.'

In 2004, we had to present our credentials to the Sudanese government to obtain our first travel authorisations, which took several months.

But, more importantly, we had to open a token programme in North Sudan, like the nutritional programme in the Mygoma orphanage that the French set up, on the outskirts of Khartoum. It was complicated to manage but it pleased the Sudanese authorities. So, in March 2004, we opened this programme to treat victims of sexual violence in the Port Sudan shantytowns. It was a very good programme, but still a token effort. It served as a sort of mini-mea culpa. We wrote a lovely letter of apology to the Sudanese government. We did it because we were desperate. We didn't want them to make us pack our bags.

Dan Sermand, MSF Belgium/OCB, Emergency Coordinator in Chad, September to December 2003, General Coordinator in Sudan, January to June 2004 (in French).

On 10 March 2004, MSF issued a press release to raise the alarm again on the deterioration of the situation in Darfur. High malnutrition, continued violence, and insufficient international aid were reported.



'Alarming malnutrition found in Darfur, Sudan - increased humanitarian response urgently needed,' MSF **Press release**, 10 March 2004 (in English, in French).

Extract:

The international medical aid organization Doctors Without Borders/Médecins Sans Frontières (MSF) has found alarming nutritional needs in the war-affected town of Garsila, in the Darfur region of western Sudan. In the course of vaccinating more than 4,900 children against measles, MSF identified 111 severely malnourished and 387 moderately malnourished children and will now open a therapeutic feeding center (TFC) to care for them.

Nearly 18,000 internally displaced people have fled to Garsila, a town of 4,500, after brutal attacks on their villages. MSF has witnessed this pattern in all of the areas the group has been able to assess. Almost 17,000 people are seeking refuge in Deleig, a town of 5,000, while another 13,000 people have fled to Um Kher, a town of 5,000. Today MSF will assess Mukjar and Bindisi, where the group anticipates a similar situation.

The displaced people in all of these locations are not living in camps, but have gathered in various sites around the town, like schools and offices, or they simply sleep in the open or live with local families. The communities are helping the displaced as much as they can, but resources and coping mechanisms are becoming increasingly strained, as is to be expected when a population swells to more than four times its original size.

MSF is extremely concerned about the food security for people throughout the Darfur region, and fears that continued violence and insecurity, coupled with an insufficient international aid response, will cause the already precarious situation to deteriorate further. In order to avoid a rapid increase of malnutrition, MSF calls for an increased humanitarian response to the situation in Darfur.

II. INTERNATIONAL REALISATION ON MASS CRIMES IN DARFUR (March to May 2004)

A. FIRST INTERNATIONAL PUBLIC STATEMENT ON MASS CRIMES (March-April 2004)

1. The Shadow of The Genocide of Rwandan Tutsis

The 10-year commemoration of the 1994 genocide of Rwandan Tutsis took place in April 2004. The idea that a similar tragedy was happening in Darfur, surfaced on the international agenda.

On 12 March 2004, USAID officials testifying at the US House of Representatives accused the Sudanese Government of “mounting a ‘scorched earth policy’ to crush rebellion in Darfur through large-scale human rights abuses against civilians and the obstruction of humanitarian access to the region.”

The USAID officials accused the Government of Sudan for Janjaweed’s actions and claimed that Sudan could “exercise control and stop them.”

USAID also claimed that the inhibiting system of issuing travel permits to NGOs for Darfur was part of a deliberate strategy of the Government of Sudan to avoid allowing for a humanitarian presence on ground.



‘Re: US Officials Outraged by Darfur Crisis/Statements from US Department of State and USAID on Darfur,’ **Message** from Patrice Page, MSF USA Advocacy & Representation Officer to Laure Delcros, MSF International, Deputy to Policy and Advocacy Coordinator, 15 March 2004 (in English).

Extract:

The responsible for African affairs at the State Department Charles Snyder and the #2 at the USAID Roger Winter testified last week at the sub-committee on African affairs at US house of representatives. Jean-Clement [Cabrol, former MSF France emergency coordinator in Darfur] briefed their respective advisers back at the beginning of February on the Darfur.

Their statements on the situation in Darfur were quite clear and strong about the government of Sudan responsibilities:

- The government of Sudan are responsible for the Janjaweed’s actions, the government of Sudan can exercise control on them and should stop them. The government of Sudan has also failed to provide protection to the IDPs.
- The government of Sudan has chosen to respond to the SLA/JEM by deliberately targeting the civilian population.
- Real normalization of the relations between the government of Sudan and the USG is not an option until fighting continues in Darfur, even if a deal is broken between the government of Sudan and the SPLA.
- The slow process and the complexity of the system of issuing travel permits to NGOs for the Darfur is part of a deliberate strategy of the government of Sudan to avoid having humanitarian presence on ground. The USAID rep. Ami Henson in Washington told me today that Roger Winter was indeed referring to MSF Belgium in his testimony when stating that “one well-reputed humanitarian organization had to close its presence in Sudan as it has been unable to get permits to Darfur”. They got the incorrect information from their office in Khartoum, so I gave her the latest up-date from MSF Belgium (the March 17 deadline to decrease the number of expats in K. and then the period of two-three more weeks before taking a final decision) [...]
- The USG wants to push for a resolution at the UN Human Rights commission in Geneva on the Darfur, proposing the nomination of a UN special rapporteur for human rights in the Darfur (apparently the EU is proposing something softer on Darfur, offering technical assistance to the government of Sudan). The USG is also starting to talk to other members of the UN security council in NY about a potential UN peace keeping mission for the Darfur (chapter 7, peace enforcement) if the SPLA and the government of Sudan are not reaching an agreement in the coming

weeks (the current round of negotiations is supposed to end by tomorrow). Bush's special envoy for Sudan, Senator Danforth, is going back to Kenya on Wednesday for the peace process.

On 19 March 2004, the UN Humanitarian Coordinator in Sudan, Mukash Kapila, stated to the BBC 4 that the conflict in Darfur was characterised by a scorched earth policy and was comparable in character, if not in scale, to the 1994 Rwandan genocide. It was the first time the word “genocide” was pronounced by an official regarding the situation in Darfur.

Kapila added that it was “an organised attempt to do away with a group of people” and called for more aid and for an urgent international intervention to bring about a ceasefire in the war.

After these statements, in April 2004, he was transferred out of Sudan and replaced by Jan Egeland. V1 



'Mass rape atrocity in west Sudan: More than 100 women have been raped in a single attack carried out by Arab militias in Darfur in western Sudan,' **BBC News** (UK), 19 March 2004 (in English).

Extract:

Speaking to the BBC, the United Nations co-ordinator for Sudan, Mukesh Kapila, said the conflict had created the worst humanitarian situation in the world.

He said more than one million people were being affected by ethnic cleansing.

He said the fighting was characterised by a scorched-earth policy and was comparable in character, if not in scale, to the 1994 Rwandan genocide.

“It is more than just a conflict. It is an organised attempt to do away with a group of people,” he said.

Arab militias, backed by the government, have driven hundreds of thousands from their homes, in retaliation for a rebellion launched a year ago by two armed groups.

They accused the Arab-dominated government of ignoring the black African inhabitants of Darfur.

More than 100,000 people have fled across the border into Chad but have continued to face cross-border raids.

Attack

Mr Kapila said 75 people were killed in the attack on the village of Tawila at sunrise by Arab militiamen two weeks ago.

“All houses as well as a market and a health centre were completely looted, and the market burnt. Over 100 women were raped, six in front of their fathers who were later killed,” he said.

A further 150 women and 200 children were abducted.

This attack a fortnight ago is one of many across the arid territory.

Village after village is being razed to the ground by the militias, he said.

To compound the problem, aid agencies can only reach small parts of Darfur and are subject to attacks.

Mr Kapila called for more aid and for urgent international intervention to bring about a ceasefire in the war.

Shock

"I was present in Rwanda at the time of the genocide, and I've seen many other situations around the world, and I am totally shocked at what is going on in Darfur," he told the BBC Radio 4's Today programme.

"This is ethnic cleansing, this is the world's greatest humanitarian crisis, and I don't know why the world isn't doing more about it."

The fighting in the west of Sudan has intensified as government peace talks to resolve the 20-year war with southern rebels are nearing an end.

But the UN is concerned that this conflict could undermine the peace talks in Kenya.



It was Mukesh Kapila, the UN humanitarian affairs coordinator in Sudan, who raised this issue of genocide. At the tenth commemoration of the Rwandan genocide, he basically said, 'We are commemorating what happened in Rwanda even as something similar is underway in Darfur.' Obviously, given what had happened in Rwanda, this immediately raised a double spectre – that of a genocide and an international military intervention to oppose it.

There was pressure for a military response – in terms of political communication, not in the field – along the lines of, 'We did not intervene in Rwanda, which we regret, so that raises the question of an international military intervention in Darfur to, possibly, end the repression.'

*Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007
(in French).*

On 29 March 2004, eight experts from the UN Commission on Human Rights expressed "grave concerns about the level of systematic human rights abuses and the humanitarian crisis in Darfur." The Sudanese Foreign Minister labelled their statements as "lies and acts of deception."

On 31 March 2004, the European Parliament issued a resolution calling on the Sudanese Government "to protect its citizens in their villages, to ensure that IDPs are in a safe location where they have access to services, some livelihood, and assistance, and to stop its reported policy of chasing Darfurians away from their rural homes towards Chad and to urban centres in the Darfur region." The Parliament criticised "delays and obstruction by the Government of the Sudan with regard to access by humanitarian aid workers," which they described as being "in violation of the principle of the neutrality of humanitarian aid."

On 3 April 2004, the spokesman for the UN Secretary-General Kofi Annan, stated that "the UNSG and the Heads of all United Nations agencies, funds and programmes express their deepest concern over the serious human rights violations and humanitarian crisis in the Darfur region of the Sudan, which is having a devastating impact on the human security of thousands of civilians."

For his part, on 3 April 2004, based on reports from UN staff in Darfur, the new United Nations Undersecretary-General for Humanitarian Affairs and Emergency

Relief Coordinator, Jan Egeland, stated to the UN Security Council: “a sequence of deliberate actions has been observed that seem aimed at achieving a specific objective: the forcible and long-term displacement of the targeted communities, which may also be termed ‘ethnic cleansing.’” To the Associated Press, he said that the militia acting with Government of Sudan support were committing “ethnic cleansing but not genocide.”

On 7 April, in a speech to the UN Commission on Human Rights on the tenth anniversary of the genocide in Rwanda, UNSG Kofi Annan stated that, he shared “the grave concern” expressed a few days before by the eight independent experts appointed by this Commission, at “the scale of reported human rights abuses and at the humanitarian crisis unfolding in Darfur.”

Annan urged the international community to act, including by force, to rescue civilians in Darfur. He urged not to repeat the same mistake as in Rwanda, but he did not use the term genocide. He stated: “Whatever terms are used to describe the situation the international community cannot stand by and do nothing.”

On 28 April 2004, during a press conference, asked if he would qualify the situation in Darfur as ethnic cleansing, he said he would await the report of the two missions sent to Sudan to monitor the situation. Annan added that they were sent “to avoid having the situation there become another Rwanda.”



‘Sudan slams UN experts for decrying rights abuses in Darfur,’ **AFP** (France) (Khartoum), 30 March 2004 (in English).

Extract:

The Sudanese government on Tuesday accused UN experts of lying with reports of “systematic” human rights abuses in Sudan’s western Darfur region.

Foreign Minister Mustafa Ismail told reporters “Some UN officials do not keep to the truth when speaking about the situation in Sudan to the extent that we can label some of their statements as lies and acts of deception.”

He was reacting to a statement issued by eight experts of the UN Commission on Human Rights, expressing their grave concern “at the scale of reported human rights abuses and at the humanitarian crisis unfolding in Darfur.”

They said pro-government militias had killed civilians, attacked refugees, raped women and girls, abducted children, torched and looted villages and destroyed livestock.



‘European Parliament **resolution** on Sudan,’ 31 March 2004 (in English, in French).

Extract:

15. Calls on the Sudanese authorities to end impunity for government officers and military personnel and to bring to justice the perpetrators of human rights violations and other crimes, for example the individuals, i.e. army personnel, who have been involved in rapes and murders, arms trafficking, including the Lord’s Resistance Army (LRA), cattle theft and looting.
16. Calls on the Government of the Sudan, the Sudan Liberation Movement (SLM) and the Justice and Equality Movement (JEM) to opt for the path of dialogue and

- negotiation and to refrain from resorting, directly or indirectly, to armed struggle to defend their interests.
17. Criticises systematic delays and obstruction by the Government of the Sudan with regard to access by humanitarian aid workers, in violation of the principle of the neutrality of humanitarian aid, and calls on the Government of the Sudan and rebel groups operating in Darfur to allow the United Nations, other aid organisations and EC personnel or staff permanent access to all regions of Darfur without restriction and without delay; also calls on the Government of the Sudan to put in place arrangements to guarantee the safety of humanitarian aid workers and internally displaced persons (IDPs) in camps in government-controlled areas.
 18. Highlights the overwhelming evidence collected by the UN Resident and Humanitarian Coordinator, NGOs, and journalists as to the Sudanese Government's complicity in the atrocities committed by the Janjaweed militia against civilians in Darfur.
 19. Notes with the utmost concern the recent public statement made by Dr Mukesh Kaplia, UN Resident and Humanitarian Coordinator, stating that the situation in Darfur is akin to the biggest humanitarian and human rights crisis or catastrophe in the world today and that the violence in Darfur appears to be particularly targeted at a specific group, based on their ethnic identity, and appears to be systemised.
 20. Strongly condemns the reported provision of financial, logistical, and other support given to the Janjaweed militia by the Government of the Sudan, including for the indiscriminate bombing of civilians as reported on 8 and 12 March 2004, and calls on the Government to cease immediately all support to these militia, to take action to disband the Janjaweed and to stop all attacks on civilians.
 21. Calls for a no-fly zone to be put into place immediately over Darfur under the full supervision and monitoring of the UN and calls on the Government of the Sudan to immediately ground all aircraft. [...]
 23. Calls on the Sudanese Government to protect its citizens in their villages, to ensure that IDPs are in a safe location where they have access to services, some livelihood and assistance, and to stop its reported policy of chasing Darfurians away from their rural homes towards Chad and to urban centres in the Darfur region.
 24. Strongly condemns the targeting by the Janjaweed militias of civilians in the villages and in centres for displaced persons, which includes killings, the use of sexual violence against women, looting and general harassment, as well as forced recruitment, including of children.



'Statement attributable to the Spokesman for the Secretary-General on the situation in the Darfur region of Sudan,' 3 April 2004 (in English).

Extract:

The Secretary-General and the Heads of all United Nations agencies, funds and programmes express their deepest concern over the serious human rights violations and humanitarian crisis in the Darfur region of the Sudan, which is having a devastating impact on the human security of thousands of civilians.

They call on those responsible for perpetrating these violations to put an immediate end to their activities. They further call on all parties to allow unimpeded humanitarian access to the affected population. In this regard, they welcome the offer made by the Government of Sudan to the Secretary-General to send a United Nations mission to assess the situation in Darfur.



'Ten years after Rwanda, human rights defenders call attention to the forgotten tragedy of Darfur,' Donna Bryson, **Associated Press** (USA), Cairo, 6 April 2004 (in French).

Extract:

According to UN Undersecretary-General for Humanitarian Affairs Jan Egeland, the government-backed mounted Arab militias are engaged in "ethnic cleansing, but not genocide" against the Africans of Darfur. However, he acknowledged that this is one of "the most forgotten and neglected humanitarian crises."



'UN Secretary-General's **Address** to the Commission on Human Rights' (As Delivered), 7 April 2004 (in English).

Extract:

Anyone who embarks on genocide commits a crime against humanity. Humanity must respond by taking action in its own defence. Humanity's instrument for that purpose must be the United Nations, and specifically the Security Council.

In this connection, let me say here and now that I share the grave concern expressed last week by eight independent experts appointed by this Commission at the scale of reported human rights abuses and at the humanitarian crisis unfolding in Darfur, Sudan. Last Friday, the United Nations Emergency Relief Co-ordinator reported to the Security Council that "a sequence of deliberate actions has been observed that seem aimed at achieving a specific objective: the forcible and long-term displacement of the targeted communities, which may also be termed 'ethnic cleansing'". His assessment was based on reports from our international staff on the ground in Darfur, who have witnessed first-hand what is happening there, and from my own Special Envoy for Humanitarian Affairs in Sudan, Ambassador Vraalsen who has visited Darfur.

Mr. Chairman, such reports leave me with a deep sense of foreboding. Whatever terms it uses to describe the situation, the international community cannot stand idle.

At the invitation of the Sudanese government, I propose to send a high-level team to Darfur to gain a fuller understanding of the extent and nature of this crisis, and to seek improved access to those in need of assistance and protection. It is vital that international humanitarian workers and human rights experts be given full access to the region, and to the victims, without further delay. If that is denied, the international community must be prepared to take swift and appropriate action.

By "action" in such situations I mean a continuum of steps, which may include military action. But the latter should always be seen as an extreme measure, to be used only in extreme cases.



'UN Secretary-General's **Press Conference**,' 28 April 2004 (in English, in French).

Extract:

Q: (spoke in French): Concerning Darfur, would you say that what we are seeing here is a case of ethnic cleansing? Jan Egeland used that term, would you use it as well? And how are you planning to handle that crisis in the light of what happened in Rwanda? You spoke of that recently during the commemoration.

SG: (spoke in French): I spoke to President al-Bashir of Sudan last Sunday, and, according to him, the situation is calm. But two missions are going to be heading there to work and to monitor the situation in the field. They will submit a report. Now, obviously, I have to await that report before I make any statements, because they are on the spot. That would be a much more prudent way of doing things, so I will be waiting for Mr. Morris to submit his report to me. But I am concerned about this. I have already said that here and in the Commission on Human Rights as well.

Q: (spoke in French): And what about Rwanda?

SG: (spoke in French): We must always be vigilant here. We cannot wait until it is too late. That is why we are working with the Government. That is why we sent these teams: to avoid having the situation there become another Rwanda.

On 7 April 2004, the US President Georges W. Bush, condemned the atrocities in Darfur and asked for access for humanitarian relief. Bush stated that the Government of Sudan should cooperate fully in the “war against terrorism” launched by the USA after the 9/11 attacks in 2001, and the US invasion of Iraq in 2003. To date, the USA saw Sudan as a possible, reliable interlocutor in the Arab world.



'Statement by George W. Bush, President of the USA,' 7 April 2004 (in English).

Extract:

New fighting in the Darfur region of Sudan has opened a new chapter of tragedy in Sudan's troubled history. The Sudanese Government must immediately stop local militias from committing atrocities against the local population and must provide unrestricted access to humanitarian aid agencies. I condemn these atrocities, which are displacing hundreds of thousands of civilians, and I have expressed my views directly to President Bashir of Sudan.

For more than two- and one-half years, the United States has been working closely with the Government of Sudan and the Sudanese People's Liberation Movement (SPLM) to bring peace to Sudan. This civil war is one of the worst humanitarian tragedies of our time, responsible for the deaths of two million people over two decades. Achieving peace, and reaching a just and comprehensive agreement, must be an urgent priority for both sides.

The United States will move toward normal relations with the Government of Sudan only when there is a just and comprehensive peace agreement between the Government and the SPLM. All parties must also ensure that there is unrestricted access for humanitarian relief throughout Sudan, including Darfur, and the Government of Sudan must cooperate fully in the war against terrorism.

In the MSF movement, the tenth anniversary of the genocide in Rwanda triggered intense debates about the relevance to “commemorate” the event. Some sections, specifically the Belgian section, having lost dozens of Rwandan staff during the

genocide, wanted to commemorate with the survivors. The ExCom and the International Council decided that there would be no MSF commemoration as such, and that MSF would keep away from all “politically minded events.”



'Minutes of MSF ExCom Meeting,' 18 December 2003 (in English).

Extract:

Rwanda: 10 years

Some messages / proposed initiatives have appeared in the movement as the 10th anniversary of the Rwandan genocide approaches. The DirComs have asked the ExCom for some guidelines on how to tackle this commemoration. A discussion followed on whether our communication should be simply reactive and base itself on the TCB [MSF Speaking Out Case Studies] (which demonstrates the dilemmas faced by MSF and MSF's experience of the genocide). Some felt that it is not our responsibility as an NGO to proactively take part in commemorations. Nevertheless, media attention will be there, and we are bound to get some of the attention – we do need to be prepared.

MSF's approach was therefore defined as follows:

1. We will be looking at the ramifications/consequences of the genocide 10 years on as part of our preparation to the media requests we will be facing (to communicate on this issue).
2. It was suggested that the TCB be used as the main tool in pointing out the dilemmas faced at the time.
3. The SecGen will be working with the DirComs on creating a communication guideline/framework (including what not to do).



'Minutes of MSF Directors of Communication Meeting,' 12 January 2004 (in English).

Extract:

Rwanda 2004

[...] where do we draw the line between commemoration and remembering the genocide: sections not to proactively engage in events, but some are participating in debates, publishing articles in their newsletters. Point is not to refuse sections from engaging in national debates, but they should check first with operational section or international office.



'Minutes of MSF International Council Board (ICB) Meeting,' 7 February 2004 (in English).

Extract:

Re. Rwanda

Clarification of the ExCom position on commemoration of the Rwandan genocide has been requested by a number of sections.

The ICB spent some time clarifying MSF position as regards the “Commemoration of the Genocide”.

- It is not MSF responsibility to commemorate the Genocide – there are other organisations whose mandate it is to do so, and it is not our responsibility to

speaking in the name of the victims: there are survivor groups whose vocation it is to do so. (This does not mean that we won't show support to our National Staff in their private initiatives.)

- We do not wish to do any proactive communication to 'commemorate' the Rwandan Genocide. It does not mean that MSF should refrain from speaking about it, it means that we shall not proactively go into public communication to commemorate the genocide.
- Some sections are likely to be asked about MSF position back then. It is not our mandate to comment on the general situation in Rwanda today, but as a Humanitarian organisation, we can speak of the dilemmas and questions we faced, the assistance we brought, etc.
- In any case, one needs to keep in mind the respect of the victims and ensure that we are not violating their dignity by promoting MSF institutional interest through this anniversary.
- As all the commemoration ceremonies organised by the Rwandese Government will likely be highly political in nature, MSF should refrain from participating in such politically minded events and be aware of the risks of going into a political analysis of the situation.



'MSF Belgium Board of Directors President's **Annual Report** to the General Assembly,' May 2004 (in French, in English).

Extract:

Lastly, the Easter period brings mixed feelings for us. Firstly, it reminds us that the Rwandan genocide started ten years ago. We cannot and do not want to forget that we lost 251 people working with us, and this trauma haunts our collective memory. It makes our section, more than others, aware of the unique nature of genocide, and wounds our dignity and shared humanity. The Rwandan genocide cannot be described simply as large-scale massacres in the course of a war that went wrong, because the conscious and deliberate aim was to exterminate an entire population.

2. Pressure from Human Rights Organisations

In April 2004, invoking the tenth anniversary of the genocide of Rwandan Tutsis, Human Rights Watch and Amnesty International published reports based on in-depth investigations on Darfur. They denounced the Government of Sudan's strategies against the population of Darfur. Referring to the genocide in Rwanda, Amnesty International warned, "not to make the mistake of not acting."



'Ten years after Rwanda, human rights defenders call attention to the forgotten tragedy of Darfur,' Donna Bryson, **Associated Press** (USA), Cairo, 6 April 2004 (in French).

Extract:

Ten years after the genocide ignored in Rwanda, humanitarian organizations call on the international community not to turn its eyes away from Darfur. [...]

In a report published last week, the US organization, Human Rights Watch, denounced “a strategy of ethnic-based murder, rape and forcible displacement of civilians in Darfur,” occurring between indiscriminate bombing, raids by Arab militias and the army against primarily African villages, and denial of humanitarian aid.

Following a visit to Chad, Leslie Lefkow, of Human Rights Watch, said that thousands have died. The UN reports that 750,000 people have been displaced and tens of thousands have crossed the border into Chad.

“The government strategy of sealing everything off and trying to make the situation it invisible is working so far,” she said. “You don’t have photographs of the dead children and the women who have been gang raped. I think that would draw more attention...”

Human Rights Watch has urged the U.S. to maintain economic sanctions on Sudan as long as the violence in Darfur continues. [...]

Elizabeth Hodgkin of Amnesty International said the world had been slow to respond, but that political pressure over the last few months was starting to have an effect. [...]

“We hope that this 10th anniversary of Rwanda will focus the attention of the people in N’Djamena,” Hodgkin added, pressing the world “not to make the mistake of not taking action.”

On 10 May 2004, the US Committee for Refugees publicly called the US government to act in Darfur, otherwise “President Bush may be found wanting in the eyes of history for failing to rise to the awful spectre of this genocide in the making.”



‘Sudan: Tens of thousands could die of hunger and disease in Darfur [This report does not necessarily reflect the views of the United Nations],’ *IRIN News*, Nairobi, 18 May 2004 (in English).

Extract:

The US Committee for Refugees said last week that the US government in particular, must take action on Darfur. “Otherwise, hundreds of thousands of innocent men, women and children may die, and President Bush may be found wanting in the eyes of history for failing to rise to the awful spectre of this genocide in the making,” said Lavinia Lemon, its executive director. “His leadership and political will are needed now,” she stressed.

B. MSF CAUTIONS ON QUALIFICATION, FOCUSING ON SCALING UP OPERATIONS (March-April 2004)

To be able to preserve and expend operations in Darfur, MSF decided to maintain restraint with public statements, only calling for more assistance. The strategy was to avoid any involvement in the public debate regarding the Government of Sudan’s strategies of violence in Darfur and the associated labelling as ethnic cleansing or genocide.

1. MSF France/OCP's Effort to Avoid Qualifying Violence

While acknowledging the “cruelty and the seriousness” of the conflict, MSF France/OCP leaders agreed that they did not want to “give into” the UN characterisation of the facts as genocide.

In late March 2004, Coralie Lechelle and Jean-Sébastien Matte came back from a tough mission in Mornay. Their accounts were published.

Coralie was immediately carried away in a whirlwind of interviews for the French and international press. She was briefed by her colleagues in MSF France/OCP to stick to a descriptive account of the situation she witnessed, and to avoid any comment that could lead to qualifying the violence. Her briefing was quite challenging since every journalist asked her if she was confronted with genocide or not.



'MSF France/OCP **Update**,' 26 March 2004 (in French).

Extract:

Sudan – Darfur

Assistance and mobilisation by aid agencies is still inadequate relative to what is needed. The level of insecurity is high, while fighting continues, with considerable violence against civilians. The nature of the wounds experienced during the attacks, the rapes, the very low proportion of men among the displaced persons ... The United Nations speaks of a genocide underway in Darfur. Although we do not agree with that classification of events, these events are indicators of the cruelty and gravity of this conflict.



'**Minutes** of MSF France/OCP Executive Committee meeting,' 30 March 2004 (in French).

Extract:

Communication

Sudan – Darfur [...]

In an article in the US press, the United Nations condemned the abuses committed in Darfur, describing them as “ethnic cleansing and genocide”. While these statements may be excessive, they underscore the gravity of the situation there and the violence committed against the populations. However, up to this point, they have not prompted the United Nations to mobilise additional resources.

MSF will capitalise on Coralie Lechelle's and Jean-Sébastien Matte's return from Mornay to try to mobilise the media.



'Loneliness and distress in Darfur,' Jean-Sébastien Matte, Coralie Lechelle, Voices from the Field, **MSF Website**, 31 March 2004 (in English).

Extract:

Jean-Sébastien Matte

"The first time we travelled to Mornay, we saw villages burning, while people along the road with their belongings were fleeing. Some of them, particularly the oldest and youngest, couldn't walk, and were left behind. We drove some elderly to Mornay. On our way back, there was not a single house standing anymore, one can hardly see a living soul between Zalingei and El Geneina. The area had been cleared.

Before these tragic events, Mornay was a small town of about 3,000 inhabitants. When we first arrived in Mornay, there were already about 20,000 displaced people. There are at least 60,000 now, coming from villages located within a 50 to 60 kilometres radius, all villages that were attacked by Janjaweed (militia)."



'An extraordinary intensity of barbarism,' Laure Stephan, **Libération** (France), 23 April 2004 (in French).

Extract:

Coralie Lechelle, a nurse, spent four months on mission in Darfur with Médecins Sans Frontières. This humanitarian effort was extremely difficult, conducted amid a scorched earth campaign and an alarming food situation.

[...] "We set up a 'war hospital' to provide emergency care because we lacked access to other facilities. Men and children who tried to leave Mornay to find food or feed their animals were wounded and women were raped.

The displaced persons spoke with terror about the Arab militias, the Janjaweed. The Janjaweed attacked Mornay, shooting on sight, and stealing horses. To our knowledge, the soldiers did not respond. How much power do they have? Do they really have the will to act? Helicopters arrived occasionally but no one would give us any explanation. After that violent episode, displaced people began leaving the village in groups of 40 or 50 to protect themselves. From that moment, we were able to conduct day-long missions outside Mornay.

Around El Geneina, Kreneik, Cissé, everything was burned and emptied out. There were still one or two Janjaweed standing guard in front of the burned villages to keep people from coming back. Today, the area where we are working has expanded and we have been authorised to bring in more people, but the intervention of humanitarian workers remains very difficult. We have witnessed an extraordinary level of violence and intensity of barbarism."



When I got back to Paris, I had the impression that I didn't have the right to express my concerns. I didn't have a real debriefing, either. I had a few briefs, informal one-on-one conversations in one office and then in another. I had the sense that people thought, 'Given what she's been through, we need to handle her with kid gloves, but we still need to be sure that she gets the message.'

The message I got was essentially that I shouldn't call it genocide.

I said to them, 'What I saw was horrifying. But it involved a very small area relative to all of Darfur. There are plenty of places where we weren't allowed to set foot. So, I don't know. If I can't use the word 'genocide', OK, but how should I describe the horror without things taking a wrong turn?'

I felt this pressure from MSF to not make mistakes in front of the media. I should describe my daily experience, the horror, the deaths, the people killed right in front of me, my fears for my own life, the dilemma of deciding whether to leave or not at the risk of not being able to return. And I should add that what I saw was limited to a very specific place, that I hadn't had access to other places so I couldn't confirm or deny anything. In any event, I should not, in any case, pronounce the word genocide. At one point, I said to them, 'If you tell me that what I saw is not genocide, OK, I agree with you. But just tell me what I'm supposed to say, because it's not Coralie who's speaking, it's Coralie for MSF.'

I was bombarded with interview requests. And at every single one of those interviews, I was asked about genocide. I remember one live interview with ABC News in the little courtyard inside MSF France headquarters. I didn't even see the reporter. I was in front of a connected camera, and I heard the questions through an earpiece. And the only question, over and over, was, 'Did you witness a genocide?' That was the only thing that interested him.

Coralie Lechelle, MSF France/OCP, Field Coordinator in Nyala then Mornay, Darfur, December 2003 to March 2004 (in French).

The former MSF France/OCP Logistics Coordinator in Darfur, Jean Sebastien Matte, attended a series of meetings with UN and US officials in New York and in Washington, D.C. He insisted on the seriousness of the crisis in Darfur and the urgent need to deploy large-scale aid. He highlighted the need to protect the civilians and to start a dialogue with all the parties to the conflict, including the pro-government militias.



In April, I spent a week in New York. With Patrice Page, MSF's representative to US and international institutions, we toured embassies, met officials at the State Department and the Senate Foreign Affairs Committee. We also went to the United Nations, the UNHCR and the WFP, and met the Secretary-General's number two or three.

MSF's message was basically: 'The crisis in Darfur is extremely serious, but it is being ignored. We need to provide the means to ensure that humanitarian aid gets there. We can't do it alone.' We also said: 'There are mass displacements and atrocities. We must try to ensure the safety of civilians, women, and children. We need to start talking to these pro-government militias.'

We were listened to very carefully. In New York, I also gave interviews to the media, to NPR [National Public Radio]. I talked about the wounded, the pathologies, the malnutrition, the lack of resources and the sexual violence.

Jean-Sébastien Matte, MSF France/OCP, Logistics Coordinator in Nyala then Mornay, Darfur, December to March 2004 (in French).

On 16 April 2004, the MSF France/OCP Deputy Emergency Programme Manager, Mercedes Tatay, gave an interview to the US network MSNBC. Pressured to qualify the situation in Darfur a genocide or not, she said she did not think that the word genocide should be used to describe this conflict. She added that there was a very effective military strategy ongoing, but that she would not translate it into "ethnic cleansing."



'Violence in the Sudan displaces nearly 1 million – An aid worker describes the gravity of the humanitarian crisis,' Interview conducted by Petra Cahill, **MSNBC** (USA), 16 April 2004 (in English).

Extract:

Due to the extreme violence in the region, humanitarian assistance has been limited and the international group, Doctors Without Borders (also known as Médecins Sans Frontières, or M.S.F.), is one of the few non-governmental organizations that is currently operating in the Darfur region.

Back from Sudan

Mercedes Tatay, a 36-year-old Spanish doctor and the Deputy Emergency Director for Doctors without Borders in Paris, returned last week from a month working in Sudan. Tatay worked with the 12 expatriate doctors and 300 Sudanese nationals in field hospitals set up in the towns of Mornay, El Genina, and Zalingei. She spoke with MSNBC.com about the gravity of the crisis.

Do you think that comparisons between the crisis in Sudan and the genocide in Rwanda are justified?

I don't think that we should be using the word "genocide" to describe this conflict. Not at all. This can be a semantic discussion, but nevertheless, there is no systematic target – targeting one ethnic group or another one. It doesn't mean either that the situation in Sudan isn't extremely serious by itself. But I think it's important not to mix things and not to standardize our words. So, I would say no, I cannot speak about genocide. On the contrary, I can speak about a huge number of displaced people in an extremely precarious situation due to displacement forced by violence. It is severe enough without having to call for genocide or other words.

Many people are saying that the Arabs groups are driving the black Sudanese off their land so that they can access their land and water in a form of "ethnic cleansing." Is that label appropriate?

That is not necessarily accurate. There are several different tribes and clans and families and not all of them are persecuted or executed just for the sake of their tribe. It, in fact, looks to me like a very effective military strategy, but I wouldn't translate that into ethnic cleansing. But I am a doctor; I am not very good at analysing military strategy.

2. MSF Formal Decision to Call for More Assistance and Not Enter Genocide Debate

On 8 April 2004, the MSF operational managers agreed on a communications and bilateral advocacy strategy for the MSF movement. The bottom line was that because MSF was the only NGO operational in Darfur, priority should be given to the expansion of operations.

Therefore, MSF would refrain from reacting to other actors' statements on possible ethnic cleansing or genocide in Darfur and focus its communication on "what our teams are witnessing, describing what we see without accusing, speculating, or extrapolating."

They agreed on the main messages to be conveyed:

- **MSF teams do not systematically witness massacres or ethnic cleansing, but can testify to a violent and dirty war, a scorched earth policy implemented by militia, and the resulting forced displacement.**

- The situation has seriously degraded over the last year, but the assistance remains insufficient compared to the needs, and this lack of assistance is generating serious medical and nutritional problems.
- Although access remains limited and difficult for the moment, access is not impossible.

The directors of communications discussed the dilemma of not speaking out versus maintaining access for limited operations. They asked the directors of operations and the general directors if they felt “fine with the current, prudent communications line” of not denouncing “the violence committed against civilians and the limited access for aid organisations compared to the urgency and immensity of the needs.”

With the objective of showing “a possible link between the violence inflicted and the mortality” rates, MSF France/OCP asked Epicentre to conduct a survey in two places in Darfur on “mortality, nutrition, and violence, past to today.”

The results of this survey were to be added to communications materials prepared by the MSF movement. These materials included videos and photos to make up for the lack of images from journalists, who were denied access to Darfur.



'Minutes of MSF International Directors of Communications,' 29 March 2004 (in English).

Extract:

Darfur

MSF Belgium still no access to Darfur. MSF France team of 10, Memorandum of Understanding signed for 25 expats. To be seen how quick visa and travel permits will be issued. According to teams, nutritional status deteriorating, and even animals are dying.

Problem: still lack of attention and no journalists allowed in, so no images. Aurélie Grémaud [MSF France] and Marieke van Zalk [MSF Holland] possibly travelling to the region; looking into the possibility of shooting images and pictures, but certainly not easy to bring in cameras and film.

MSF France curious to see what impact declarations of other actors (UN, ICRC...) will have and sending Epicentre for retrospective mortality study to help get a better understanding of the situation.

To do

Discussion about the dilemma of not speaking out vs limited operations. Anouk asked to send a message to DirOps [directors of operations] and GDs [general directors] asking them whether, several months after it was agreed that access was unsatisfactory and needed to be monitored closely, they feel fine with the current, prudent communications line (no denunciation of the violence committed against civilians and the limited access for aid organisations compared to the urgency and immensity of the needs).



'Draft weekly update with external info and internal info [between brackets] Anouk Delafortrie, MSF International Communications Coordinator, Caroline Livio, MSF France/OCP Communications Officer,' 10 April 2004 (in English).

Extract:

B ... Analysis & advocacy (all internal)

(Thursday, 8 April 2004) all were very much aware that, although we have acquired a certain level of cooperation from the authorities and the Janjaweed seem to tolerate us, the risks of manipulation are huge. Some questions were raised: Why is MSF allowed to work in Darfur and others not? Will the displaced people be allowed to stay in the urban areas, leaving the rest of the territory to the Janjaweed? Or will they be chased away again (comparable to what happened in mid-January when they shut down Nyala camp) making the people even more vulnerable? What is their strategy, their next move?

All sections will keep an eye on these broader questions and invest in context analysis. An Epicentre survey is also in the pipeline with results at the beginning of May. It will investigate the incidence of the violence on the mortality.

On the advocacy side emphasis will be placed on the operational actors that are either completely missing or should be doing a lot more operationally (UN agencies, INGOs, ICRC) and try to get them to move. The International Office will draw up a list of actors and coordinate meetings/efforts, calling on the operational sections involved in the Darfur crisis to provide support / people for direct lobby. Meetings are already scheduled next Tuesday with ODI [formerly Overseas Development Institute] and Oxfam.

C-- communications (external except between brackets)

Internal - All sections have decided to prioritise operations: MSF is the only NGO assisting an extremely vulnerable population threatened by illness and malnutrition. The teams are making a real difference, and we must allow our operations to expand.

Despite other actors – not present in the field – being extremely outspoken about the situation in Darfur (ethnic cleansing, genocide, atrocities committed by the Janjaweed ...), MSF communications shouldn't be a reaction to theirs. We want to avoid getting into semantic and political debates. As the only NGO operational, we can communicate about what our teams are witnessing, describing what we see without accusing, speculating, or extrapolating.) [...]

Messages

- The everyday reality of displaced population: we don't witness systematic massacres or ethnic cleansing, but our teams can testify to a violent and dirty war – a scorched-earth policy being implemented by militia and resulting into forced displacement:
- People are brutally chased from their homes or decide to flee before an attack.
- Villages are entirely burnt, re-burnt, and totally emptied of their inhabitants over at least hundreds of kilometres; men are being targeted during attacks, accused of being rebels:
- Displaced people are trapped in sites where they find themselves regrouped and which have become enclaves; as the men don't dare to go out, the women go looking for water, food, firewood ... outside of the villages, thereby risking rape and violence.
- Huge emergency: The situation has seriously degraded over the last year, and with food crops depleted, the food pipeline drying up, with 200,000 people stuck with no protection, little assistance, food, or shelter in the locations where MSF is working, with a measles epidemic and upcoming supply problems due to the rainy season, ... this is a truly huge emergency for which more assistance is urgently required.

- The assistance remains totally insufficient compared to the needs. Food distribution is irregular and insufficient – ex: WFP distributed food in Mornay covering only 50% of the needs for two weeks- and no distribution of plastic sheeting has been organized. People use trees and branches for shelter. The security of civilians is not guaranteed and access to health care remains limited. [...]

TOOLS

INTERNAL - (Apart from the existing MSF France briefing document, the press releases, the MSF Belgium images from Chad, pictures available on the photo database) [...], new tools are being developed. This is especially needed as no journalists or photographers are allowed into Darfur and MSF cannot facilitate them for security reasons.

- Medical data: a survey from Epicentre is ongoing in Mornay (survey on mortality, nutrition, and violence, past to today). Aims at showing a possible link between the violence inflicted and the mortality.
- Testimonies: Aurelie Gremaud will be travelling to the MSF France programs in Darfur to collect testimonies from the displaced people and to describe the conditions in which the teams work. Marieke van Zalk will be doing something similar if her travel permits come through. Of course, they are not officially travelling as comms persons.
- Pictures: The Sudanese security services have specifically denied MSF authorization to take pictures. A few photos of volunteers have been made and sent around to the network. All use of these pictures, and of future ones, needs to be done carefully: no MSF copyright, no names of volunteers (some might return) and with agreement of the desks.
- Video: images in the media are needed to highlight this crisis. MSF cannot facilitate journalists or cameramen to the field. Aurelie and Marieke will try and film with small digital cameras. We will see what is possible in terms of diffusion (via Reuters, no MSF mention) if they succeed to film. [...]
- Press release & web story: a release is being prepared by MSF France on the measles epidemic/malnutrition and Linda Van Weyenbergh sent out a web story about the meningitis epidemic across the border in Chad.)



MSF France wanted to try to document what was going on to understand the situation and assess the extent of the emergency. At the time, many humanitarian workers were stuck in Khartoum. The French had access but very few staff and they were completely overwhelmed by the situation. When I went there [April 2004], there were only two small teams in Mornay and Zalingei. The Mornay team had four expatriates working under very precarious conditions. You don't see that very often. There was nothing, no support. They were doing everything they could to address a health emergency, but they didn't really know what was going on.

What struck me, on the road between Mornay and Zalingei, was the villages on fire, everything was burning. It made quite an impression.

The survey included questions on the violence. We had to use a translator for the interviews. It wasn't easy. Sometimes when we went to talk to families, the stories we heard provided additional details.

There was very high mortality among the many children. We saw very few men. The women no longer dared leave the camp to fetch wood because they risked attack and rape every time

they went out. There were security problems even in the camp. We were living next to them, but we had no way to guarantee their security.

Evelyn Depoortere, Epicentre, in charge of survey on malnutrition and retrospective mortality in Mornay and Zalingei, April to May 2004 (in French).

On 23 April 2004, while recognising the importance of the communications directors' efforts for "continuing to propose initiatives and putting pressure," the MSF directors of operations agreed to focus essentially on calling for improved and increased assistance.

The operations directors acknowledged that, beyond a consequence of international pressure, the slightly improved recent MSF access to Darfur could be because it was no longer possible to witness "whatever was being concealed in the past."

On 26 April 2004, the MSF ExCom acknowledged that the Darfur crisis was THE emergency and that, "the whole MSF movement should be informed and understand the context, the challenges, and the potential dilemmas."

The ExCom confirmed the advocacy strategy agreed by the operational managers in early April, which was limited to "description, further documentation, and pushing the Darfur crisis and needs on the international agenda."

According to the ExCom, to date, MSF had no dilemma, and its presence was contributing to alleviate the fate of the population. However, they acknowledged they might be manipulated by the Government of Sudan.

The MSF ExCom also admitted that if they were prevented from transferring patients for security reasons and had to denounce such a situation, they might face a dilemma.

On 28 April 2004, MSF France/OCP issued a press release raising the alarm over increasing cases of measles and malnutrition in Darfur. Once again, the release did not include any mention of violence.

On 29 April 2004, MSF Holland/OCA produced their own "Strategy Document for Advocacy on the Situation in Darfur." They highlighted several possible limits to the agreed MSF international advocacy strategy:

- **Not mentioning security while calling for more assistance might promote a false perception of the crisis.**
- **Not being specific on needs for an international presence while calling for increased security might imply that the Government of Sudan was responsible for security.**
- **Not mentioning the ethnic character of violence against civilians might be incomplete and weaken speaking out messages and credibility.**



'Minutes International Meeting of Operational Directors (RIOD),' Barcelona, 23 April 2004 (in English).

Extract:

7. Darfur:

Operational capacity and access are increasing, but still highly insufficient. [...]

- improving and increasing our assistance needs to be our focus now. We will discover as we provide aid the nature and the extent of this manipulation. We are quite aware that there is no 'natural' famine and suspect that we are allowed more access now both because of the international pressure exerted on Khartoum and because it is no longer possible to witness whatever was being concealed in the past. We acknowledge concerns and frustration from communications departments and recognise the importance of their continuing to propose initiatives and putting pressure on ops.
- we should continue to raise the profile of Darfur in the international media, to keep govts focused on the issue and to stimulate donors and aid agencies.
- crucial to get other NGOs and aid agencies active on the ground but doing so is not evident. [...]

It is essential that we focus on the violence and displacement as the root of the coming famine so that protection issues are not neglected in the rush to provide assistance



'Minutes of MSF ExCom Meeting,' Amsterdam, 26 April 2004 (in English).

Extract:

For upcoming GD18 meeting (7-8 June in Barcelona), proposed topics include:

- Darfur: THE emergency: the whole movement should be informed and understand the context, the challenges, and the potential dilemma. [...]

Operational Update

1. Darfur (with participation of Pete Buth – MSF Holland director of operations):

Pete presented a brief update on current MSF operations in Darfur (MSF France-Holland-Belgium). MSF Switzerland and Spain are also trying to get authorisation to operate.

Number of issues was raised:

More assistance is needed:

- more funds and more human resources
- need to push the whole movement to make more resources available + lobby other NGOs of Sudan, WFP, etc, to see what plans they have and urge them to operate.

Collecting information on the ground is very difficult: people even scared to come to MSF clinics, MSF staff not allowed to speak with people on markets and ask for price of food, very few journalists, etc.; further document what we see and assess level of manipulation.

Situation on the ground: we observed violence on civilians (cases of torture, purposeful wounding, forced displacement, rapes) + restriction on access and information; we don't know how the Government of Sudan is using us (fixing us in certain areas to fix IDPs?). We observe individual cases we can't judge whether there is ethnic cleansing even if we imagine this is the case.

There is a common agreement between the 3 OCs present on the ground to describe what we see, to work at documenting further and to keep on pushing the issue on the agenda.

The general feeling is that there is for the moment no dilemma for MSF: even if Government of Sudan controls through fear, threat, and access to population, and even if we have to be aware that there is manipulation, we have the feeling that at least by being there, we contribute to improve a bit the situation of the population.

But we could potentially face a dilemma in the near future unless situation improves, we may soon start to see patients that we can't transfer for security reasons and have to denounce such a situation. The dilemma might be all the more acute that we are still for the time being the only organisation providing assistance in the region (this may also be an excuse for the others for not coming...).

Next steps:

- Go on mobilizing humanitarian community, do lobby and communication.
- Movement to be aware that this will be a huge operation in the months to come (e.g., updates to be prepared on a weekly basis, etc).



'Measles and malnutrition increasing in Sudan's Darfur region,' MSF **Press release**, Paris, 28 April 2004 (in English).

Extract:

Because of the lack of appropriate, urgently needed aid, the health of displaced people in Sudan's Darfur region – particularly children – is radically worsening, according to the international medical aid organization Médecins Sans Frontières (MSF).

As a preventive measure, teams from MSF have vaccinated 15,000 children against measles in Mornay. Unfortunately, vaccination efforts were delayed in Nertiti and Zalingei, and MSF teams have had to treat hundreds of children with measles.

Measles first affects children weakened by poor nutrition, and complications from the highly contagious disease can be fatal. MSF teams also see a drastic decline in people's nutritional status, particularly among children.

From April 19-23 in Mornay, where nearly 80,000 displaced people are gathered, 107 new patients were admitted to MSF's intensive therapeutic feeding centre, which is now treating 333 severely malnourished children. An additional 1,623 moderately malnourished children are being treated in supplementary feeding centres.

On March 15, the World Food Program conducted a general distribution consisting of two weeks' worth of food supplies. Then MSF distributed survival rations for 14,500 children.

MSF teams in Mornay are supplying 550,000 litres of drinking water per day because of major problems with access to water at the site. In Zalingei and Nertiti, MSF is treating 250 and 80 severely malnourished children, respectively, and caring for 950 in a supplementary feeding centre.

Despite announcements of forthcoming aid, assistance is utterly inadequate. Mobilization of aid efforts is slow and the few organizations operating in Darfur cannot meet the full range of needs. As a result, few of the estimated 600,000-800,000 people displaced by violence in Darfur are receiving food assistance.

Furthermore, shelters and drinking water are in very short supply and access to medical care is extremely limited. People in the region are completely dependent on aid to

survive. If promised aid does not materialize quickly, the decline already underway will only worsen.

Without an urgent response and the massive and immediate pre-positioning of food, medicines and shelters, the threat to the survival of hundreds of thousands of displaced persons will increase when the rainy season begins in May and roads become impassable, further hindering the delivery of assistance. Urgent action is required.



'Strategy Document for advocacy on situation in Darfur,' MSF Holland/OCA, 29 April 2004 (in English).

Extract:

(not meant to replace the Intersectional or MSF France plans – this is to complement those efforts) [...]

MSF Response

Thus far, MSF has concentrated its efforts on initiating or scaling up operations in Darfur. Whether to speak out about the situation in Darfur is not in question. Both what to say and how to say it are thorny questions. To highlight a few of the issues framing the discussions on advocacy:

Public denunciation or criticism of the government of Sudan on sensitive issues will jeopardize access and operation. The Janjaweed have the guns on the ground and are an unknown quantity in terms of how they might react.

Calling for more assistance without talking about security promotes a false or incomplete perception of the crisis and may reinforce the reluctance of international actors to seek difficult political solutions (and instead dump food as a solution).

Calling for increased security without being able to specify the need for an international presence of some sort (as our current analysis indicates) risks reinforcing an idea that government of Sudan forces can be responsible for security.

Speaking out on what we see in terms of violence against civilians may be incomplete, without reference to the ethnic character of the violence (extremely sensitive and difficult to prove – we don't bear witness to the big picture).

Key governments such as the British and the U.S. have been worried about antagonizing the government of Sudan or doing anything else that might jeopardize the government of Sudan peace process. This will full silence appears to be lifting.

There is a clear need to sound the alarm regarding potential starvation/famine, but we do not want to appear alarmist (e.g., 2002 Southern African "famine").

Advocacy Strategy

Main Concerns

Lack of assistance on the ground: lack of capacity and presence of Government of Sudan/ UN; bureaucratic obstacles to access (Khartoum and local levels); insecurity as an obstacle; lack and/or destruction of local resources; inhospitable physical environment, disruption of independence leaves people highly dependent; rainy season on the way will greatly hinder efforts; risk of epidemic or outbreak (cholera, malaria, meningitis, measles).

Lack of protection: continued and severe ethnically – targeted violence against civilians and destruction of society; lack of freedom of movement; forced relocation (IDPs), resettlement (IDPs) or repatriation (refugees from Chad); government of Sudan is perpetrator, and hence cannot play role of protector.

Risk of manipulation of aid or harmful consequences: aid as magnet (that contributes to ethnic grouping or forced resettlement); diversion of aid to fighting forces (including

violent attacks after distributions); centralized distribution of aid reinforces the ethnic grouping of Darfur.

Objectives

- Mobilize international response proportionate to the present needs and potential famine.
- Push political community to address human rights crisis by taking steps for assuring the protection needs of the population.
- Reduce administrative delays in accessing Darfur (for MSF and others).



No other organisation was aiding Darfur at that time. In Khartoum, they told me that some organisations had come to conduct an evaluation but there was no follow-up because they lacked funding or because the level of insecurity was too high. The seriousness of the situation was also underestimated. When I was in Mornay, an organisation came to propose a game project with the children. I was shocked that they would propose that kind of project when no one had anything to eat.

Evelyn Depoortere, Epicentre, in charge of survey on malnutrition and retrospective mortality in Mornay and Zalingei April to May 2004 (in French).

On 6 May 2004, the Sudanese Minister of Information stated that INGOs like MSF, which were working inside Darfur, made no statements to date about genocide occurring, and therefore, the NGOs did not think there was genocide in Darfur.

The MSF communications officers replied to media that indeed, MSF did not take a position on genocide. MSF comms explained that MSF teams did not have enough access to enough areas to be able to say if genocide was committed or not. MSF added that it did not mean that there was no genocide.



'MSF says no genocide in Darfur,' Message from Wyger Wentholt, MSF Regional Information Officer in Nairobi to MSF Belgium, MSF France, MSF Holland, International Comms & Ops in charge of Darfur, 6 May 2004 14:38 (in English).

Extract:

Dear all,

Got a phone call from AFP in Nairobi today, who informed me that the Sudanese Min. of Info had held a press conference in Khartoum today in which he stated, amongst others, that NGOs like MSF which are working inside Darfur had made no statements about genocide happening there and that therefore they thought that no such thing is going on in Darfur. AFP needed an urgent reaction. I replied that indeed MSF has not taken a position on genocide (or, when asked for, ethnic cleansing in the region) because we don't have enough access to enough areas in Darfur to make such a judgement. We can confirm nor deny genocide or ethnic cleansing. I also emphasized that our silence on the subject does not mean that we think that there is no genocide going on.



'Re-MSF says no genocide in Darfur,' **Message** from Anouk Delafortrie, MSF Communication Coordinator in Nairobi, 6 May 2004 18:31 (in English).

Extract:

What about something along the following line? Is genocide happening in Darfur or not?

We don't want to get into a semantic debate. From the places where our teams are at work – villages where tens of thousands of displaced people have gathered – we cannot testify of a genocide. As a reminder, genocide acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group. Even if we have no indications to confirm this, it doesn't mean that terrible things aren't happening in Darfur: Hundreds of thousands of people have been forcibly displaced, villages are burnt – a scorched-earth policy systematically implemented by militia – and up to 40% of our patients among the displaced population are wounded as a result of violence: people with gun shots, knife wounds, beaten or tortures. Although we don't witness systematic massacres directly, we have heard recurrent testimonies of massacres, rape, and violent attacks on villages from refugees across the border in Chad.

We are finalising a retrospective mortality study which should give us a better insight of what effect the systematic violence in Darfur has had on the people's lives.

On 11 May 2004, MSF France/OCP Deputy Legal Advisor, Fabien Dubuet, issued an internal memo on the legal qualification of the Darfur situation stating that:

- **What violence MSF teams were witnessing in Darfur could be qualified as war crimes and crimes against humanity.**
- **MSF did not think there was an ongoing genocide as it was impossible to say that all the violence was committed "with the intention to destroy, in whole or in part, a national, ethnic, racial, or religious group."**
- **"Ethnic cleansing" as nomenclature, was of no use here, since it is not in itself a legal definition, and its practice consists of acts of violence that can be war crimes and crimes against humanity.**

Dubuet exposed the various positions in the movement regarding the relevance for MSF to enter the public debate on qualification of violence in Darfur:

- **Qualification of genocide has important legal consequences -an obligation for the international community to prevent and stop it.**
- **Qualification is important if the violence is largely denied, not recognised, or ignored by the international community.**
- **Best for MSF to avoid legal words and instead, use realistic words such as - rapes, massacres, and forced displacement without minimizing the violence.**
- **It is not within MSF's legitimacy to legally qualify acts of violence.**
- **Violence in Darfur is experiencing heavy media attention and is politically and diplomatically instrumentalised in the denunciations. MSF should keep away from participating, to protect its independence.**



'Memo by Fabien Dubuet, MSF France/OCP Deputy Legal Advisor,' 11 May 2004 (in English).

Extract:

1) How to qualify the violence in Darfur?

From the information we have and what our field teams have seen, faced, and described, it is clear that the violence perpetrated in Darfur can be qualified as war crimes (= serious breaches of international humanitarian law) and crimes against humanity. According to the international definition, it is possible to talk of crimes against humanity when acts of violence are no more isolated but perpetrated on a large scale (part of a widespread and systematic attack against the civilian population). It is obviously the case today in Darfur. On the contrary, we don't think that a genocide is currently going in Darfur, as it is impossible to say that all this violence is committed "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group", to retake the definition the 1948 convention on the prevention and punishment of the crime of genocide.

Finally, there is no need to fight for or against the use of the term of "ethnic cleansing". The expression was used for the situation in the Former Yugoslavia to describe a series of violence aiming to create artificially geographical zones in which the population was composed exclusively of persons of the same nationality or ethnicity. But it does not mean anything legally speaking, nor has any legal consequences in terms of responsibilities for the international community and in terms of rights for the victims. This expression is not in itself a legal definition or category and the practise of "ethnic cleansing" consists of acts of violence that can be war crimes and crimes against humanity.

Thus, the use of this term is not a stake for us.

2) Is there a necessity for MSF to legally qualify what is going on in Darfur?

While there is a consensus within MSF on the fact that the qualification of genocide is really a stake because it has important legal consequences for the international community (obligation to prevent and stop it), there is no such common agreement for other crimes. Some think that the qualification is important only if the violence is massively denied, not recognised, or ignored by the international community. Other say that it is best for the common understanding to avoid legal words and to name the acts of violence with simple words (rapes, massacres, forced displacement...). that give a clearer picture of the reality without minimizing the violence. Other say also that it is not within MSF legitimacy to legally qualify acts of violence ("we are not a human rights organisation nor a tribunal").

Concerning the situation in Darfur, the violence perpetrated is now under heavy media coverage following a couple of public alerts (among which MSF's ones) and even strongly denounced by many national and international officials for political and diplomatic reasons of which we want to stay independent. In that context, several people here think it would be preferable and necessary for MSF not to participate to this political instrumentalization of human rights.

This picture, as well as our analysis and public positioning will be of course further developed at the light of the mission led by Epicentre and Aurelie [Grémaud, MSF Information Officer collecting accounts in Darfur].

C. GOVERNMENT OF SUDAN EASES ACCESS UNDER INTERNATIONAL PRESSURE (May 2004)

1. UN Report on War Crimes & Crimes Against Humanity in Darfur

On 7 April 2004, Human Rights Watch and the International Federation for Human Rights accused the Sudanese government of carrying out a “massive campaign of terror” in Darfur.

Pressured by the international community, the Government of Sudan started to open some access to Darfur.

On 8 April 2004, under the auspices of the President of Chad and the African Union, the Sudanese Government and the non state actors signed a third ceasefire. It was supposed to guarantee safe passage for humanitarian aid to Darfur, free prisoners of war, and disarm Janjaweed militias.

However, the civilian commission to monitor compliance with the truce, mandated under the government-rebel agreement, took time to set up. A few days after the truce signature, rebel representatives announced a ceasefire breakdown.



‘Sudan rebels accuse Khartoum of violating Darfur truce, killing 32,’ **AFP (France) (Libreville) 15 April 2004 (in English).**

Extract:

Forces backing the Khartoum government have violated a four-day-old ceasefire in Sudan's western Darfur region, killing 32 civilians, a Sudanese rebel group charged on Thursday.

Colonel Abdallah Abdel Karim, military spokesman of the Justice and Equality Movement (MJE), said pro-government Janjaweed militiamen and army troops had torched villages northwest of the Darfur state capital Geneina near the border with Chad on Wednesday. [...]

The claim could not be independently confirmed. Several official sources in the Chadian capital Njamena said they were unaware of the alleged raids, while observers said criminal attacks might have been carried out by unruly soldiers. [...]

In a surprise truce agreed last week under Chadian mediation, the government, and rebels from the MJE and the Sudan Liberation Movement (SLM) pledged to guarantee safe passage for humanitarian aid to Darfur, free prisoners of war and disarm Arab militias blamed for most of the violence there.

The ceasefire, which began on Sunday and is renewable every 45 days, is the third since the conflict broke out 14 months ago. The first two were short-lived. [...]

A civilian commission to monitor compliance with the truce was mandated under the government-rebel agreement but has yet to be set up.

Human rights groups and the United States on Wednesday urged the urgent creation of the commission.

Human Rights Watch and the International Federation for Human Rights on Wednesday accused Khartoum of carrying out a “massive terror campaign” in Darfur.

The ceasefire was a “welcome first step but requires immediate and rigorous international monitoring to avert a humanitarian disaster and continued civilian displacement,” said the New York-based Human Rights Watch.

On 20 April 2004, the Government of Sudan finally authorised eight experts from the UN Human Rights Commission to access Darfur. These experts were blocked in Khartoum for days.

Then on 23 April, the UN Commission on Human Rights adopted a watered-down resolution on the abuses in Darfur.



‘Darfur: Human Rights Commission decides to go easy on Khartoum,’ **AFP** (France) Geneva, 23 April 2004 (in French).

Extract:

The United Nations Human Rights Commission adopted a very toned-down statement on Friday regarding abuses committed in Darfur (western Sudan), where pro-government militias are conducting what one UN official has nonetheless classified as ethnic cleansing. [...]

The Commission’s faint-hearted attitude contrasts with the information that has been mounting in recent days regarding the scale of the humanitarian disaster in Darfur, the most serious of this moment.

On Friday, the United Nations announced that it would send a humanitarian mission to the province next week, led by James Morris, Executive Director of the UN World Food Programme.

Another UN mission organised by the High Commissioner for Human Rights is expected to travel to Darfur on Friday.

That mission was blocked initially by Khartoum. The team of five UN experts had to settle for questioning Darfur refugees in Chad. Its preliminary report, based on these statements, raises the possibility that the Sudanese army and militias have committed “war crimes and/or crimes against humanity” in Darfur.

The United States called Friday for a special session of the HCR when the mission returns.

On 7 May 2004, the acting UN High Commissioner for Human Rights presented the report of the fact-finding mission in Darfur.

He stated that “the Government of Sudan and its Arab proxy militia have responded with a “reign of terror” of massive human rights violations, which “may constitute war crimes and/or crimes against humanity.” He added, “what appears to have been an ethnically based rebellion has been met with an ethnically based response.”



'UN finds Sudan has carried out massive human rights violations in Darfur, **UN News**, 7 May 2004 (in English).

Extract:

While black African rebels in western Sudan appear to have violated human rights in their quest for development, the Government of Sudan and its Arab proxy militia have responded with a "reign of terror" of massive human rights violations which "may constitute war crimes and/or crimes against humanity," according to a new United Nations report released today.

The Acting UN High Commissioner for Human Rights, Bertrand Ramcharan, briefed the Security Council behind closed doors on the report, which was based on the work of a fact-finding team he sent last month to settlements in eastern Chad housing about 110,000 Sudanese refugees and then into strife-torn Darfur in western Sudan.

The report says the Government of Sudan should "unequivocally condemn all actions and crimes committed by the Janjaweed [militia] and ensure that all militias are immediately disarmed and disbanded." In addition, Khartoum should pursue a policy of reconciliation for Darfur, end impunity, promote the rule of non-discriminatory law and actively promote development programmes there.

The mission had no access to the rebels but saw areas that the rebels had attacked and met two children who said they had been recruited as soldiers, the report says.

Many senior officials acknowledged that in an effort to fight rebel guerrillas with their own guerrillas, the Government had recruited, armed, supported and sponsored a loose collection of fighters of apparent Arab background now known as the Janjaweed, or sometimes the Fursan or the Peshmerga.

At a location for some of the estimated 1 million internally displaced persons (IDPs), the mission met men in military uniforms on horseback who referred to themselves as Fursan.

"The Fursan said they were all Arabs and that they had been armed and paid by the government. They said they acted upon Government instructions," the report says.

A ceasefire launched on 11 April has been holding, with some incidents, but "according to information collected, it is clear that there is a reign of terror in Darfur," it says.

Elements of this terror include "repeated attacks on civilians by the Government of Sudan military and its proxy militia forces, the use of indiscriminate aerial bombardments and ground attacks on unarmed civilians; and the use of disproportionate force by the Government of Sudan and Janjaweed forces," the report says.

The report says the Darfur rebel groups, the Sudan Liberation Army (SLA) and later the Justice and Equality Movement (JEM), both formed from among the black African Fur, Zaghawa and Massalit peoples, initiated the conflict with similar demands - "for the Khartoum authorities to address the marginalization and underdevelopment of the region."

"It is the manner of response to this rebellion by the Government of Sudan which has led to the current crisis in Darfur," the report says.

"Following a string of SLA victories in the first months of 2003...what appears to have been an ethnically based rebellion has been met with an ethnically based response, building in large part on long-standing, but largely hitherto contained, tribal rivalries," the report says.

On 20 May 2004, the Sudanese authorities started to lift visa restrictions and give more access for humanitarian workers to Darfur.

After months of negotiation and registering processes, MSF Belgium/OCB was able to staff and start programmes in El Fasher and Kabkabiya in North Darfur in May 2004.

MSF Belgium/OCB buttressed the MSF setup in Darfur, where MSF France/OCP and MSF Holland/OCA were already intervening. MSF Spain and MSF Switzerland arrived in Sudan in mid-May, started the registration process, and began operations in August.



'Sudan says aid workers no longer need pass to visit Darfur,' **AFP** (Khartoum), 20 May 2004 (in English).

Extract:

Sudanese Foreign Minister Mustafa Ismail said Thursday aid workers would no longer need a special pass to visit the strife-torn western region of Darfur.

From Monday, aid workers would be able to go to the region as long as they had standard Sudanese visas "obtainable directly from Sudanese diplomatic representations abroad," he said.

Aid workers have been complaining that they were being denied passes to enter Darfur, where more than a year of fighting has left thousands dead and uprooted a million people from their homes, according to UN figures. [...]

Medical charity Médecins Sans Frontières warned Thursday that the "threat of famine is looming" in Darfur.

"The whole population is teetering on the verge of mass starvation," a statement said.

Ismail's comments came days after the United States denounced the Sudanese government for issuing US relief workers with "useless" travel permits for the region that effectively prevented them from leaving Khartoum.



'**Sitrep** MSF Belgium/OCB Khartoum-North Sudan mission, week 19-20,' from 3 May to 17 May (in English).

Extract:

2 MSF international meetings:

- MSF Spain & MSF Switzerland arrivals, briefing on their respective strategy: MSF Spain emergency desk (Aitor) was on ground only for 1 week to get the feeling and meet authorities (not lucky because of Dr S[...] absence and the fact that is Form A was not signed and filled by the Sudanese Embassy in Madrid, they will send someone to do the job, later...). Nicolas, HoM MSF Switzerland was more prepared and up to now is struggling to [get] signed MSF Switzerland registration and country agreement...
- [...] in terms of human resources, now MSF France gets 35 expats in Darfur, MSF Holland, 22.



'Sitrep MSF Belgium/OCB Khartoum-North Sudan mission, week 21-22,' from 17 May to 30 May (in English).

Extract:

- 2 Log/admins (from El Fasher and Khartoum) sent in North Darfur on the 22nd to set up the MSF Belgium bases.
- Arrival of the El Fasher & Kebkabyia teams in Khartoum during week 22
- Reception of the 1st MSF Belgium Full Charter in Khartoum on the 22nd
- HoM met Head of National Security, [...] for Security issues/situation in North Darfur possibility to use Kabkabiya airstrip, and inform about Northwest Darfur future assessment [...]
- HoM met HAC commissioner Dr S [...] to re-emphasise the mandate & very soon operations of MSF Belgium in Sudan.



In April-May, we finally received travel permits and began operations throughout North Darfur, along the Al Fashir-Tiné road. We had a large coordination and logistics base in Al Fashir and programmes in the Kabkabiya and Cherif Umra camps. The French were along the Nyala-N'Djamena Road. The Dutch also had a large logistics base in Nyala, as well as additional programmes more in central Darfur. Around June 2004, the Spanish started developing their activities a bit.

Dan Sermand, MSF Belgium/OCB, Emergency Coordinator in Chad, September to December 2003, General Coordinator in Sudan, January to June 2004 (in French).

2. Start of African Union's Monitoring in Darfur

In May 2004, the idea of an armed intervention to stop the violence was gaining ground. The supporters of this action based their arguments on an extrapolation of their understanding of the Convention on the Prevention of Genocide: an obligation on the part of the international community to intervene militarily to put an end to the genocide. Supporters considered that this "obligation" failed to be applied ten years earlier in Rwanda. Therefore, they now pleaded for the creation of a "responsibility to protect" (R2P)³ clause in international law that would include this obligation, among others.

On 15 May 2004, in a *New York Times's* Op-ed, one of the designers of the R2P concept, former Australian Minister of Foreign Affairs and President of the International Crisis Group, Gareth Evans, warned that "the time for forceful outside intervention is unmistakably approaching." He insisted that, "The case for military intervention grows with every passing day."

3. The Responsibility to Protect (R2P) was elaborated in the late 1990s and was to be endorsed by the UN in 2005. However, the duty to use military intervention as last resort to stop mass atrocities was always a challenged clause of the R2P.



'Darfur: The world should be ready to intervene in Sudan,' Gareth Evans, *The New York Times* (USA), Brussels 15 May 2004 (in English)..

Extract:

The UN secretary general, Kofi Annan, has called it "ethnic cleansing." President George W. Bush has condemned the "atrocities, which are displacing hundreds of thousands of civilians." Others are starting to use the word genocide. Whatever you want to call what is going on today in Darfur, in western Sudan, the time for forceful outside intervention is unmistakably approaching.

Since it came to power, the Khartoum regime has undertaken one scorched earth campaign after another in Sudan. In the past year, it has done so against Muslims of African descent in the west of the country, arming and supporting the Arab militias known as Janjaweed, which inflict collective punishment against the civilian populations in Darfur whom the government accuses of supporting a rebellion there. Supported by aerial bombing, Janjaweed attacks have led to wholesale destruction of villages, targeted destruction of water reserves and food stores, indiscriminate killings, looting, mass rape and huge population displacement.

To date, tens of thousands have been killed, and more than one million displaced, many now living in squalid camps where they are dying from disease and malnutrition. According to the U.S. Agency of International Development, even if the war were to stop immediately, as many as 100,000 people will probably die in Darfur in the coming months because of the desperate humanitarian situation. Another 110,000 have fled across the border to Chad.

At the UN commemoration last month of the 1994 genocide in Rwanda, Kofi Annan rightly highlighted the current situation in Sudan, demanding improved access to those in need of assistance and protection. If humanitarian workers and human rights experts were not given full access to Darfur, he said, the international community had to be prepared to take appropriate action, "which may include military action."

One month after that dramatic and forceful statement, Khartoum is still preventing full access. Aid agencies can now reach some of the internally displaced, but that is far from enough. Meanwhile, the Janjaweed assaults continue, and hundreds of thousands of lives remain at risk. The case for military intervention grows with every passing day.

Resorting to collective military action, overruling the basic norm of non-intervention that must continue to govern international relations, is never an easy call. But nor is it easy to justify standing by when action is possible in practice and defensible in principle. The primary responsibility for the protection of a state's own people must lie with the state itself. But where a population is suffering serious harm and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention should lead to a larger principle, that of the international responsibility to protect.

On 26 May 2004, the UN Security Council expressed "deep concern over the ethnic violence in Darfur" and called for the immediate deployment of international monitors.

On 27 May 2004, peace agreements were signed between North Sudan and South Sudan, putting an end to 21 years of conflict. While praising these agreements, many leaders called on the Government of Sudan and the armed opposition in Darfur to "seize this momentum to reach a political solution" in Darfur.

On 28 May 2004, all parties in the Darfur conflict agreed to the deployment of African Union observers to Darfur to monitor the ceasefire.

Ultimately, 120 observers from the European Union, the United States, the Sudanese Government, the rebel movements, and the Chadian mediators were deployed in Darfur.

They were supposed to be granted “unrestricted freedom of movement and access throughout Darfur.” They were to determine “the sites occupied by the combatants of the armed opposition and verify the neutralization of the armed militias,” and investigate allegations of ceasefire violations, “helping in the end to find a political solution to the conflict.”

The deployment of 300 guards was considered “in the event that the parties are unable to provide effective protection” for the international observers.



‘Security Council concerned over Sudan,’ Kim Gamel, **Associated Press** (USA), UN, 26 May 2004 (in English).

Extract:

The U.N. Security Council called for the immediate deployment of international monitors to Sudan’s western Darfur region and put new pressure on the country’s government to end a conflict there that has killed thousands and sparked a humanitarian crisis. The statement adopted by the council’s 15 member states on Tuesday expresses deep concern over the ethnic violence in Darfur.



‘Sudan peace bid hailed amid alarm bells about Darfur crisis,’ Bogonko Bosire and Anthony Morland, **AFP** (France), Nairobi, 27 May 2004 (in English).

Extract:

Deals paving the way for an end to 21 years of civil war in southern Sudan prompted international praise Thursday, tempered by fresh warnings about a humanitarian catastrophe in the western region of Darfur. [...]

But the deals have no bearing on Darfur, where at least 10,000 people have been killed, more than a million displaced and several hundred thousand left at risk of starvation amid a 15-month-old conflict pitting two rebel groups against government forces and their widely reviled militia allies.

UN Secretary General Kofi Annan hailed Wednesday’s accords as “a major step forward.” But he also called on Khartoum and the “armed opposition in Darfur to seize the momentum created in Naivasha to reach a political solution in western Sudan, putting an end to the grave humanitarian and human rights situations there.” [...]

“Sudan will not be at peace until the problem of Darfur is resolved,” Powell added, calling on Sudan’s government to rein in the militias blamed for the violence and to take steps to end the massive displacement of civilians.

US-Sudanese relations will not be fully normalised until this happens, Washington has warned.

Germany, Italy, France, and the Arab League all issued similar double-edged messages while the African Commission of Human and People’s Rights dedicated its 35th session

in Banjul to the Darfur crisis, with activists denouncing “genocidal” crimes against humanity there.



‘First truce observers in Sudan’s Darfur to deploy next week,’ **AFP** (France) Addis Ababa, 28 May 2004 (in English).

Extract:

The Sudanese government and rebels from Darfur agreed on Friday that the first international observers of a fragile ceasefire in the war-ravaged western region would deploy there next week. [...]

The deal between Khartoum and two rebel groups, the Justice and Equality Movement and the Sudan Liberation Movement, who have been at war since February 2003, also covered details of the composition and role of a ceasefire commission provided for in a separate deal signed in April. [...]

The African Union’s Corentin Ki Doulaye said that ultimately around 120 observers from the European Union, the United States, the Sudanese government, the rebel movements, and the Chadian mediators would be deployed in Darfur.

He added that the observers would be ready to investigate allegations of ceasefire violations, helping “in the end to find a political solution to the conflict.”

Both the Sudanese government and the rebels have accused each other of violating a ceasefire agreement sealed on April 8. [...]

Under Friday’s agreement, the government and rebels also vowed to give the observers unrestricted freedom of movement and access throughout Darfur. [...]

The monitors are also charged with “determining clearly the sites occupied by the combatants of the armed opposition and verifying the neutralization of the armed militias,” it says.

III. INCREASING ASSISTANCE, QUALIFICATION OF VIOLENCE AS GENOCIDE (May-September 2004)

In May 2004, the MSF movement sought to maintain the strategy agreed by the directors of operations in April: avoid catastrophe in Darfur by maintaining and developing operationality at all costs, and by raising awareness for more assistance.

Raising awareness implied describing the dire humanitarian situation and the needs of the population. However, it was difficult to do so without also mentioning the violence, the primary cause of the humanitarian crises.

In discussing the violence, MSF ran the risk getting dragged into the trending discussions which described the Darfur situation as genocide and thus, discussions on the relevance of an armed intervention, which for many in MSF, would worsen the situation instead of improving it.

A. MSF CAMPAIGN FOR MORE AID AND AN END TO VIOLENCE

1. MSF At Arria Formula UN Session (May 2004)

On 27 April 2004, while Khartoum refused to grant visas to 28 special USAID agents, the Chief of USAID, Andrew Naxios, warned of an ongoing “humanitarian catastrophe” in Darfur “unless Khartoum immediately opens the area to relief workers and disarms pro-government militias in accordance with a ceasefire.”

Senior US officials stated that the USA would “hold back on easing sanctions on Khartoum - offered in return for a peace agreement with southern non state actors in a separate conflict - until the crisis in Darfur is solved.”



‘US warns of looming catastrophe in Darfur, demands Sudan allow immediate access,’ **AFP** (France), 27 April 2004 (in English).

Extract:

The United States warned Tuesday of an impending humanitarian catastrophe in Sudan’s stricken western Darfur region unless Khartoum immediately opens the area to relief workers and disarms pro-government militias in accordance with a ceasefire.

In addition, senior US officials said Washington would hold back on easing sanctions on Khartoum — offered in return for a peace agreement with southern rebels in a separate conflict — until the crisis in Darfur is remedied.

“We have always told the government of Sudan: ‘If there is a peace agreement (in the south), we will normalize relations with you,’” said Michael Ranneberger, the special US adviser for Sudan policy. “Now we have said: ‘Well, (even) if there is a peace agreement, we will not normalize relations with you until the Darfur thing is addressed.’”[...]

“Food is running out, sanitary conditions are terrible, disease is beginning to spread, the child mortality rates are rising at an alarming rate, and we are facing a deadline,” said Andrew Natsios, the chief of the US Agency for International Development (USAID).

With Darfur’s mid-May-to-June rainy season fast approaching and threatening to cut off overland routes for relief convoys, hundreds of thousands of internally displaced people will be at risk without quick action, he told reporters at the State Department.

“If we do not have this resolved by the end of June, we are going to face a catastrophic situation by the fall,” Natsios said.

He accused the Sudanese government of holding up a “massive relief effort” being prepared by the United States, the United Nations and international aid agencies by intentionally blocking access to Darfur and suggested Khartoum might be doing so in a bid to cover up widespread human rights abuses, including ethnic cleansing and systematic rape.

“Human rights organizations are telling us that the government is in the villages attempting to move mass graves, attempting to disguise some of the events that took place in the last six months,” Natsios said. [...]

Khartoum has refused to grant visas to 28 special USAID disaster specialists who are ready to travel to Darfur to set up logistics for the delivery of 80 million tonnes of US food aid as well as medicine and temporary housing supplies that are either *en route* to Sudan or have arrived in the region’s three main cities but await distribution, he said.

In early May 2004, Epicentre internally released the preliminary results of their survey on malnutrition and retrospective mortality in Mornay and Zalingei. The report showed that the population of Darfur suffered significant violence and received almost no assistance:

- 80% of 800,000 displaced in the region fled with nothing in hand, following attacks on villages.
- The retrospective mortality rate was 2.7 per 10,000 per day.
- 60% of the displaced received no food from any distribution.
- Severe malnutrition rate was 4.5%; moderate malnutrition rate was 2%.

As a result of the lack of food assistance, and despite many announcements of impending distributions, child malnutrition tripled in Mornay, Zalingei, and Nertiti in the last three weeks.

The survey showed that many people disappeared and highlighted an imbalance in a normal age and gender distribution pyramid.



'MSF France/OCP **Update**,' 3 May 2004 (in French, in English).

Extract:

Darfur

The preliminary results of Epicentre's current investigation in Darfur confirm our fears concerning this population, evaluated at 800,000 displaced persons in the region: approximately 1 death/10,000/day (a retrospective mortality rate of 2.7/10,000/day, due to direct violence for 50% of the cases), 4.5% suffering from severe malnutrition and approximately 20% of moderate malnutrition, 80% of IDPs fled taking nearly nothing with them during attacks on their villages and, for over 60% of the IDPs, there has been no distribution of food or a very fragmented supply. The logical consequence of this food aid which, despite announcements, is still being awaited: in three weeks, child malnutrition has tripled in Mornay, Zalingei and Nertiti. Today we have 380 children at Momay's TFC and conducted a blanket food distribution for 15,000 children. We have vaccinated against measles after several cases were declared. All sections included, we have seen approximately 400,000 of the 800,000 displaced. For its part, the ICRC has announced a massive aid operation, as has the WFP. But this vital aid has yet to come, which is even more worrying since the upcoming start of the rainy season may seriously complicate transport.

On 3 May 2004, the MSF USA General Director, Nicolas de Torrente, sent a letter to the US House of Representatives' Committee on International Relations to decline an invitation for the MSF Emergency Coordinator in Darfur, Ton Koene, to testify in a hearing titled: "Ethnic Cleansing in Darfur: A New Front Opens in Sudan's Bloody War."

He explained why MSF declined, owing to the very charged political environment in which this hearing was taking place, emphasising recent statements by US and UN officials, which conditioned the delivery of assistance on the implementation of the April 11 ceasefire agreement.

He restated that assistance could and should be provided immediately, not dependent on implementation of a political agreement, which people in need and the humanitarian community had no ability to control.



'Letter from Nicolas de Torrente, Executive Director, Médecins Sans Frontières/Doctors Without Borders (MSF USA) to US Congress Representative Henry J. Hyde,' 3 May 2004 (in English).

Extract:

Dear Chairman Hyde,

On the behalf of Mr. Ton Koene and Médecins Sans Frontières/Doctors Without Borders (MSF), I would like to thank you for the invitation to testify before the Committee on International Relations at "Ethnic Cleansing in Darfur: A New Front Opens in Sudan's Bloody War." We had to weigh the importance of testifying about the critical humanitarian situation in Darfur against our ability to pursue our programs assisting civilians who are totally dependent upon aid for their survival. Since beginning operations in December 2003, MSF's priority has been to steadily increase our capacity to respond to people's growing needs by opening medical and nutritional programs in places where displaced people have gathered, which requires negotiating with the Government of Sudan for more travel permits for our volunteers. The title of the hearing as well as recent statements by officials from the United States and United Nations shows that the political environment in which this hearing is taking place is very charged. Therefore, it is with deep regret that we made the difficult decision to decline the invitation to speak at this time.

We are extremely concerned about the deteriorating situation in Darfur as malnutrition and mortality rates rise in the areas, we have been able to access. Assistance is woefully inadequate, and a massive relief effort is urgently required. Such relief cannot depend upon political developments relating to the implementation of the April 11 cease-fire agreement or on the peace process between the Sudan People's Liberation Movement and the Government of Sudan.

MSF is one of the only humanitarian organizations on the ground, with 40 international volunteers based in Western Darfur Province. Our teams provide medical, nutritional, and water and sanitation assistance to nearly 250,000 displaced people in a dozen villages. Since last week, In Northern Darfur Province, an MSF team has started to assist 45,000 displaced people in the village of Kabkabiya. So far, the government of Sudan hasn't granted us access to the areas under the control of the rebellion. In Western Darfur, our teams currently treat 900 severely malnourished children and 3,000 moderately malnourished children, and admissions in our feeding's centres in Mornay, Zalingei and Nertiti have tripled in the past three weeks. We also vaccinated 40,000 children against measles in four resettlement villages. In Mornay, where the population has gone from 5,000 in December 2003 to almost 80,000, MSF distributed food rations to 15,000 children. Of the 200 patients who have been hospitalized, 40% were treated for war wounds, and MSF performs an average of 300 consultations per day in our clinic. In Nertiti, 396 cases of measles have been confirmed and the mortality rate has risen to 3 deaths/10,000 people per day, or three times the emergency threshold, for this displaced population of 12,000. The international community has been slow to respond to the crisis. The handful of international humanitarian agencies currently implementing assistance programs in Darfur cannot meet the needs in overcrowded resettlement villages. The displaced people were not able to bring any belongings when they were forced out of their villages of origin. Also, people's livestock and what little food they

harvested has been totally destroyed or stolen. The current crisis may well turn into a catastrophe if humanitarian agencies do not immediately and substantially increase their capacity to provide more food, shelter and other non-food items, and water and sanitation facilities. In Western Darfur for example, less than a third of the displaced people have benefited from food distribution, and only three other organizations operate in the area. As the rainy season starts in May, an urgent and massive pre-positioning of material, especially food, is needed. Our teams fear that present conditions could lead to a further deterioration in the nutritional situation and to outbreaks of malaria, cholera, and meningitis.

Despite the bureaucratic obstacles for gaining access to Darfur, it is possible to implement programs and provide direct assistance to displaced people in areas under the control of the government of Sudan. We are therefore worried about the recent statement by Andrew Natsios conditioning relief in Darfur to the implementation of the April 11 cease-fire by the government of Sudan: "... we are prepared to mount a massive relief effort, but we cannot do that unless the government of Sudan does several things: the first is to implement the humanitarian access agreement that was signed in N'Djamena; two, to respect the cease-fire and disarm the Janjaweed militias ..." Assistance can and must be provided immediately and should not depend on the implementation of a political agreement that people in need and the humanitarian community has no control over. Finally, we are also very concerned that the dozens of villages and sites where we are currently providing assistance have become "enclaves" of trapped civilians who cannot move freely to fetch water or search for food and firewood out of fears of being attacked or taxed by militias. In our clinics, we are currently treating victims of rape, torture, gunshot, or knife wounds. Cases of abduction and extra-judicial killings of men by the militias have also been brought to our attention. The heavy presence of armed Janjaweed and regular security forces in and around these "enclaves", and the numerous cases of violence, create a climate of fear that severely curtails people's ability to seek assistance or return to their villages of origin.

Again, we would like to thank you for the invitation to the hearing and remain at your disposal if you would like any further information on the evolution of the humanitarian situation in Darfur. Please keep us in mind for future hearings on Darfur as the humanitarian situation is rapidly evolving.

On 24 May 2004, at a UN Arria Formula meeting⁴, Ton Koene presented the dire humanitarian situation in Darfur, basing part of his presentation on the Epicentre survey. He described the inadequate humanitarian response and the obstacles to humanitarian access.

He added that any large-scale improvements in relief would "not be enough and might even be irrelevant if the violence perpetrated against civilians is not stopped." He asked for "protection and security to be immediately provided to the civilian population of Darfur."

4. Arria formula: an informal meeting of members of the United Nations Security Council (UNSC), convened by a member of the UNSC. Arria formula meetings have no obligations to meet the official requirements of typical UNSC meetings.



'The humanitarian situation in Darfur, Sudan,' **Statement** by Ton Koene, Emergency Coordinator, MSF to the United Nations Security Council "Arria formula" Meeting, 24 May 2004 (in English). [Link to full document](#)

Extract:

I was in Darfur in the months of March and April and was shocked to see during my first four hours on the road that all the villages were burned to the ground and empty. I did not see a single civilian.

We are witnessing excessive levels of death and malnutrition among a displaced population that is entirely dependent on aid. Relief efforts remain utterly inadequate, and all indicators point to a looming famine.

MSF currently has forty-seven international aid workers and hundreds of Sudanese staff in the province of Western Darfur, providing medical, water and sanitation, and nutritional assistance, including food rations to children and basic supplies in ten villages where the people were forced to move. MSF is currently treating more than 1,000 severely malnourished and 3,500 moderately malnourished children in our feeding centres and performing 6,500 medical consultations per week. MSF has also vaccinated nearly 40,000 children in Western Darfur against measles since an outbreak began spreading in January.

[...] Deterioration of Health Status of the Displaced

The medical and nutritional status of the displaced and destitute population in the Darfur region, especially the children, is dramatically deteriorating. At the end of April, an MSF team conducted a nutritional survey in five villages in the province of Western Darfur where 100,000 displaced people have sought refuge. The survey revealed that malnutrition already affects 21.5% of children and among them 3.2% are suffering from severe malnutrition; [...]

Even more worrying is that for the period from February to the end of April of this year, mortality among the population surveyed was three times higher than the emergency threshold. An alarming 50% of recorded deaths among children and 60% among adults were a direct result of violence.

Inadequate Humanitarian Relief Response [...]

Obstacles to Humanitarian Access [...]

Violence Against Civilians [...]

Conclusions

The civilian population of Darfur is living in a climate of terror, the victims of widespread violence and abuse committed by the Janjaweed militias. This must stop immediately.

The minimal survival needs of the civilian population of Darfur are not being met. UN agencies, the donor community, and humanitarian organizations must immediately and drastically step-up emergency relief efforts in both Darfur and Chad. This aid must not be contingent upon the implementation of the April 8 humanitarian cease-fire agreement in Darfur or the peace process between the SPLA and the government of Sudan.

Finally, all restrictions on the movement of goods and humanitarian workers to Darfur must be lifted and humanitarian organizations and United Nations agencies must be fully allowed to implement independent assistance programs in Darfur.

On 3 June 2004, USAID Chief, Andrew Naxios, estimated that 1 million people could die in Darfur if aid was not brought. This estimation was considered alarmist by many experts.

On 5 June 2004, Mercedes Tatay, the MSF France/OCP Deputy Emergency Programme Manager said to the French daily *Le Monde* that she would prefer talk of “emergency.”



‘One million people in urgent need of aid in western Sudan,’ Jean-Philippe Rémy, *Le Monde* (France), 5 June 2004 (in French).

Extract:

Donor countries met in Geneva on Thursday, 3 June, at a conference on Sudan. Andrew Natsios, administrator of the U.S. Agency for International Development (USAID), stated that he believed that the disaster was already underway. “We believe today that if we manage to get aid in, we will lose 300,000 people. Otherwise, that number will be much larger, in the order of one million.” Many experts consider that estimate to be alarmist, at least. They – including Mercedes Tatay, MSF’s Deputy Emergency Director – prefer to speak of an “emergency” in this region, which has been left to its fate until now. Eager to crush the rebellion through terror – the death count stands at 10,000 and 120,000 people have taken refuge in Chad – and far from the eyes of the world, the government has allowed only a trickle of aid to enter. In addition, concern for Darfur over the last 12 months of the insurrection, which began in early 2003, has been eclipsed by the “other” war in Sudan – the one between the government and southern-based rebels, the Sudan People’s Liberation Army (SPLA).

In short, the West was muddying the waters of what is already a complex peace process. Since then, on 26 May, “the enemies of 20 years’ standing” signed, in Kenya, the final protocols required for a peace accord. Although attention has been late in coming, it is now focused on Darfur. “I acknowledge that we are late,” Jan Egeland, the UN’s emergency aid coordinator, said on Thursday in Geneva. (However, he had been based in Khartoum until late March.)

In Geneva, the United Nations announced what it would need to address the situation in Darfur over the next six months: \$236 million (nearly 95 million euros). Of that amount, the United States has promised \$188.5 million, and the European Union will provide \$12.2 million. Mercedes Tatay sounded an early warning. “It can sometimes take a long time for the pledged funds to be made available. And Darfur doesn’t have months. Mortality rates are already rising quickly.”

2. MSF Report: ‘Emergency in Darfur, Sudan: No Relief in Sight’ (May- June 2004)

On 21 June 2004, MSF France issued a report titled “Emergency in Darfur, Sudan: No Relief in Sight,” based on the main results of the Epicentre survey and displaced accounts collected in Mornay, West Darfur in May.

A press release and a series of interviews completed the media campaign with the following messages:

- **One in 20 people were killed in scorched earth attacks on 111 villages from September 2003 until February 2004.**
- **The survivors continued to endure violent attacks and rape around the camps where they were displaced.**

- Relief operations in the region were far from meeting the needs and an entirely man-made famine was about to occur.

While not using the term genocide, the report and the press release mentioned that the violence experienced, ongoing attacks, food shortages, and threats of renewed displacement were perceived by many as “the continuation of a policy aimed at destroying them as a group and severely exploiting the survivors after resettlement.” The messaging added that the situation “damaged people’s psychological wellbeing and further eroded their ability to survive.”



'Minutes of MSF France/OCP Executive Committee meeting,' 25 May 2004 (in French).

Extract:

Sudan, Darfur (Thierry Allafort and Vincent Brown) [...]

The malnutrition and retrospective mortality survey conducted by Epicentre and MSF will be completed soon. It will also highlight disappearances, an imbalance in the age-sex pyramid, and specific information by village of origin. A compilation of accounts of violence perpetrated against the populations is also being completed.

These reports will be made public; they will present statistics that argue effectively for bringing aid in faster, now that it seems that it is finally being mobilised and that the Khartoum government has decided to issue visas more quickly. In terms of speaking out publicly, we are working on a report on the health situation and photographs of the impacts of the violence, along with proposals to organise and deploy aid.



'Health assessment in emergencies: Murnei Zaleingi, West Darfur, Sudan,' Evelyn Depoortere, MSF/Epicentre Report, 15 June 2004 (in English). [Link to full report](#)

Extract:

Summary

Several hundreds of thousands of people are internally displaced since the start of the conflict in the Darfur region of Sudan in February 2003. Because of political and logistical constraints in February 2003, access to this highly vulnerable population has been very limited up to now. The French section of Médecins Sans Frontières (MSF) is providing assistance to an estimated 150 000 displaced persons in West Darfur.

In April-May 2004, 2 population surveys were carried out in the camps of Zalingei and Mornei [Mornay], covering retrospective mortality, conditions of displacement, access to food and non-food items, and assessment of the nutritional and measles vaccination status in children under 5 years of age. In addition, a simple active mortality surveillance system was implemented, and morbidity surveillance was simplified.

For the 6-month recall period, excess mortality due to violence was demonstrated in both Zalingei and Mornei: in Zalingei the crude mortality rate was at 2.2 deaths /10 000/day (95% CI [1.8-2.7]) and in Mornei it was at 3.4 deaths/10 000/day (95% CI [3.1-3.8]). These figures represent 2 and 3 times respectively the internationally accepted threshold to indicate an emergency situation. [...]

The results of both surveys, and even more in the light of the rainy season that has started, indicate that we are dealing with an extremely vulnerable population. Among priorities and vital needs determining people's health and livelihood, access to food and nutritional rehabilitation, the provision of water and sanitation, and shelter are of

concern. Security is the most alarming worry. Sanitary conditions are such that there is a considerably high risk for disease and outbreaks.

Taking into account the enormous needs of the displaced persons, the lack of presence of humanitarian aid is the least to say striking. An urgent increase in resources for assistance is absolutely necessary to avoid a true disaster.



'Emergency in Darfur, Sudan: No relief in sight,' MSF **Press release**, Paris/Khartoum, 21 June 2004 (in English).

Extract:

After surviving massacres carried out by pro-government militias on their villages, displaced civilians in Darfur, Sudan continue to endure violent attacks and rapes around the areas where they have gathered and face a devastating shortage of assistance, according to the international humanitarian medical aid organization Médecins Sans Frontières (MSF). Relief operations throughout the region fall far short of the massive needs, and as currently designed will not succeed in preventing an entirely man-made famine from wiping out tens of thousands of lives throughout the region.

A recent survey conducted by MSF and the epidemiological research center Epicentre in the town of Mornay, West Darfur State, where nearly 80,000 people have sought refuge, found that one in 20 people were killed in scorched earth attacks on 111 villages from September 2003 until February 2004. Adult men were the primary victims, but women and children were also killed. Today, one in five children in the camp are severely malnourished while irregular and insufficient food distributions do not come close to meeting the basic needs of people weakened by violence, displacement, and deprivation. The same militias who carried out the initial attacks now control the camp's periphery, virtually imprisoning people who live in constant fear. Men risk being killed if they leave, and women have been beaten and raped looking for food and other essential items outside the camp. In the past nine weeks MSF medical teams have treated 132 victims of such violence.

The displaced have been entirely dependent on external aid for several months, but the assistance necessary for them to survive has not materialized. Already, 200 people die in Mornay every month, and there is nothing to indicate that assistance will arrive in time or in sufficient quantities to avoid a massive human catastrophe.



'Emergency in Darfur, Sudan: No relief in sight,' MSF France/OCP **Report**, 21 June 2004 (in English, in French). [Link to full report](#)

Extract:

After a killing spree from September 2003 until February 2004, there is continued violence and severe aid shortages in Darfur, Sudan.

Current relief operations fall dramatically short of the massive needs and will not prevent an entirely man-made famine.

Focus on Mornay Camp, West Darfur State, June 21, 2004

The 80,000 displaced Sudanese civilians living in Mornay camp had fled from 111 villages throughout West Darfur State that had been looted and burnt to the ground by pro-government militias, with the vast majority of people arriving between September 2003 and February 2004.

According to a recent survey carried out by Médecins Sans Frontières (MSF) and Epicentre, one out of every 20 people, or 5% of the original population of these villages,

was killed in such attacks. While this average is appalling, particularly ferocious large-scale killings occurred in 11 villages between November 2003 and February 2004.

The killers primarily targeted men, who accounted for three out of every four deaths. Women and children were also killed, with more than 75% of the deaths among women and 50% of the deaths among children due to violence. Survival for many of the weakest children and elderly today depends on traumatized and exhausted mothers and girls while essential survival items like food, drinking water and shelters are distributed irregularly and in insufficient quantities. Up to 200 people already die every month in Mornay from violent acts, starvation, and disease.

People continue to live in perpetual fear of new killings and rapes because the same militiamen who conducted the scorched-earth attacks on their villages control the periphery of Mornay camp. The men who survived the initial killing spree cannot leave without risking death, while women who dare venture out to gather items like wood and grass have been exposed to beatings and rapes. Nearly 14% of the 132 victims of violence treated by medical teams from MSF over the last nine weeks were victims of sexual violence. Because of cultural mores, many cases of rape have most likely gone unreported.

People also wait in vain for assistance while there is little to suggest it will arrive in time and in quantities sufficient to prevent large-scale calamity. To feed people in Mornay alone would require 1,200 tons of food every month. Transport alone would require 80 roundtrips every month on sandy roads with trucks designed to carry 10 tons carrying 15. As the rainy season begins, the roads will be even more difficult to navigate. Meeting the food needs of all West Darfur's 600,000 displaced persons would require 300 tons a day while only half that amount seems to arrive in West Darfur.

The ongoing attacks around the camps make people entirely dependent on external aid that is inadequate and irregular. Because of acute shortages of food, one child of every five in Mornay suffers from acute malnutrition. [...]

Mornay is one of the first sites in the Darfur where aid is being deployed, but the assistance is still inadequate. Many officials, both Sudanese and foreign, have visited and often cite the camp as an example of an effective aid response. Each visit brings promises of protection and assistance, but people are still waiting desperately for the promises to translate into action. In several instances, official visits have yielded grotesquely staged aid operations, with the objective of satisfying the visitors' political and public relations needs.

After the intense violence to which people have been subjected, many in Mornay perceive the ongoing attacks, food shortages, and threats of renewed displacement as the continuation of a policy aimed at destroying them as a group and severely exploiting the survivors after resettlement. Such beliefs, even if only perceptions, have damaged people's psychological wellbeing and further erodes their ability to survive.

Those who have fled to Mornay represent less than 10% of people displaced by a war waged against civilians in Darfur. The events directly affect an estimated 1 million people and indirectly affect several hundreds of thousands more, especially in terms of food security, while more than 190,000 people have sought refuge in neighbouring Chad. Promoting various political interests must give way to a massive mobilization of assistance on the national and international levels. As presently designed, the relief operation falls dramatically short of the needs and will not succeed in preventing an entirely man-made famine from wiping out tens of thousands of lives across Sudan's Darfur region.



'Minutes of MSF RIOD Meeting,' (23 June 2004 (in English).

Extract:

Communications:

- Darfur crisis is now strong in the media and on the political agenda (journalists managed to travel to the area) but still low response from NGOs & agencies.
- not too much media impact from the Epicentre report - no press conference is foreseen until j.hervé [Bradol, MSF France President] returns (nb: an interview in Le Monde the following day w/J.Hervé).
- MSF France will complete a food survey in 1-2 weeks which will likely be the basis of a public report...also considering communicating on outbreaks.
- MSF Holland is considering a report on violence, forced displacement and lack of assistance and protection.

In general, comm.-line should stay focussed on humanitarian needs, violence, and failure of international response.



'Minutes of MSF France Board of Directors' Meeting,' 3 September 2004 (in French).

Extract:

Jean-Hervé Bradol: In early June, we decided that we had to draw a clear line when we realised that some of the media – particularly American – were taking our proposals out of context to serve the US policy of pressuring the Sudanese government, building on the possibility of a military intervention [...]. To have a balanced position, we ... went on the offensive with the Sudanese government. The June report, in which we showed that 5% of the population had been killed, created a lot of problems and tensions were thus quite high. They even considered expelling our head of mission. We weren't talking about genocide, but widescale killings, which was not acceptable to the Sudanese government. We continued, and they were shocked when they realised that we weren't hesitating to accuse their militia fighters of rape.



The first time I went to Darfur was in June 2004. We did a lot by road. And it was disturbing. You were driving through what you could see was a post-apocalyptic war zone. You would drive into villages that were clearly just burnt and where people had obviously moved very quickly. Stuff was left behind, burnt pots broken on the ground. And there was no one, no one on the street, no one anywhere.

For me, based on my experience in South Sudan, it was almost like a cut and paste of methodology: you have had population massacre but now you had a displaced, regrouped population that was in a fragile security status. But now people were dropping dead from health problems. Part of the problem was that it's desertic. There was always competition for resources and that part of the internecine fighting was all about that. There were reports of the decimation of the population, which were verified by our retrospective mortality studies. But at least three quarters of those deaths were from the regular things that we saw. Diarrhoea was everywhere. There was shigella, malaria, the routine stuff, malnutrition amongst the kids, etc. We just massively needed to scale up operations and we needed the conditions to do that. We needed administrative access, logistics access, security, and people to do the work. So, it was more about mobilising the massive scale up quickly.

There are all sorts of holes in retrospective mortality studies, but I think that was a pretty

important sort of documentation, with numbers that were consistent with numbers that were being thrown around on the whole decimation of population. There was that whole notion of the decimated population and the cause specific. We could talk about sort of a window of time where there was a lot of violence and about the larger sort of mortality, of the impact of the violence and the displacement. I remember that was valuable. And I think there was a couple of other mortality studies that were consistent with ours that were done by others.

*Dr Greg Elder, MSF France/OCP, Coordinator in Sudan, April 2004 to May 2005
(in English).*



There was an issue at that time regarding the needs for assistance. Given the situation we were experiencing in Mornay, we were very concerned – a concern that was not confirmed – about operational capacities in terms of some fundamentals, including water and food. We were worried.

The World Food Programme wasn't hiding its problems but was doing everything it could. They were succeeding well. During our meetings with them, we pushed them to really be open about their situation. We went to see the WFP managers directly in Sudan. They were surprised and told me that they didn't usually discuss assistance at a technical level – operational methods and practices – with NGO representatives like me. But we wanted to poke around in questions like, 'How many tons? For where? What's your pipeline? And so on.' We really dug into operations with them.

Greg Elder, the head of mission, had the idea to publish the report that we had put together based on the Epicentre study and the statements collected when France's Secretary of State for Foreign Affairs visited. The idea was to use his presence as a sort of diplomatic cover. We had also asked the British and French ambassadors to protect us against threats of expulsion. When we issued the press release that summarised the report, the authorities reacted by saying that they were going to throw Greg out, but in the end, nothing happened

*Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007
(in French).*



I was elected to the Board of Directors in June 2004. During the first meeting the day after the election, we discussed Darfur. It was the main topic because a major food and nutritional crisis was emerging there.

I was thinking about the organised famine and the misappropriation of aid in South Sudan in the late 1990s, when I was the MSF France programme manager in Sudan. At that time, we had set up massive food distributions for the families. I thought that if the same kind of problem was emerging in Darfur, with the same groups, they might also manage to get their hands on the World Food Programme donations. So, we had to be sure that we'd be able to get as close to the populations as possible. We talked about that.

Dr Marie-Pierre Allié, MSF France, Member of Board of Directors 2004-2007, Deputy Operational Director MSF France/OCP, 2007-2008, President of Board of Directors, 2008-2013 (in French).

During this period, MSF France President Jean-Herve Bradol was visiting MSF France/OCP programmes in Darfur. In one of the meetings he attended, the United Nations Under-Secretary-General for Humanitarian Affairs, Jan Egeland, straightforwardly addressed the issue of genocide. The Sudanese authorities reacted by invoking Western propaganda and claiming that figures in the MSF report were fake. The Sudanese authorities threatened to expel the MSF France/OCP coordinator but did not.



In this report, we did not raise the accusation of genocide ourselves, but we said that the question had come up, that it was on the table, that the people we had interviewed had talked about it a lot themselves. Most of them were activists because, at the time, the average Darfuri obviously did not know what genocide was. We ourselves also had pretty much the same level of knowledge – that is, close to none – that we'd had in 1994 during the Rwandan Tutsi genocide. But there were political activists in the camps, and they talked about it, campaigned about it, and so forth.

We, Oxfam, and several large NGOs were invited to a meeting with Jan Egeland, UN Undersecretary-General for Humanitarian Affairs, and several ministers, including Ahmed Haroun, Minister for Humanitarian Affairs, the director of the HAC, who'd been one of the architects of the repression. Egeland really went on the offensive. He said to them, 'You don't realise the seriousness of the accusations of genocide made against you. This is something that, in this moment, could have serious consequences for international relations.' He really pressured them. The Sudanese responded, saying, 'That's all-Western propaganda, that's our enemies talking. The proof is that the figures in the MSF report are false.' They accused us of making things up.

*Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007
(in French).*

On 22 June 2004, in an interview that would be posted on the MSF international website on 25 July, MSF France President Jean-Herve Bradol stated: "We are looking at a second catastrophe."

On 30 June 2004, the French daily *Libération* headlined: 'MSF lifts the veil on the horror.'



'West Darfur: 'We are looking at a second catastrophe',' MSF France/OCP, **Project Update**, MSF Website, Interview MSF France President, 22 June 2004 (in English).

Extract:

You just returned from West Darfur. What were your impressions of the situation?

"The first catastrophe was the severity of the violence people endured, and the impact of this violence on the global health status of the population, the indirect consequences of such violence and the forced displacement of people. There are already high rates of malnutrition and continuing high mortality - it's already very worrying. For example, one child of every five in Mornay suffers from acute malnutrition.

"Then there is the fact that violence is continuing around the camps. Pro-government militias frequently attack people -mainly women and young girls - when they go outside the camp. Many were raped.

Since a lot of the men are missing - they were either killed or they fled to other parts of the country - women have to maintain the whole group. Authorities in some areas are even talking about relocating people back to their destroyed villages. "I stopped in Sisi camp, on the road from El Genina to Mornay. Men gathered around the car to greet us. I asked the translator to ask them if they wanted to go home.

They pointed a few hundred feet away and said, 'We can't even go over there because we are attacked. We can't even think about going back home.' These were real men living under threat."

How does this ongoing violence affect people's ability to survive?

"Even with such weak relief, they could find coping mechanisms to improve their situation because they know the area. But they can't use these because they are raped or beaten if they go out. This form of violence does not only affect the individual women, but children and elders will die because these women will not be in any condition to save their families. It also makes people even more dependent on external relief, and the relief is slow, irregular, and not dependable."

What will the onset of the rainy season do to these efforts?

"The situation will deteriorate both in terms of the logistics for food supply, but also in terms of epidemics - the seasonal malarial peak is around the corner, and with no latrines, there could be cholera, dysentery, any type of major epidemics. When you think of the global magnitude of the problem - we are talking about one million displaced people - we are afraid tens of thousands of lives could be lost."

What needs to be done?

"The relief effort needs to be sped up - bring in more food, build up food stocks. It has started but it is too slow to be effective. Unless there is a change of scale, we are looking at a second catastrophe. The first was the intense violence and now we face a second because of the shortage of assistance for a very weak population affected by epidemics and high malnutrition rates."

How can this 'change of scale' come about?

"Looking at the conditions, heavy logistics are needed - food, transportation, storage, food airdrops in some places. If this can be done in the civilian sector, fine. Otherwise, to guarantee the correct flux of aid, mainly food, people in charge will have to consider huge means.

"I've been involved in emergencies for 20 years, and it seems like the food, water and sanitation, and medical needs can't be covered, especially with the added burdens of violence and rains. Honestly, MSF can't cope with all of the medical needs that will arise. The WFP tries what they can. But it isn't clear if they can cover the operations they have planned.

WFP could use strong back up from other powerful players, especially in logistics. "A camp like Mornay needs 1,200 tons of food every month. West Darfur as a whole needs 300 tons of food every day in a kind of permanent supply line, while heavy rains will cut off roads and sometimes the airport. It is going to be a nightmare and unless there is a change in terms of scale it will be a failure."



'Minutes of MSF France Board of Directors Meeting,' 25 June 2004 (in French).

Extract:

Darfur [...]

Thierry Allafort: I spent two weeks in Sudan. This will be our largest operation this year and is certainly comparable, in terms of scale, to our other historical operations.

The number of displaced persons is large: approximately 190,000 refugees in Chad (where we have opened a hospital) and more than one million displaced persons inside Darfur (which is the size of France).

One child in five is malnourished but all signs suggest that the situation is worsening. In the area that we're familiar with, we believe that 90% of villages have been destroyed, with raids and violence by militias and soldiers. [...]

Observations

- 1) The militias' widespread violence against civilians is continuing.
- 2) The Sudanese authorities' line calls for people to return to the villages because the planting season is coming up. To support that, they claim the violence is over, but that's not true. The refugees have a legitimate fear of returning to their villages.
- 3) We are working on the food aid dimension.
- 4) The only progress being made in this crisis is that it is now an international concern.

Our resources

Currently, this operation involves 40 expatriates, 9 million euros and 2,500 national staff. While we wait for the WFP to organise, we're also prioritising food distribution (the rainy season is here, which will make it more difficult to transport goods).



'Minutes of International Council Meeting,' Amsterdam, 25-27 June 2004 (in English).

Extract:

Darfur: [...]

Kenny [Gluck, MSF Holland/OCA Director of Operations] gave an overview of our operations with:

MSF Belgium in the North, MSF France in the West, MSF Holland in the South, MSF Switzerland / MSF Spain to start soon.

There will soon be over 200 MSF expatriates on the ground but still no way we will be able to cover all needs. And with the rainy season, we will be forced to stop some activities in remote areas which will no longer be reachable.

Why has humanitarian community failed so much? In many areas, there is no aid at all although some of these areas are accessible so no excuse for not having got there. So far, we have decided not to target UN agencies, but have we been aggressive enough at UN and have we been vocal enough?

We also have to ask ourselves why we have been so slow even if we were four months ahead from the others. Another problem is that when we are alone on the ground, we work in environments where there is no water, no food distribution, etc.

Questions for clarification:

Level of support from Government of Sudan: Government of Sudan has been very obstructive to aid from May till recently (this is now the excuse given by the UN for the slow response). It is unclear how far the Government of Sudan took advantage of the absence of witnesses to conduct the "operations" on the ground. Indeed, there are several conflicting agendas going on (including on the militia side) so difficult to have a

clear picture of the situation. There are now worries that Government of Sudan organises forced returns in unsafe areas so we have to make sure IDPs can return on a voluntary basis: so far they are forced by despair and lack of aid to do very risky things (they basically have the choice between dying of starvation or taking the risk of being raped / murdered).

Lack of humanitarian response: even now that Government of Sudan has moved ahead and that the level of obstruction has decreased, most NGOs have already reached their maximum capacity. In general humanitarian actors disengage from emergency response to focus on development, campaigning, peace-promotion activities. This is a problem for us as we have lost competences / expertise in some fields (e.g., watsan) as some NGOs were doing better than we did. At last, even if humanitarian community may fear that Government of Sudan manipulates aid, this should not refrain from engaging the process and then challenging the government. In that case, UN agencies and most NGOs did not even engage the process or have engaged it too late. Aid is more important now that Government of Sudan is forcing IDPs back: to ensure freedom of movement, aid has to be available and sufficient.



'MSF lifts the veil on horror,' Christophe Ayad, **Libération** (France), 30 June 2004 (in French).

Extract:

According to a recent epidemiological study conducted by Médecins Sans Frontières (MSF) and Epicentre of 80,000 displaced Sudanese civilians in Mornay camp, one person in 20 – or 5% of the original population – was killed in attacks carried out by Arab militias and the army. This average, which the report notes is “already quite stark”, further obscures large-scale killings in 11 villages (of the 111 from which the displaced persons come). “The killers targeted primarily men, who represent three out of every four deaths. However, women and children have not been spared. Violence is responsible for 75% of deaths among women and 50% among children.” Nonetheless, living in a displaced persons’ camp does not guarantee security and survival. “Every month, up to 200 people die from violence, hunger and disease in Mornay (ed. note: originally a village of 5,000 people).” “Since early 2004, the displaced persons have received fewer than 1,000 kilocalories/day, which is less than half of the 2,500/person/day required for survival.” The entire state of West Darfur would need 300 tons of food/day to meet the needs of the 600,000 displaced persons. “Currently, only half of that is being delivered daily, according to estimates.” Last, “the authorities recently announced that they want the displaced persons in Mornay to return to their villages of origin as quickly as possible,” but MSF does not believe that the minimal security guarantees are in place. “It is simply impossible to expect that social life and agricultural activities can resume immediately in these desolate areas, just as the rainy season begins.”

3. MSF Sustained Alert on Need for Assistance (July-September 2004)

MSF maintained pressure by publicly warning about the catastrophic health and nutritional situation in Darfur, which was aggravated by the government of Sudan's plan to force the displaced to return to their villages. MSF also highlighted the insufficiency of international assistance, calling for more assistance.

On 7 July 2004, during a press conference in Paris, the MSF France President Jean-Hervé Bradol, expressed concerns regarding the Sudanese Interior Minister's plan for the so-called "voluntary" return to Darfur of more than one million displaced people. Bradol mentioned the risk of a health catastrophe and underscored the World Food Programme (WFP) difficulties to work properly, as evidenced by one in four malnourished children.

On 12 July 2004, while the Netherlands took over the presidency of the European Union, the MSF Holland General Director, Austen Davis criticised the lack of an EU reaction to the Darfur crisis, including aid. Davis' comments were posted on MSF websites.

On 26 July 2004, after the MSF International President, Rowan Gillies, returned from a visit to Darfur, MSF issued a press release warning that "the desperate condition of the people there is not improving despite greater access to the area and more agencies and aid workers arriving."

He described "pockets of real disaster, where people are at grave risk of dying in large numbers" insisting that, "even with the recently improved deliveries from the World Food Programme, only half of the basic needs for food will be met in July."



'The humanitarian mobilisation for Darfur moves up a notch – MSF warns against a forced return of Darfur's displaced persons,' **AFP (France), Paris, 7 July 2004 (in French).**

Extract:

Médecins Sans Frontières cautioned Wednesday against the forced return of the displaced persons from Darfur (western Sudan) to their homes under inadequate health and security conditions, which could result in a "health disaster".

Sudanese Interior Minister Abdel Rahim Mohammed Hussein announced Sunday that Khartoum had "drafted a plan for the voluntary return" of more than one million of Darfur's displaced persons.

"Our greatest concern is that the displaced persons will be returned by force, without security, and without material resources," stated MSF President Jean-Hervé Bradol during a press conference, raising the possibility of the "risk of a health disaster" if this return is carried out "in the short term".

"The displaced persons have not volunteered to return. They fear that they will be killed. And the material conditions for their return to a rural environment in the rainy season

have not been satisfied. One-third of the villages have been destroyed. They will be dispersed and lack food. A large segment of the population could be lost.” Mr Bradol noted, “The World Food Programme (WFP) has only been able to perform half of its work” at this time, while one child in four suffers from malnutrition and the mortality rate there is above the disaster threshold.



‘The people of Darfur have the right to ask why,’ Austen Davies, MSF Holland General Director, published on **MSF Websites**, 20 July 2004 (in English).

Extract:

Visits by Colin Powell, Kofi Annan and Jan Pronk, the Secretary General's Special Representative for Sudan have finally brought the plight of people in Darfur to the world's attention. The Darfurians listening to the promises of Powell and Annan have little reason to believe they will make much difference.

The displaced people Annan and Powell spoke with were likely burned out of their villages eight or nine months ago, yet only recently has the world started paying attention. During these months of deliberate neglect, the people of Darfur have faced a wave of massacres, extensive rape and the destruction of their villages, communities, and livelihoods. Huddled into overcrowded makeshift camps and homes, they have received little in the way of assistance and nothing in the way of protection from violence for all this time. They have the right to ask why. [...]

Although the United Nations and many governments knew about the ongoing tragedy, they chose not to act. The war in Darfur was actively hidden and ignored so as not to endanger the peace process between government of Sudan and the rebel movement of the Sudanese People Liberation Movement (SPLM), which have been fighting a war for decades in the south of the country.

It might be a tremendous success to end one of the world's most destructive conflicts. But is it just to sacrifice the people of Darfur as the cost of this success?

It is hard to reconcile the slowness and lack of response given the depth and breadth of the crisis in Darfur, where satellite photos tell the story of hundreds of villages sacked, burned and looted. MSF nutritional surveys show that the displacement and destruction have forced a large part of the population into malnutrition, homelessness, and misery. Over a quarter of the children in Mornay camp in West Darfur with a population of 80,000 displaced people were malnourished. From January until May, the people in Mornay were receiving only 1000 Kcals per day, not even half of the 2500 Kcal daily ration needed to survive. Starving people in search of food are often “taxed” by the Janjaweed for the privilege of leaving the camps in search of food. With not enough to sustain themselves and no other means of finding food, they are prisoners condemned to a slow and humiliating death.

And these are the ones that survived the violence. Medical data also shows that the causes of death in the first 4 months of the year were even more shocking. Over 60% of the deaths in the adult population were due to violence. In Mornay, almost 50% of the children's deaths (below 16 years old) were due to direct violence - gunshots, machetes, or bombs from Government of Sudan planes.

So, an aid response - too little and too late - is just starting to be ramped up amid the passionate cries of world officials that the government must stop the “world's greatest humanitarian crisis”. The response must be more than aid - food and bandages cannot stop mass attacks, rape and killings. In order to patrol the cease-fire, nearly 40 African Union monitors have been deployed to the region.

It is hard to imagine that even the planned 120 monitors spread out in a territory the size of France will have a meaningful impact. They reported to Colin Powell last week that no violations of the cease-fire had been seen - on the same day that military helicopters were flying over MSF feeding centers and dropping bombs on nearby villages. The terror has not stopped. The displaced in makeshift camps throughout Darfur are still facing intimidation, widespread rape, and other forms of violence. [...] People living in an environment of terror and violence without aid are forced into inhuman choices. For many displaced people in Darfur, their only means of surviving has become to walk out of the meagre safety of the camps in search of firewood which they exchange in the market for food.

In the climate of brutality, it has become a dangerous way to survive.

Women who go into the fields in search of firewood expose themselves to the danger of rape. Men face the threat of execution and torture. Some families have resorted to sending out small children to search for firewood in the hours before dawn in the hope that they are more likely to escape the violence than their parents.

The violence and the lack of assistance have forced people to choose between sustenance and safety. This is exactly the predicament from which humanitarian aid is supposed to save people. To date humanitarian aid has failed the people.

The lack of protection and assistance in the face of massive needs is a betrayal of the humanitarian values which the Netherlands and other European government pledge to uphold. We are arriving very late to those in need in Darfur. [...] As the Dutch government assumes the presidency of the European Union, we have to ask them why Europe has no stand against such an obvious crisis with such a desperate need for action. The European Union must do more in a unified way to ensure that this aid is provided along with safety and an end to the violence against people in Darfur.



'Humanitarian situation no better in Darfur says medical group,' **AFP** (Nairobi)
26 July 2004 (in English).

Extract:

"The desperate condition of the people there is not improving despite greater access to the area and more agencies and aid workers arriving," MSF said in a communiqué. "There are pockets of real disaster, where people are at grave risk of dying in large numbers," added MSF International President Rowan Gillies, who just returned from a month in Darfur.

B. INTERNATIONAL MONITORING OF VIOLENCE & INVESTIGATION ON GENOCIDE (June to September 2004)

1. Pressure on The Government of Sudan to Stop Violence (June-July 2004)

Until mid-July 2004, when asked if the situation in Darfur could be labelled a genocide, the US Secretary of State Colin Powell, and the UN Secretary General Kofi Annan, were cautious. They insisted they were focused on

pressuring the government of Sudan to stop the violence and allow large-scale humanitarian assistance access, to avoid a catastrophe.

On 11 June 2004, in an interview with the *New York Times*, the US Secretary of State Colin Powell, said he believed “the Government of Sudan did provide support to [Janjaweed] militias,” and he had asked the Government of Sudan to grant “immediate access to humanitarian workers, stop fooling around with holding up travel permits.”

Asked whether according to him, the situation in Darfur was reaching “the level of genocide,” he answered, “There are at least a million people who are desperately in need, and many of them will die if we can’t get the international community mobilized and if we can’t get the Sudanese to cooperate with the international community. And it won’t make a whole lot of difference after the fact what you’ve called it.”

He added that US official lawyers “have not come to a conclusion yet as to whether all of the criteria that are used to make a determination of genocide have been met yet.”



'Interview with Colin Powell by Marc Lacey, *The New York Times* (USA), 11 June 2004 (in English).

Extract:

Secretary Powell: In all my conversations with the Sudanese in recent weeks, [...] I would always raise Darfur as well. And what I asked them for was immediate access to humanitarian workers, stop fooling around with holding up travel permits, stop doing things like announcing that this individual has a three-day travel permit but by the time the person gets the permit, the three days have already elapsed, and these kinds of efforts which kept people from getting to where the need was.

And we kept pressing them on a ceasefire, because there was little point in trying to get the aid in if there was nothing but violence at the other end of the aid pipeline, press them on bringing the Janjaweed under control. Of course, they say that they're really not controlling them, but we have every reason to believe that these militias are being supported by various instrumentalities of the Sudanese Government. [...]

I believe that we have started to see some improvement in access, some understanding on their part that this ceasefire needs to come into effect, and it's been a little easier to get people in and to get aid in. But I am not accepting the proposition that we overstated the case.

The numbers are hard to fix, but there are at least one million people who, I believe, are displaced internally or into Chad and there are many people who, as a result of lack of food, lack of medicine, lack of clean water, are in great risk, particularly children. And to say that the situation has returned to normal is not a characterization I would accept. But the best way to find out what the correct characterization is, or should be, is to give immediate, unfettered access to all humanitarian and NGO workers who want to get in there, international observers who can go and see and make a correct assessment as to what's happening there, and for the Sudanese officials and Sudanese armed forces to

bring these militias under control and to use Sudanese forces to help protect the lines of communications, the people who are in need and the aid workers.

[...] Without having a full intelligence report in front of me, what I am confident of saying is clearly we believe that the Government of Sudan did provide support to these militias. [...]

Mr Lacey: [...] Is this ethnic cleansing? Does this reach the level of genocide?

Secretary Powell: You know, these turn out to be almost legal matters of definition and I'm not prepared to say what is the correct legal term for what's happening. All I know is that there are at least a million people who are desperately in need, and many of them will die if we can't get the international community mobilized and if we can't get the Sudanese to cooperate with the international community. And it won't make a whole lot of difference after the fact what you've called it.

[...] it's being discussed interagency, and our lawyers are looking at it, as well as our policy officials. [...] But I'd rather have my guys look at this with the lawyers and get back to you, rather than me pop off and give a legal opinion.

On 17 June 2004, the UN Secretary-General, Kofi Annan, stated that he could not "at this stage" describe the situation in Darfur as "genocide or ethnic cleansing yet."



'UN Secretary-General's **Press encounter** upon arrival at UNHQ' (unofficial transcript), 17 June 2004 (in English).

Extract:

Secretary General: [...]

Based on reports that I have received, I can't at this stage call it genocide. There are massive violations of international humanitarian law, but I am not ready to describe it as genocide or ethnic cleansing yet.

Q: Do you think there is any complicity from the Sudanese government in the crimes committed there?

SG: We have raised it with the Sudanese government. They deny it. [...] I don't have specific evidence, but from all accounts they can do something about the Janjaweed.

On 30 June 2004, after a short visit to Sudan, the US Secretary of State Colin Powell, stated, "based on the evidence that is available," violence in Darfur "doesn't meet the tests of the definition of genocide" and that "it is not Rwanda ten years ago; it is Sudan now." He added, "if it was a genocide, we would certainly increase international pressure." He stated that the USA wanted to see the Government of Sudan "break the back of the Janjaweed and to provide full humanitarian support to these people in need," in Darfur.



'Colin Powell's interview,' **NPR** (USA), 30 June 2004 (in English).

Extract:

Ms Norris: The U.S., however, is very careful not to use the word, "genocide." Why is the Administration reluctant to call this genocide?

Secretary Powell: [...] It is a legal determination. And based on what we have seen, there were some indicators but there was certainly no full accounting of all indicators that lead to a legal definition of genocide, in accordance with the terms of the genocidal treaties. That's the advice of my lawyers.

But what's the point of arguing about whether all indicators have been met or not when we see the people, we know they are in need, we're trying to take care of that need, and we're doing it in the places I visited today, and the UN is stretching to meet all other places where there is a need? To spend a great deal of time arguing about the definition of what the situation is, isn't as important as identifying where the people are who are in need, getting the supplies they need to them, getting them hope in the form of supplies, but hope in the form of security and hope in the form that they'll be able to return to their villages in due course.

Ms. Norris: And for some, the reluctance to label this a genocide harks us back to Rwanda.

Secretary Powell: [...] It isn't a reluctance that, based on the evidence that is available, it doesn't meet the tests of the definition of genocide. [...] I can assure you that if all of the indicators lined up and said this meets what the treaty test of genocide is, I would have no reluctance to call it that. [...] This is not Rwanda ten years ago; it is Sudan now. [...]

There are people desperately in need, and the government has made some commitments today that we will see if they follow up on. [...]. We want to see them follow up on these commitments to break the back of the Janjaweed and to provide full humanitarian support to these people in need and monitor what's going on with the AU military monitors and then get on a process of political reconciliation.

[...] Now, if it was a genocide and it met all the tests and we declared it that, we would certainly increase international pressure. But whether we would be doing more than we are now doing is a question that I can't answer. It doesn't open any real new authorities to me or give me any additional powers or responsibilities that I'm not now executing.

On the same day as US Secretary Powell's statements, the Foreign Minister of Sudan, Mustafa Ismail, stated that Sudan would send more government forces to provide security, ease restrictions on humanitarian groups, and speed up negotiations with rebel groups. This was confirmed on 3 July 2004, after Kofi Annan's visit, when the Government of Sudan said they would allow African Union observers to enter Darfur.

The United States proposed a UN Security Council draft resolution including an arms and travel embargo on the Janjaweed militia. Within 30 days of approving the measure, the Security Council was to consider sanctions against "other perpetrators of atrocities in Darfur," meaning the open supporter of the Janjaweed, the Government of Sudan.

On 1 July 2004, an UN World Health Organisation (WHO) representative called for a large-scale international aid operation using military logistics, to prevent the death of 10,000 people in Darfur in the next month.



'Sudan announces steps to ease situation in Darfur after Powell, Annan visits,' Matthew Lee, **AFP** (France) Khartoum, 30 June 2004 (in English).

Extract:

Foreign Minister Mustafa Ismail told a press conference here with Powell, who had delivered a stern warning to Khartoum to ease the humanitarian crisis, that the government would tackle the problem with three steps. [...]

"We will do our best to bring more police and more armed forces to that area. We will combat any militia or Janjaweed to protect civilians," he said, referring to progovernment Arab militias blamed for a wave of killings of indigenous groups in Darfur since rebels rose up in February 2003.

"We're going to enhance the speed of political negotiations. Hopefully in a very short time we will reach agreement with the rebels," he said.

Khartoum, which has been accused of hampering essential humanitarian access to the region, would also ease restrictions on international aid groups, Ismail added. [...]

Powell, who made a whirlwind visit to Darfur and a refugee camp there earlier Wednesday, said he was pleased by the announcement but wanted to see action on the ground.

"I have made it clear to the minister that the international community is going to remain seized with this problem," he said, cautioning that UN sanctions "will always be an option" if the government failed to deliver.

Indeed, the United States proposed Wednesday a UN Security Council resolution that would slap an arms and travel embargo on the Janjaweed militia blamed for the bloodshed in Darfur.

But the draft, obtained by AFP, does not spell out sanctions against the Sudanese government, which is said to have supported the militia in creating what UN call the worst humanitarian catastrophe in the world today.

Instead, it leaves the way open for the council, within 30 days of approving the measure, to decide whether sanctions should be placed on "any other individuals or groups responsible for the commission of atrocities in Darfur."

Earlier, an official accompanying Powell had accused Sudan of being "in denial" over the Darfur situation. Referring to the secretary's talks with Ismail on Tuesday evening, he said: "They (Sudanese government officials) are in a state of denial."

The government was using "selective statements" from UN and aid agency reports to make their case, but Powell was not convinced, he added. "We know what's going on."

[...] But on the plane back to Khartoum, Powell appeared to come out against the idea of an international peacekeeping force for Darfur, which is roughly the size of France.

[...] "We demand the deployment of international UN forces in Darfur," Mohammed Hamed Ali, a spokesman for the Sudan Liberation Army told AFP in Cairo.



'Thousands will die in Darfur without military-backed relief effort: WHO,' **AFP** (France) Geneva, 1 July 2004 (in English).

Extract:

"We anticipate that if things go ahead as they are at the moment, 10,000 people will die in the next month," the World Health Organisation's top emergencies expert, David Nabarro, said after visiting the region in western Sudan.

Nabarro estimated that a "strong and effective" relief operation could bring the death rate down to about 3,000 a month, which would be more in keeping with other emergencies.

Nabarro, who earlier briefed UN Secretary General Kofi Annan before his visit to Darfur on Thursday, emphasised that huge logistics and air support were needed to tackle the threat of cholera, dysentery, and malaria among 1.2 million displaced people.

"The scale of operation in terms of personnel, helicopters, trucks, communications is really way beyond what we the UN can ourselves do," he said, pointing out that logistics in crises in the Balkans, East Timor or Afghanistan had been provided by an international military force.

"It's bigger than the Balkans and it's bigger than Afghanistan," Nabarro added.

"Somehow, we the United Nations have to build an infrastructure that's big enough to give the basic needs for life to a million people plus in awful locations in an area the size of France."

Annan was likely to announce a 90-day plan to deliver aid to the region after wrapping up his visit to Darfur, UN officials said. [...]

But the health official said a worst-case scenario of up to 300,000 deaths due to cholera, mentioned by the UN in recent months, was likely to be averted thanks to the efforts of private relief agencies.

From late June 2004, the international pressure to stop the violence in Darfur increased, particularly from human rights organisations, influencing US public opinion.

On 23 June 2004, Physicians for Human Rights released a report concluding that genocide was occurring in Darfur. They stated: "There is a clear intention to eradicate non-Arab families."

On 19 July 2004, Amnesty International issued a report entitled 'Sudan, Darfur: Rape as a weapon of war,' which included hundreds of testimonies of women that were raped, abducted, and forced into sexual slavery by the Janjaweed.

The same day, a Human Rights Watch (HRW) briefing paper, reportedly "obtained copies of government documents whose contents sharply contrasted with the Sudanese government's repeated denials of support to the Janjaweed." Khartoum said HRW was lying, with the objective of pushing the UN to impose sanctions on Sudan.



'In western Sudan: 'ethnic cleansing' or 'genocide'?' Stephen Smith, *Le Monde* (France), 29 June 2004 (in French).

Extract:

Pressure is mounting. Early in the year, the debate centred on 'ethnic cleansing', a term used by some human rights groups and United Nations officials. However, the US non-governmental organization Physicians for Human Rights points to multiple accounts and the definition of genocide as "the systematic killing of a racial or cultural group" to assert that "acts of genocide" have been perpetrated in Darfur. "There is an obvious intention to eradicate non-Arab families," the group stated on 23 June. It also referred to a USAID report warning of "the possible deaths of 300,000 to 1 million civilians."



'Sudan: Rape as a weapon of war in Darfur,' **Amnesty International**, 19 July 2004 (in English).

Extract:

Girls as young as eight are being raped in Darfur, Sudan, and used as sex slaves. The mass rapes ongoing in Darfur are war crimes and crimes against humanity but the international community is doing very little to stop it, Amnesty International said, launching the report Rape as a weapon of war.

Despite the regional and international focus on Darfur and promises by the Sudanese government to disarm the Janjaweed militia there is still no protection for women and girls.

[...] "The international community needs to take the issue of rape far more seriously and strenuously. Trained medical professionals must be sent immediately to care for survivors," said Amnesty International.

Amnesty International is also calling for:

- All parties to the conflict to stop and publicly condemn the use of rape as a weapon of war and to put adequate mechanisms in place to ensure the protection of civilians.
- The Janjaweed militia to be disarmed and disbanded and placed in a position where they may no longer attack the civilian population.
- An international Commission of Inquiry to be established immediately to examine evidence of war crimes, crimes against humanity and other violations of international humanitarian law including rape, as well as allegations of genocide.
- The perpetrators of attacks on civilians, including sexual violence against women, to be brought to justice in trials that meet international standards of fairness. The safety of victims and witnesses must be protected.

Background

The report 'Sudan, Darfur: Rape as a weapon of war, Sexual violence and its consequences' is based on interviews with Sudanese refugees made by Amnesty International during May 2004 in refugee camps in Chad.



'Darfur documents confirm government policy of militia support,' Human Rights Watch **Briefing Paper**, 19 July 2004 (in English, in French). [Link to full document](#)

Extract:

Summary [...]

Human Rights Watch has obtained copies of government documents whose contents sharply contrast with the Sudanese government's repeated denials of support to the Janjaweed; on the contrary, the documents indicate a government policy of militia recruitment, support and impunity that has been implemented from high levels of the civilian administration.



'Khartoum accuses HRW of pushing the UN to impose sanctions on Sudan,' **AFP** (France), Khartoum, 20 July 2004 (in French).

Extract:

On Tuesday, Sudanese Foreign Affairs Minister Mustafa Osmane Ismail accused the U.S. group Human Rights Watch (HRW) of pressuring the UN Security Council to place sanctions on Sudan. [...]

According to Minister Ismail, HRW's goal is to "pressure the UN Security Council to adopt a resolution imposing sanctions on Sudan."

He described the group's information as "lies" and the documents that it has issued on Darfur as "100% false."

According to him, this has led to the failure of recent negotiations in Addis Ababa, Ethiopia, between Khartoum and the Darfur rebels.

On 14 July 2004, the Save Darfur Coalition was founded during the Darfur Emergency Summit in New York City, an event organised by the US Holocaust Memorial Museum, the American Jewish World Service, and the Nobel Peace Prize winner, Elie Wiesel.

The coalition members ranged from liberal New Yorkers to evangelical Christian Texans, and included Jews, Christians, and Muslims.

In the years to follow, the Save Darfur Coalition and its branches in Western countries would become the activism core against what they labelled as "genocide in Darfur."

On 26 July 2004, the US Holocaust Memorial Museum issued a "genocide emergency" warning on Darfur.



'United States Holocaust Memorial Museum declares 'genocide emergency' in Sudan,' **Press release**, US Holocaust Memorial (Washington DC), 26 July 2004 (in English).

Extract:

For the first time in its history, the Committee on Conscience of the United States Holocaust Memorial Museum today declared a "genocide emergency," saying that genocide is imminent or is actually happening in the Darfur region of Sudan.

"We began warning about the threat of genocide in Darfur at the beginning of this year," said Committee on Conscience Chairman Tom A. Bernstein. "That threat is now becoming reality."

Estimates of the current death toll range from 50,000 to more than 100,000, with the likelihood that hundreds of thousands more will die in coming months because of direct violence and "conditions of life" deliberately inflicted on targeted groups by the Sudanese government and its militia allies. The victims are largely members of the Fur, Zaghawa and Masalit ethnic groups, considered in Darfur to be "Africans."

Under the United Nations Genocide Convention, adopted in 1948, in the wake of the Holocaust, nations vow to "undertake to prevent and punish the crime of genocide." Genocide is defined as certain acts, when committed "with intent to destroy" a targeted group, in whole or in part. The specified acts include killing members of a group, causing severe bodily and mental harm and deliberately inflicting on a group's conditions of life calculated to bring about its physical destruction, in whole or in part.

"We take a very conservative approach to the definition of genocide," said Jerry Fowler, staff director of the Museum's Committee on Conscience, who visited refugee camps in Chad in May and collected testimonies from refugees who had fled Darfur. "We don't use the term lightly. But the situation clearly has reached the point now where that term is appropriate. The U.S., the U.N. and other countries must now act to stop this genocide from going further. And then they need to punish those responsible."

Fowler pointed to the Sudanese government's responsibility for the large number of Darfurians now perishing and likely to die in the coming months. "By hindering and slowing access for the international relief assistance that the displaced require for survival and failing to rein in their Janjaweed allies," he said, "the Khartoum government and its proxies are directly responsible for the increasing deaths from malnutrition, lack of clean water and related diseases."

The U.S. Agency for International Development predicted in April that 350,000 or more people would be dead by the end of the year. More recent assessments by independent aid groups suggest that this estimate may be conservative. The Holocaust Memorial Museum's Committee on Conscience first issued a "genocide warning" for Sudan in Fall 2000, based on government actions in the southern part of the country. Intensive diplomatic efforts by the U.S. and other countries resulted in an end to attacks on civilians and access for international relief efforts and have brought that conflict close to resolution.

The conflict in Darfur began in early 2003. The Committee on Conscience reiterated its genocide warnings for Sudan in January and April of this year, and on June 24, the Museum took the extraordinary step of suspending normal operations for 30 minutes to focus attention on Darfur. Senators Sam Brownback and Jon Corzine, and Rep. Donald Payne joined a Holocaust Survivor and member of the Darfurian community-in-exile in a special program in the Museum's Hall of Witness to bring attention to the crisis. In addition to the "genocide emergency" declaration, on August 2, the Museum will open a display, "Who Will Survive Today? Genocide Emergency: Darfur, Sudan," to help visitors understand the situation in Darfur.

Mandated by Congress, the Holocaust Memorial Museum is America's national memorial to the Holocaust. A public-private partnership that has welcomed 21 million visitors, the Museum brings the history and lessons of the Holocaust to the nation through educational outreach, teacher training, traveling exhibitions, and scholarship. The Committee on Conscience guides the Museum's efforts to educate about, prevent and respond to contemporary genocide.



In US politics, one must look at the oddity of Sudan. Sudan for 20 years was seen in US eyes, as a North-South problem. And especially after 1991, the SPLA had been a Marxist Soviet ally up until 1989, when John Garang realised the Soviet Union was collapsing ... so he could not get aid anymore from the Soviets and needed aid elsewhere. He radically became pro-West, and the West was turning very anti-Muslim.

In US politics there was a convergence of two issues: the Christian movement, which is mostly right wing, started to back the SPLA because of its anti-Muslim credentials. The SPLA, which had been Marxist atheist now was seen as oppressed Christians. And that's very right wing, very rooted in the Republican Party. But at the same time, there were also very Democratic Party alliances, especially what's called the Democratic Black Caucus, which were very sym-

pathetic to the SPLA because the SPLA effectively sold itself as black Africans being oppressed by Arabs.

So, from 1995, 1996, on both sides of the US political establishment there were allies for SPLA that became very militant in support of the SPLA. And there was a strong Congressional anti-Khartoum lobby.

And that's why the independence of South Sudan became such a unifying thing for the Americans. They said: 'We need to push for independence to liberate the Dinka, the Nuer and southerners.' When Darfur happened, there was already this very strong lobby around the SPLA and the rights of the South. And they rapidly adopted Darfur as a new cause célèbre. There's no question that general anti-Muslim sentiments contributed to this because this was the period in which they were fighting in Afghanistan and the Taliban.

This was the era of demonisation of al Qaida and general anti-Muslim sentiment. But politically, there were a lot of places which could have become a cause célèbre to be anti-Muslim. Here there was a unique situation because of the Sudan lobby, which had already existed for 10 years. Very influential people like John Prendergast, who had been in the National Security Council. Susan Rice was very much part of this group with very senior Democrats, very senior Republicans who were very sympathetic to the demonisation of Khartoum. And what started to happen in Darfur was built on that.

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).



The United States' position was more complicated and complex than one might think. One part of the government – specifically, the intelligence services – had absolutely no criticism of Khartoum. And what's more, they were expecting a lot from the Sudanese. Apparently, the Sudanese intelligence agencies were very effective and plugged into terrorist networks and were feeding the information they obtained to the CIA. So, there was a very strong American-Sudanese pact between these intelligence services. In addition, the US was looking at a windfall – both ideological and strategic – that it could not pass up. This windfall was a very real, massive repression that also coincided with the sad anniversary of the genocide in Rwanda, with all that means for culpability, 'never again,' etc. So just when the US was starting to experience blowback from its intervention in Iraq, this offered an opportunity to shift international attention from one part of the Arab world, where US involvement was increasingly difficult, to another part of the Arab world, where it could claim the banner of justice and moral conscience. The US seized this windfall, one that made it possible for the country to recover the moral authority that it loves to display. And with them, the Atlanticists who – whether just paying lip service or in an active sense – had supported the intervention in Iraq in the name of democracy and human rights. So, I think that this shift from Iraq to Sudan was really very powerful.

Dr Rony Brauman, MSF France, President of Board of Directors 1982-1994, Foundation/CRASH Director of Studies since 2000 (in French).

2. Resolutions, Investigations, Sanctions, & Military Monitoring of Violence (July-August 2004)

On 16 July 2004, the US Secretary of State Colin Powell, reiterated that he did not think there was “a problem of a Rwandan nature” in Darfur, and complained again about too many people wasting time on discussing “whether it’s genocide or not,” instead of “making sure to load the humanitarian pipeline.”

However, he added that a team of US experts were currently talking to refugees from Darfur in Chad, and that members of Congress were considering “whether additional Congressional action is appropriate.”



'Colin Powell's interview' **PBS** (USA), 16 July 2004 (in English).

Extract:

Mr. Rose: But you are sure there will not be a Rwanda there, that too many people...

Secretary Powell: No, I'm not sure. [...] it's an open question. The fact of the matter is it's an open question and I'm not going to answer the question before I know what the real answer is. Humanitarian aid is available. We need to do a better job of retailing it out away from stockpiles out to the various camps where people are located, and we have to get access to people who are not yet in camps. So, we still have a difficult situation, and a lot of people are already ill and may succumb to those illnesses as the rainy season goes on and as we get deeper into the year. So, we still have a problem.

I don't think we have a problem of a Rwandan nature, where tens of thousands of people were lined up and slaughtered en masse. That is not what our problem is.

[...] By legal definition, it does not yet rise to that level. But I have got a team of experts in Darfur now and on the other side of the border in Chad talking to those who have been displaced and they will be reporting back to me next week as to whether the legal standard has been met or not met with respect to genocide.

But too many people are spending too much time arguing about whether it's genocide or not. That's not the issue. The issue is people are in need now and we've got to make sure we're loading the humanitarian pipeline. We've got to make sure that we're getting access for NGO workers, nongovernmental workers to get out there, for the UN agencies to do their work.

And the biggest challenge we have right now is to get the Government of Sudan to do everything possible within their capability or with other capabilities being brought in by the African Union, to break the back of the Janjaweed so that these people will stop terrorizing these villagers. [...] We will continue to pressure on the government till that happens. We are talking to our colleagues in the Security Council in New York about whether additional action on the part of the UN with a Security Council resolution is appropriate. Members of Congress are deeply upset about this and they're considering whether additional congressional action is appropriate.

On 22 July 2004, the US House of Representatives passed a resolution declaring the atrocities in Darfur constituted genocide and called on the US Government to label the violence with this “appropriate” term.

The United States tabled an amended version of the draft resolution at the UN Security Council, which they proposed in late June. It strongly threatened the Sudanese government with sanctions within 30 days if they did not arrest Arab militiamen responsible for atrocities in Darfur. However, the resolution did not suggest any automatic mechanism for triggering sanctions.

The UNSG was to report on this situation every month.

Several countries, including the UK, Australia, and France began to consider contributing to a potential UN peacekeeping force in Darfur. EU members reviewed a possible joint deployment of airborne resources to reach populations in danger.



'Darfur: International community increases pressure on Khartoum,' **AFP** (France), London, 24 July 2004 (in French).

Extract:

General Michael Jackson, head of the British Army, announced that Great Britain is prepared to send 5,000 men to Darfur. Australia indicated that it would send troops to Sudan as part of a possible United Nations peace mission. [...] The previous day, Prime Minister Tony Blair had said that his government had not dismissed the possibility of sending a contingent to Sudan, while specifying that things had "not yet reached that stage. «The Australian defence minister stated, "We are examining the question of contributing," explaining that his country had been approached by the UN to contribute to an international force that could be mounted towards the end of the year. [...]

On Thursday, Washington submitted a draft resolution to the UN Security Council that threatens to impose sanctions on the Sudanese government if it does not stop the Arab militias responsible for the atrocities. UN Secretary-General Kofi Annan said that he believed that the resolution was very likely to be adopted.

"Reactions [to the resolution] were entirely positive," he stated. "My sense is that it will be successful."

[...] Lastly, European ministers will meet in Brussels on Monday to consider the forms of Community action and, in particular, the deployment of air assets to reach populations in danger. Paris and London have already announced that their respective top diplomats will visit the region.

On Thursday, Sudanese Foreign Affairs Minister Mustafa Osman Ismael said that Khartoum "needed time" to resolve the situation.

On 26 July 2004, in an interview with the Dutch daily, *De Standaard*, the Sudan Minister of Foreign Affairs, Mustafa Osman Ismael, rejected the use of the term "genocide" to qualify the situation in Darfur, instead talking about "a humanitarian crisis caused by fighting, through no fault of our own."

On 27 July, the Government of Sudan decreed, "political and strategic general mobilisation" and released 49 Islamist opponents to "unite the home front, against all foreign intervention."



'Darfur: Sudan's top diplomat rejects the term 'genocide',' **AFP** (France), Brussels, 26 July 2004 (in French).

Extract:

In an interview published on Monday by the Dutch-language Belgian daily De Staandaard, Sudanese Foreign Affairs Minister Mustafa Osman Ismael rejected the term 'genocide' to describe the situation in Darfur (in the western part of the country).

"What is happening in Darfur is not a genocide," he said. "It is a humanitarian crisis provoked by fighting that is not our fault ... The Sudanese government did not initiate the fighting."



'Darfur: Khartoum decrees a general mobilisation, frees 49 opponents,' Mohammed Ali Saïd,' **AFP** (France), Khartoum, 27 July 2004 (in French).

Extract:

On Tuesday, Sudan decreed a "political and strategic" general mobilisation and freed 49 Islamist opponents to "unite the internal front" against any foreign intervention in Darfur, where the civil war has led to a serious humanitarian crisis.

At the conclusion of an extraordinary meeting of the Sudanese government, Agriculture Minister Majzoub al-Khalifa Ahmed, head of the delegation responsible for negotiating with the Darfur rebels in the country's western region, said, "The government has decided to decree a general political and strategic mobilisation of all institutions."

"The government has also decided to forcefully resist all resolutions calling for international troops to be sent to Darfur," he added, emphasising that "as of now, the government will harden its position against all foreign intervention in Darfur.

The government will deal appropriately with any (foreign) soldier who sets foot in Sudan."

On 27 July 2004, the US Secretary of State, Colin Powell, stated that international military action in Darfur was "premature."

On 30 July 2004, the UN Security Council adopted a resolution in which they "endorsed the deployment of international monitors, including the protection force envisioned by the African Union, to the Darfur region of Sudan, under the leadership of the African Union."

Khartoum stated that they considered the UNSC resolution a declaration of war.



'International military action in Darfur is premature, Powell says,' **AFP** (France), Cairo, 27 July 2004 (in French).

Extract:

US Secretary of State Colin Powell said on Tuesday that it would be "premature" to talk about international military action to resolve the crisis in Darfur, western Sudan.

"Some countries are going further" than possible sanctions against Khartoum and "are starting to talk about other actions, of a military nature, but I think that that is premature," he told journalists accompanying him on a flight from Budapest to Cairo.

Mr. Powell emphasised that this involved a “difficult choice in the context of a sovereign nation, insofar as there is no UN resolution for such an action,” adding, “I believe the [Sudanese] government is capable of controlling the violence.” [...]

The top US diplomat also said that he believed that positions on the draft US resolution “were moving towards consensus” within the UN Security Council.



‘UN puts Sudan on notice to halt the atrocities in Darfur,’ **AFP** (France), New York (United Nations), 30 July 2004 (in French).

Extract:

On Friday the United Nations Security Council adopted a resolution calling on Sudan to end the atrocities underway in its Darfur province within 30 days or face sanctions. The vote was 13 in favour out of 15. China and Pakistan abstained.

Resolution No. 1556 requires the Sudanese government to honour the commitments it made on 3 July to UN Secretary-General Kofi Annan. This specifically involves disarming the Janjaweed, pro-government Arab militias, who have been committing abuses against Darfur’s primarily black population and allowing the delivery of humanitarian aid.

The Council also calls on the Sudanese government to arrest and try those persons responsible for the atrocities in Darfur. If Khartoum fails to comply with these requirements, the Council warned that it will consider taking “other measures” against the Sudanese government, “specifically those provided under article 41 of the United Nations Charter.”

That article empowers the Council to take “measures not involving armed force” against a country; that is, sanctions. Many UN delegations underscored this point unequivocally after lengthy negotiations among member countries addressed whether the final text should include the word “sanctions”. The word was ultimately removed but the notion remains.



‘The Sudanese army calls the UN resolution a ‘declaration of war,’ **AFP** (France), Khartoum, 2 August 2004 (in French).

Extract:

“The UN Security Council’s resolution on Darfur is a declaration of war against Sudan and its people,” stated General Mohamed Bashir Suleiman. The Sudanese Army is now ready to confront Sudan’s enemies on land, sea and in the sky.”

He further noted that the 30-day period defined in the resolution was only a “preparatory period” before launching a war against Sudan. [...]

After rejecting the [UN resolution] on Friday, the Sudanese government finally announced on Saturday that it would comply with the text, although unwillingly.

On 9 August 2004, a European Union team returning from Darfur said, violence in the region could not be described as genocide but stressed the scale of the massacres.

On 10 August 2004, US Senate Republican Majority Leader, Bill Frist, did not agree with the EU team’s findings, but that genocide was indeed taking place in Darfur.

His assertion was based on discussions he had with officials and Sudanese refugees in Chad.



'Darfur: Not a genocide, a European mission says,' **AFP** (France), Brussels, 9 August 2004 (in French).

Extract:

"We are not in a situation of genocide," emphasised Pieter Feith, special envoy for EU foreign affairs chief Javier Solana, who led an EU mission in the region. But "it is clear that widespread, slow and silent killing is going on and villages are being burned on a fairly large scale," he said during a media briefing.

Among the measures that the EU has proposed to help resolve the crisis, Mr Feith referred specifically to the possibility that the EU could send police to assist Sudanese police forces.



'A US senator says a 'genocide' is underway in Darfur,' **AFP** (France), Nairobi, 10 August 2004 (in French).

Extract:

US Senate Republican majority leader Bill Frist said on Tuesday in Nairobi that a "genocide" was underway in Darfur, a region in western Sudan that has been ravaged for a year by the civil war, although he has not visited the area.

Discussions "with refugees (Sudanese refugees in eastern Chad) and official representatives have led me to conclude that what is happening in Darfur is a genocide," he said during a press conference in Nairobi.

Mr Frist went to camps housing Sudanese refugees in Chad, but not to Darfur. [...]

"I do not agree with the European Union declaration, which states that there is no genocide. The international community must not turn its back on this crisis."

On 14 August 2004, a UN weekly report on the humanitarian situation in Darfur stated that sexual abuses, particularly the rape of women, increased in Darfur camps close to Al Fashir.



'Darfur: A UN report accuses Sudanese police of sexual abuse,' **AFP** (France), Khartoum, 14 August 2004 (in French).

Extract:

A weekly UN report on the humanitarian situation in the north Darfur camps states, "The displaced persons report an increasing number of incidents of sexual abuse in the Abu Chuk Camp, near El Fasher, committed by police officers."

The report comes as, according to the United Nations, Khartoum proposed a list of 12 measures to resolve the crisis in Darfur, including creating security zones for some 1.2 million people driven from their lands by pro-government Arab militias. [...]

"According to the displaced persons, the police are exploiting fear of the Janjaweed among women who do not want to risk venturing outside the camps to find wood, offering to bring them wood in exchange for sexual favours," the report states, adding,

"The displaced persons have also reported that officers have followed women into the forests and threatened to beat them if they do not accede to their demands."

On 14 August 2004, 150 Rwandan soldiers from the African Union Protection Force, arrived in Darfur. This group was to be reinforced in the coming weeks and form a contingent of 300 troops to protect the 120 AU observers monitoring the 8 April 2004 ceasefire agreement between Khartoum and the Darfur non-state actors.

The Government of Sudan reaffirmed its opposition to the deployment of peacekeeping forces and stated they were able to restore stability in Darfur. They deployed 9,000 policemen in Darfur and presented 11 possible safe zones to receive displaced persons.

For the first time, the Government of Sudan acknowledged that human rights violations were committed in Darfur and entrusted the UN Commission on Human Rights with a list of 30 Janjaweed, presumed guilty of violations.

On 18 August 2004, the UN estimated that nearly 1.5 million people were affected by the current conflict in Darfur.



'Darfur: The first African contingent arrives, a peace force is rejected,' Mohamed Ali Saïd, **AFP** (France), Khartoum, 15 August 2004 (in French).

Extract:

Five hundred Rwandan soldiers will be deployed in the coming days in Darfur, which has been torn apart by civil war and an unprecedented humanitarian crisis, according to the UN.

On 25 August, this group will be followed by 150 Nigerians, forming a 300-person contingent that will protect the 120 AU observers assigned to review compliance with the ceasefire agreement reached between Khartoum and the rebels on 8 April 2004.

In addition to the AU, participants in the observer mission will include the two rebel groups operating in Darfur, the Sudanese government, Chad (a mediator in the conflict), the European Union and the United States. They will transmit their report to the ceasefire committee, chaired by the AU.

As the first Rwandan soldiers arrived, Sudanese Foreign Affairs Minister Mustafa Osman Ismail reaffirmed his country's opposition to the transformation of the AU contingent into a peacekeeping force. "We have no concerns regarding the number of troops, but we are concerned about their mission," Mr. Ismail explained. He emphasised that "any force whose mission is not (clearly) defined will not be acceptable to us." The AU expects to bring its troop numbers in Darfur to 2,000 men.

President Omar al-Bashir had stated that "the presence of foreign forces could complicate the situation."

Mr. Bashir maintained that Sudan could end the rebellion and restoring stability in Darfur, where, according to the UN, fighting has led to 30,000-50,000 deaths in 18 months. According to authorities, 40,000 regular army soldiers are currently deployed in Darfur.



'Darfur: Khartoum increases its guarantees to avoid sanctions,' Mohammed Ali Saïd, **AFP** (France), Khartoum, 23 August 2004 (in French).

Extract:

Since July 30, Khartoum has been subject to a Security Council resolution granting it 30 days to establish order in Darfur and disarm the pro-government militias responsible for abuses against the sedentary populations of African origin.

Jan Pronk, Mr Annan's representative to Sudan, is scheduled to present a preliminary report on Tuesday to the Security Council on the measures that Sudan has taken in response to the Council's requirements regarding security and delivery of aid to the Darfur victims.

A delegation of Sudanese government and UN representatives, including Mr Pronk, are scheduled to visit the region on Thursday to evaluate the situation.

According to Sudanese sources, Mr Annan will present his final report to the Council on 30 August, 24 hours before the critical deadline. After that time, sanctions may be taken against Khartoum. [...]

Over the last two weeks, Khartoum has increased its guarantees and adopted a more conciliatory tone to avoid sanctions. It presented a list of 11 areas that could be made secure to host the displaced persons and acknowledged, for the first time, that human rights violations – in particular, rapes – had been committed in Darfur. A list of 30 Janjaweed militiamen who are presumed to be guilty of these violations was turned over to the UN Human Rights Commission.

Sudan also signed an agreement with the International Office of Migration, under which it committed to present displaced persons' voluntary requests to return and obtain the IOM's agreement before proceeding. [...]

Khartoum has also deployed approximately 9,000 police officers in Darfur since early August. It is preparing to revive a representative body that, before it was dissolved 30 years ago, provided the local civilian population a voice in dealing with the official administration.

On 22 August 2004, Jan Pronk, the UN Secretary General's Special Envoy to Sudan stated to the *Financial Times* that, the number of observers in Darfur was insufficient to verify if the Sudanese government was fulfilling its UN commitments.

On 23 August 2004, the African Union-sponsored peace talks between the Sudanese Government and the Darfur rebels (non state actors) began in Abuja, Nigeria amid disagreements over the possible deployment of a peacekeeping force in Darfur.

On 24 August, the UN Security Council expressed strong support to the AU for its efforts to resolve the humanitarian crisis in Darfur and called on the Sudanese Government and other parties to cooperate.

ICRC announced they would organise the most important airlift since the Iraq crisis, to supply aid to the population of Darfur



'UN says not enough observers in Darfur (according to the Press),' **AFP** (France), London, 18 August 2004 (in French).

Extract:

On Wednesday, as reported in the Financial Times, Jan Pronk, the UN Secretary-General's special representative for Sudan, said that there are not enough observers to confirm whether the Sudanese government is fulfilling its commitments to the United Nations. On Monday, he told the daily newspaper that "thousands" of observers and staff would be needed in Darfur to effectively monitor human rights violations.

There are currently approximately 120 AU observers in Darfur, western Sudan, a region as large as France. One hundred fifty-five Rwandan soldiers arrived in Darfur on Sunday as part of a 308-person AU force to protect the observers.

"We must perform extensive checks in the field, which we can do with our own staff, but there are not enough of them. We need many more observers."



'Discussions on Darfur in Abuja, differences over the AU peacekeeping force,' Dave Clark, **AFP** (France), Abuja, 23 August 2004 (in French).

Extract:

African Union-sponsored peace talks between the Sudanese government and rebels in Darfur (western Sudan) began in Abuja on Monday, against a backdrop of disagreements regarding deployment of a peacekeeping force in the province. [...]

The AU expects to transform its 300-person contingent, charged with protecting the ceasefire observers, into a genuine 2,000-person peacekeeping force.

Questioned just before the opening of talks on the AU proposal, Sudanese Agriculture Minister Majzoub al-Khalifa said, "I do not think that that will be necessary." [...]

During the opening ceremony, Alpha Oumar Konaré, chair of the AU committee, and a representative of Chadian President Idriss Déby also advocated for strengthening the African contingent in Darfur. [...]

The International Committee of the Red Cross (ICRC) announced on Monday that it would this week implement its largest airbridge since the war in Iraq in 2003 to deliver aid to the affected populations in Darfur.



'Darfur: Security Council expresses its support for the African Union,' **AFP** (France), New York (United Nations), 24 August 2004 (in French).

Extract:

"Council members expressed their strong support for the African Union's leadership role to resolve the humanitarian crisis in Sudan's Darfur region," said Council President Andreï Denisov, Russia's ambassador to the UN, in a statement to the press. [...]

"The Council appreciates the work accomplished by Jan Pronk, UN Secretary-General Kofi Annan's special representative for Sudan, and is looking forward to his report, scheduled for 2 September."

In the meantime, "Council members call on the Sudanese government and all other parties to the conflict to work with the African Union and the UN to seek a solution to the crisis." [...]

"... According to UN observers and NGOs on the ground, insecurity continues in most of the region, the Janjaweed still roam the camps, and the displaced persons are terrified by the idea of returning to their villages."

In this context, they noted to the UN, Mr Pronk's assessment of the Sudanese government's action will be crucial for the Council's future position.

On 26 August 2004, the Sudanese negotiator at the African Union Peace talks stated that Sudan would not heed the UN Security Council's ultimatum on Darfur, due at the end of August, and favoured a solution to the crisis through the peace talks.



'Sudan rejects Security Council ultimatum on Darfur,' **AFP** (France), Abuja, 26 August 2004 (in English).

Extract:

Asked whether Sudan expected to comply with the United Nations ultimatum, which expires on 30 August, Khartoum's negotiator, Agriculture Minister Majzoub al-Khalifa said, "Absolutely not. This never crossed our minds or our hearts ... We will do our duty towards our people. We are a dignified people. We will not submit to these dates. This ultimatum will expire, and we will continue the negotiations."

On 31 August 2004, the UN Secretary General, Kofi Annan, reported on the situation in Darfur to the UNSC. While noting a few signs of good will and some improvements, he stated that the Government of Sudan had failed to fulfil its commitment to solve the crisis in Darfur. Annan recommended to increase international presence in Darfur based on a UN plan proposed to the African Union.



'Darfur: Annan criticises Khartoum and wants to enlarge the international presence,' Hervé Couturier, **AFP** (France), New York, 1 September 2004 (in French).

Extract:

UN Secretary-General Kofi Annan on Wednesday criticised the Sudanese government for not keeping its promises in Darfur. He called for the international presence in the region to be strengthened, under the African Union (AU), to help Khartoum restore security there.

Observing that despite signs of goodwill and some progress on the ground, the Sudanese government was unable to ensure the protection of the population in its province, Mr Annan, in a report to the Security Council, recommended that the international presence be enlarged significantly. He pointed to the AU as the ideal forum through which to do so. [...]

In his report, based on the on-site observations of his special representative for Sudan, Jan Pronk, Mr Annan noted that Khartoum had made "some progress" in the last month. That progress included "improving security in specific areas" of Darfur, "deploying additional police forces, initiating disarmament and lifting restrictions to humanitarian aid access."

However, without saying so directly, he noted that progress overall is insufficient. "The Sudanese government is responsible for stopping the attacks against civilians in Darfur and ensuring their protection. The government has not fulfilled that obligation, despite

its commitments and obligations under the terms of Resolution 1556," he said. "Attacks against civilians are continuing and most of the militias have not been disarmed." While awaiting Mr. Annan's report, the Security Council was divided between those who emphasised Sudan's efforts and progress and those who focused on its shortcomings, according to many UN diplomats. In that context, the Council was not ready to consider sanctions against Khartoum in the short term. However, according to one of the diplomats, it would be more receptive to an increased AU presence in Darfur.

C. MSF FRANCE PRESIDENT'S "NO GENOCIDE" STATEMENT & INTERNAL CONTROVERSY (June-August 2004)

On 25 June 2004, in an interview with the French daily *Le Monde*, MSF France President, Jean-Hervé Bradol stated, "the accusations of genocide are misplaced. In no case was there a desire to exterminate entire villages or a particular ethnic group. There is no need to use this inaccurate term to describe the ferocious repression carried out by the government in the region."

This statement was based on the argument that it was necessary for MSF to distance the organisation from the growing trend of labelling the situation in Darfur as a genocide. The MSF France fear was that the labelling may lead to an armed intervention, that would cause more harm, a catastrophe for the population.



'Khartoum carried out intense repression in Darfur,' Interview with Jean-Hervé Bradol, President of Médecins Sans Frontières (MSF), by Jean-Philippe Rémy, *Le Monde* (France), 25 June 2004 (in French).

Extract:

After 1½ years of civil war in Darfur, the toll is grim. Recent accusations have focused on Sudan's pro-government militias, reportedly guilty of genocide. Is that the case?

The accusations are misplaced. We have not observed a will to exterminate entire villages or a specific ethnic group. One need not use this imprecise term to describe the fierce repression the government has carried out in the region. I have just been in the displaced persons' camps in western Darfur, where the effects of this repression – carried out in autumn and winter 2003 – are obvious. Our surveys show that on average, families have lost 15% of their relatives. One person in 20 has been killed and others have fled. Further, one child in four is malnourished.

If the attacks against the villages stop, can the situation in Darfur return to normal?

The problem is deeper than that. The people from the region cannot leave the camps where they gathered when their villages were attacked. Outside of the camps, pro-government militias are killing the men. Women who leave to gather wood and grass for the animals are attacked constantly. In Mornay camp, in western Darfur, where the MSF teams are present, we have treated more than 130 women in the last two months who were beaten and raped. However, the Sudanese government cannot, as it appears to

intend to do, force the population to return to the destroyed villages with the rainy season just around the corner.

An American official stated that the coming humanitarian crisis could lead to at least 100,000 deaths in Darfur. Is disaster that close?

Darfur residents have already been through a disaster with the repression. Currently, aid organisations want to mount an urgent operation to help more than one million people scattered across an area the size of France, but the situation is tremendously uncertain. Everything is moving too slowly. The quantities of food and supplies are inadequate. The United Nations is issuing alarmist statements, announcing that it will act, even as it knows that its current capacities will not allow that.

Over the 1½ years that the displaced persons have lived in the Mornay camp, they have received enough food for 2½ months. The World Food Programme (WFP) should be clearer about its own limits and acknowledge that it will not be able to manage. The scale of aid operations is well below the region's current needs. If the actors start to deny their own deficiencies, we will move towards a risky situation, where pockets of small disasters will emerge. It is difficult to comment beyond that.

The Sudanese government closed Darfur for months. Will there be an additional obstacle to this operation?

A certain number of key actors within governments have realised the risk of allowing the situation in Darfur to continue. Pressure has been brought to bear. The result: one month ago, the government lifted the obstacles to the arrival of aid. We now receive visas and permits easily to travel from one area to another. We haven't had that kind of opportunity for at least 15 months in Sudan.

Countries like France, which typically haven't been very critical of the Sudanese government, are now pressuring Khartoum on Darfur. The French Secretary of State for Foreign Affairs, Renaud Muselier, has just visited the Mornay camp. He made strong and clear statements to Sudanese officials regarding the violence against the displaced persons.

1. Genocide or No Genocide?

In the wake of this statement, the general directors of MSF Belgium, MSF Holland and MSF USA exchanged emails exposing their arguments related to the issues. Primarily, was there a genocide underway in Darfur or not? Was it relevant for MSF to speak out on this issue?

For MSF France President, Jean-Hervé Bradol, and for most of the managers of the section, the situation in Darfur should not be labelled as a genocide.

They argued that the qualification of genocide did not fit with the reality of what was happening on the ground. While MSF teams could witness outcomes of massive abuses, including massacres that could be qualified as crimes against humanity, they did not witness any intent of destroying entire villages or any specific ethnic group. Nor did they observe specific discrimination against Zaghawas, Masalit and Fur members of staff.

According to the MSF France President, there were significant numbers of staff members from western Sudanese ethnicities working at all levels in the Sudanese administration and with Sudanese forces. They were not discriminated against or physically targeted.

However, there was a perception that the radicalised nomadic neighbours to the Fur and Zaghawa elites were intent on their destruction, once and for all. According to the MSF France President and his advisors, the fear of genocide and destruction resonated with the international activists' agenda, which instrumentalised this perception.

To sustain his theory, the MSF France President employed an "historical" definition of genocide and not the "legal" definition of the 1948 International Convention on the Prevention and Punishment of the Crime of Genocide.⁵

The 1948 convention defined acts of genocide as including "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such" covered a much broader range of acts than the "historical" approach chosen by MSF France/OCP.

According to the MSF France President, in 2004, the application of laws by the international community on genocide was "emerging" and did not have "enough stability." This is the reason why he decided to keep to what he called an "historical register," based on the only MSF experience with genocide to date, drawn from the genocide of Rwandan Tutsis in 1994.

For the MSF France/OCP Legal Advisor, Françoise Bouchet-Saulnier, MSF should not take a position on which register of definition of genocide should be used, particularly only based on MSF's experience. MSF should instead, publicly witness with MSF data, the situation on the ground.



The classification of genocide didn't match the reality of what we were experiencing. There was no genocidal atmosphere at all. Operations had never been so easy. The Sudanese government had never issued so many authorisations so quickly and had never been so tolerant of criticism. For example, our report came out strongly against the authorities and accused them of mass crimes. But they didn't throw anyone out, they didn't do anything. The Masalit and Fur people on our staff, who were not in the areas that the regime described as areas of armed opposition, had no problem. We hired Fur, Masalits, in the north, Zagawas. Many of them were serving in Omar al-Bashir's army. As a result of many mixed marriages, in all families, between people from the north and the west, they were scattered throughout Sudan. Omar al-Bashir's family has people from the west. He wasn't exterminating the westerners in his family or half of his army. As it happens, my wife is Sudanese. There are many couples among my in-laws' family – who are Shaidi, they're really at the top of the northern tribal pyramid, very conservative – that include people from the west. So social life carried on and people from the west were not ostracised by other Sudanese or representatives of the Sudanese state.

What's more, Sudan was presented as being divided between Blacks on one side and Arabs on the other. That doesn't correspond at all to the country's sociology. Sudan is a tribal coun-

5. See the convention here: [https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention on the Prevention and Punishment of the Crime of Genocide.pdf](https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf)

try. What creates fractures among tribes is frequently the issue of slavery. Many people from the north distrust people from the west because, historically, westerners were taken as slaves. But people from the west themselves often captured other westerners to sell them to north-erners.

So, the only context in which the classification of genocide worked was the legal one. If you wanted to operate in that context, then yes, the classification of genocide made sense in a certain way. But we (MSF France) decided to continue to rely on a historical context. In our view, the law on acts of genocide was just emerging. It hadn't settled out yet.

*Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007
(in French).*



When we speak, we must speak the common language. MSF didn't invent the common language, particularly the language of law. The language of law was invented in order, specifically, to be able to consider mass crimes by using a common definition. That's not entirely useless. But in that regard, in a sense, MSF France broke away. We said, we're not getting involved in legal considerations because for us, genocide means something else. And so, we said that, based on our own definition of this word, there is no genocide.

I find that attitude to be unhelpful and dangerous in terms of institutional responsibility because we're taking a position on what is happening in a system by separating ourselves from that system and speaking a different language to the one it speaks.

We should have either remained silent or spoken in a way that described what we were seeing and related it to the definition. For example, we could have said that we were seeing crimes but that we were not able to assess genocidal intent.

The definition is not perfect. For example, it did not allow the Khmer Rouge's crimes to be classified as genocide. It's not that it's overly broad, either. But any definition is problematic. I would rather we had carried out fact-finding and relied on that to say, 'Based on the information we have...' That would've made it possible to specify what and where we were talking about, without dismissing the possibility that we ourselves might have been manipulated. We are a legitimate participant in this debate. But it's not up to us to decide that the debate is illegitimate, or the positioning is illegitimate because we challenge the definition of genocide or that according to us, there is no genocide.

*Françoise Bouchet-Saulnier, MSF France/OCP, Legal Advisor, 1991-2005, MSF
International Legal Director, 2005-2022 (in French).*



Jean-Hervé oversaw this discussion on the classification of genocide. He knows Sudan very well. One of my contributions was finding an article written by a Zaghawa intellectual, Sharif Harir, who presented the insurgents' perspective on this question of genocide.⁶ The article was useful in reconstructing, in broad terms, the history of the conflicts between the nomadic and sedentary populations. It established the context in which the perception, the fear of being a victim of genocide, had emerged. It discussed how the Masalit, and the Fur came to believe that their nomadic neighbours had shifted to a fundamental antagonism and wanted to get rid of them once and for all; how this perception took hold and the reality to which it referred. It allowed us to refine our analysis a bit, to say that, of course, the classification of genocide involved all the activists, all the anti-Khartoum interven-tionists who, for decades, had taken it on themselves to promote their agenda, but that it also

6. Sharif Harir, 'Short-Cut to Decay : The Case of the Sudan,' Nordic Africa Institute, Terje Tvedt (éd.) Uppsala, 1993, https://www.academia.edu/24548814/Short_cut_to_decay_the_case_of_the_Sudan

related to a local perception of the conflict. Some of the elites and members of the Fur and Masalit population really felt, particularly since the government had taken up the cause of the nomadic populations, that the nature of the antagonism between them and their neighbours had changed. I think that the campaign to qualify the events as genocide could not have been so vigorous without that local perception. It was not necessarily genocide with everything that goes with it for us – the memory of the Holocaust, etc. – but it was that idea, despite everything, of a conflict driven to extremes, of an extreme radicality. And the Fur and Masalit intellectuals used the term genocide at the time; in this case, it was the Zaghawa writer. The article was thus useful in understanding the perceptions and how this debate over genocide resonated. The government had never issued so many authorisations so quickly and had never been so tolerant of criticism. For example, our report came out strongly against the authorities and accused them of mass crimes. But they didn't throw anyone out, they didn't do anything.

Fabrice Weissman, MSF France Foundation/CRASH, Director of Studies from 2000, MSF France/OCP, Coordinator in Darfur, August 2005 to August 2006 (in French).

MSF Belgium future General Director, Gorik Ooms, challenged the MSF France President's choice of an "historical" definition of genocide. Based on the "legal" definition of the International Convention on Genocide, he said that "the intent to destroy a group in part was sufficient to qualify a genocide." He put forward various massive abuses against populations in Darfur, that according to him, were making it "hard to confirm that there are no systematic killing members of the group," no systematic intent to "deliberately inflict on the group, conditions of life calculated to bring about its physical destruction in whole or in part." He highlighted that the gap between the historical definition and the legal one provided a "fantastic playground for those who have political rather than humanitarian intentions."



'Message from Gorik Ooms, MSF Belgium General Director to MSF people in charge of Darfur,' July 2004 (in English).

Extract:

The point where I disagree, at least partially, with Jean-Herve is where he writes: "La notion de genocide renvoie à des situations historiques précises, le genocide des Rwandais tutsis, en 1994, par exemple." [The concept of genocide refers to specific historical situations, such as the genocide of the Rwandan Tutsis in 1994]. True, there is this 'historic' or 'moral' notion of genocide, referring to situations as Rwanda 1994. But there's also a quite precise legal notion of genocide, as defined in the 1948 Convention on Prevention and Punishment of the Crime of Genocide (to which Jean-Herve also refers) and this legal notion is much broader than the 'historic' or 'moral' notion of genocide [...]. Jean-Herve writes: "But the mortality rate and its distribution within different population groups do not argue in favour of an attempt to exterminate an entire human group." This suggests that the intention to exterminate an entire group is a necessary condition for a situation to be qualified as genocide. That might be true for the historic notion of genocide, but the legal notion of genocide refers to "acts committed with intent to destroy, IN WHOLE OR IN PART, a national, ethnical, racial or religious group." The intent to destroy a group IN PART is sufficient. True, the national, ethnic, racial, or religious stratification of the population of Darfur might be incredibly complex, but it's

difficult to sustain that the violence in Darfur happens at random: some groups are targeted by the violence, some are committing the violence, and probably some groups are neither targeted nor committing the violence. Our own testimonies of massive killings of young men and male children, the sexual violence against women and girls, the forced displacement of hundreds of thousands of people – cutting them off from the resources they need for survival – plus the obstacles created to hamper the delivering of assistance (remember Kevin's remarks this afternoon about the artificial fuel shortage), makes it damned hard to confirm that there is no systematic "killing of members of the group", that there is no systematic "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part", and that there is no systematic "imposing measures intended to prevent births within the group" ... All of these are acts of genocide. Jean-Herve writes: "De plus, nous n'enregistrons pas dans les discours publics du régime, d'appels à l'extermination d'un groupe particulier." Well, I guess we don't know exactly what some high officials of the government of the Sudan are shouting to the so-called Janjaweed, nor what these men are replying from the backs of their horses and camels (remember Kevin's remarks this afternoon that the shouting was "probably not about disarming them"), but it doesn't really matter. The historic notion of genocide might require calls for extermination of a group by the ruling government (especially if the historical reference is Rwanda 1994), but the legal notion doesn't. Even if the Janjaweed were acting completely independently from the government, even if the intention of the government when supporting the Janjaweed is completely different from the intention of the Janjaweed when they are using these supports, the Janjaweed are still committing genocide. The convention applies to uncontrolled militia as well. This huge gap between the 'historic' notion of genocide and the legal notion of genocide provides a fantastic playground for those who have political rather than humanitarian intentions.



What I really disliked was the analysis of the concept of genocide Jean-Hervé used, which was a personal analysis but not a legal analysis. And for me, as a lawyer, you really must respect the black letter of the law because every norm is subjective. And if you start using your own interpretations of norms, then you quickly abandon neutrality and impartiality. And I'm afraid that that's what was happening there. Jean-Hervé used genocide in a very original way, but that was not the legal meaning and so that was a concern.

If we want to be neutral, impartial and speak out, we must relate what we say to international law, because otherwise you start using your own concepts and that's subjective. So, for example, a doctor can say, 'I've seen a thousand dead people.' That's not a problem. That's a fact. If you say, I've seen a thousand people murdered, well, you must respect the meaning of the word murder. And so, you must be able to prove that there was an intention to kill someone. If you start using your own definition of murder, then it's not a fact anymore. Then you're using your own norms and your subjective feelings about the situation. And I thought that was happening with genocide.

Of course, international law is also somewhat subjective. It's the result of an agreement between several states. But you can refer to it as something that exists, and that is a kind of normative fact.

I'm still not a big fan of the Genocide Convention because it's very broad and not very clear on some aspects. But still, it is what it is. And then saying that genocide refers to notions or historical events like Srebrenica and Rwanda ... that doesn't make any sense to me because the Genocide Convention was agreed decades before Srebrenica, decades before Rwanda.

Gorik Oms, MSF Belgium, General Director, 2004-2007 (in English).

On 20 July 2004, MSF USA Executive Director Nicolas de Torrente, replied to Gorik's comments, pointing out that even the "legal" definition "still requires that members of the group are targeted 'as such' and that this was challenging to prove."

Nicolas also used the experience of MSF in 1994 in Rwanda as a reference. At that time, MSF concluded that its teams were powerless to help the population, and publicly stated "you can't stop a genocide with doctors."⁷ Nicolas noted that, in Darfur, MSF teams were still able to bring assistance to the population.

On 27 July, the MSF France/OCP Emergency Programme Manager Thierry Allafort-Duverger also referred to Rwanda while stating to the French daily *Le Figaro*, "If we felt that a genocide was underway, as doctors, we would be useless and leave the country." He stigmatised a "propagandist distortion that can only harm relief efforts," and called for increasing the logistical means to deliver aid to the displaced.



'My comments on the genocide debate,' **Message** from Nicolas de Torrente, MSF USA Executive Director to his MSF USA Program Department team, 20 July 2004 (in English).

Extract:

Hi Guys,

This is what I would like to send to the ExCom etc concerning MSF's genocide debate: - it's been very tough for me to think this issue through for some reason, but I think this makes sense (I sent the JHB and Gorik arguments earlier).

Dear Gorik and friends,

Thanks for circulating your comments on JHB's genocide interview. I find it very encouraging that we are debating these issues. Gorik, you raise many good points about JHB's position, but in particular I have concerns about your last point: 'from a legal point of view, it is a genocide' and that you/MSF would publicly state that. Let me try to explain my thinking ...

As you state, it is clear that the legal definition of genocide in the Convention goes beyond the Holocaust (the event that motivated its genesis), in particular because it does not require the intention to destroy ALL members of a targeted group ('in whole or in part'). However, it still requires that members of the group are targeted 'as such' (ie solely because of who they are, defined on racial, ethnic, national, or religious grounds) and that there is the intention to destroy them (in whole or in part). 'Legally', it is still a high standard.

In this perspective it is significant to note that the major Human Rights groups (who use the legal definition!) have been careful and are still divided. HR Watch and Amnesty have not qualified the situation as genocide. [...]

Furthermore, the question for us MSF is whether the 'legal definition' is the right one on which to base our qualification and actions. This is very important, because we deal with people of a particular ethnic group who are targeted, brutally victimized, forcibly displaced etc. as part of an 'anti-insurgency' campaign, and where the perpetrating government is blocking or manipulating aid and access very often. (...)

7. See Laurence Binet, 'Genocide of Rwandan Tutsis,' April 2014, URL: <https://www.msf.org/speakingout/genocide-rwanda-tutsis-1994>

Given these difficulties, what I think could be a useful criterion, or 'cut-off' point, for us is that, in a situation of genocide, humanitarian action has lost all its meaning. If people are designated for slaughter (all of them or a substantial portion; and by whatever means, either direct or indirect) then trying to peacefully help them is pointless. Yet from what I read and hear, the field teams believe, by and large, that they are doing a meaningful job, that their work is really helping people (from a medical, but also from a broader humanitarian point of view, 'restore people in their capacity to make choices', à la Brauman, etc). They view the situation as incredibly difficult, especially because of the ongoing Janjaweed violence and the lack of assistance, but not as completely hopeless. (For instance, through advocacy, we can possibly stop the process of forced return to the villages, it is not 100% pre-ordained.) In short, what the field teams are saying: there is horrible, massive repression, but not a 'genocide' that would, by definition, make our presence, our work, our efforts utterly meaningless. In that vein, there would be a real contradiction between determining the situation a genocide and calling for a massive increase in assistance as we are doing – if we called it a genocide we should denounce, leave, and call for war on the perpetrators (Janjaweed and Khartoum) because that would be the only thing that would help.



'A humanitarian tragedy, but not genocide,' interview with Thierry Allafort-Duverger, MSF, interviewed by Tanguy Berthemet, **Le Figaro** (France), 27 July 2004 (in French).

Extract:

Le Figaro – Last week, the US Congress adopted a resolution condemning “genocide” in Darfur. Do you find this an appropriate way to view the crisis?

Thierry Allafort-Duverger - The reasons that led to the American elected officials' decision are sensitive and undoubtedly include internal politics. Based on our consideration of the analyses and the facts, there is no genocide underway in Darfur. People tend to overuse this term today. The events are being distorted for propaganda purposes, which can only harm aid efforts. This isn't to deny the deaths, the killings, the hundreds of villages burned and the millions of refugees. We're just trying to state the truth. In the Mornay region, a retrospective mortality survey showed that one person out of 20 was a direct victim of the raids. People are forced to flee, but they are not being killed systematically. If we felt that a genocide was underway, our presence as doctors would be pointless and we would leave the country. In 1994, in Rwanda, we left only a small team in the country and called for armed intervention.

Are you thus also opposed to Tony Blair's and the Australian foreign affairs minister's proposal to send troops to the region?

Thierry Allafort-Duverger: Khartoum has already reacted very violently to the British and Australian proposal. That can only be cause for concern. If we look at military operations in Africa in recent years – whether MONUC in the Democratic Republic of Congo or ECOMOG – the record is very mixed. It seems a bit unreal to think you can protect more than one million people in an area the size of France with 5,000 men. The responsibility to protect the populations falls first to the Khartoum government. It must comply with its commitments and disarm the militias, even if it is far from the only party responsible for the crisis.

Nonetheless, the situation is very difficult.

The populations are suffering tremendously, and we welcome the current mobilisation. Even so, we shouldn't cry genocide indiscriminately or use threats to withhold aid to

achieve progress in the peace negotiations. A war is underway and the work of humanitarians, as the Geneva Convention emphasises, is precisely to intervene on behalf of the populations in danger.

Thierry Allafort-Duverger: First and foremost, increase the logistical resources for delivering aid to the displaced persons. If, in that context, the armies want to intervene to provide resources – particularly air assets – they would be welcome. The rest is for the diplomats and the politicians.



There was the reference to Rwanda, the genocide that we didn't stop, and the feeling of guilt about that. Ten years had passed between the two crises and that was important. MSF had engaged in a lot of thinking and reflection that resulted in the statement, 'No doctor can stop a genocide.' That's why I tried to write this article. But perhaps my point of view was a bit too limited. If you say, 'It's genocide,' then everything else is meaningless. 'Everything has to stop, this is absolute evil, so the only thing left is to take up weapons.' Does that really correspond to reality? Even during the Rwandan Tutsi genocide, the ICRC and others carried out aid activities that saved lives, even if a very few. So, is it really as Manichean, as black and white, as that? In that regard, I'd say that my argument was slightly wrong. There were people who survived the Holocaust, people who got out. So, to say that aid is pointless in these situations, that you should stop and take up arms, that's not entirely true. But our thinking was that in the case of genocide, it's a shift to something fundamentally different. So, we asked ourselves whether we really had the information to classify this situation and draw the necessary conclusions. I didn't think so. I thought that since the teams continued to say that our work was meaningful, we had to try to preserve that space.

Nicolas de Torrente, MSF USA, Executive Director, 2000-2009 (in French).



A couple of months earlier, on the MSF website, Jean-Hervé [Bradol, MSF France president] explained, referring to the genocide in Rwanda: 'if there is a genocide, then there is no possible humanitarian intervention.' That's a very particular definition of genocide. That's not the legal definition of genocide.

Gorik Oms, MSF Belgium, General Director, 2004-2007 (in English).



Even if Jean-Hervé's [Bradol, MSF France president] arguments were not necessarily made as tactfully as they might have been, they raised real questions. Afterwards, you might or might not agree, but they held up. I think that Nicolas was looking for a public position that would be useful. Was it time to quit being satisfied with just showing off, time to quit playing the shocked virgin? That didn't serve any purpose – in as much as everyone was already playing that role.

I think that MSF USA pushed hard for MSF to take a position on that question because it was a huge debate there

Stephan Oberreit, MSF France, Communications Director, 2000-2006 (in French).



First, you had to treat people, save them – and we managed to do that. In a genocide situation, you wouldn't be able to work, but even so, we managed. Our impression was that we'd managed nonetheless to deploy aid and that they weren't killing everyone

right in front of us. But we were aware of the violence that was being used and continued to be used, particularly against women who were being raped.

Thierry Allafort-Duverger, MSF France/OCP, Emergency Programme Manager, 2003-2006 (in French).



Someone explained to me that most of the people in MSF France and Belgium that were upper echelons in 2004 sort of made their careers around the time of the genocide in Rwanda. So, the issue of genocide was a very big issue. And I think that made the discussion around genocide a very tough one within MSF. Having said that, I don't think anyone in MSF strongly wanted to come out and say it was a genocide because it may have legally met some of the criteria, as Colin Powell said. But I think our understanding of genocide generally in MSF is "well, you probably shouldn't be doing humanitarian assistance in a genocide because you're helping it to go ahead."

Rowan Gillies, MSF International Council President, 2003-2006 (in English).

On 26 July 2004, MSF Holland General Director Austen Davies replied to Nicolas de Torrente's message. He said that MSF Holland/OCA was not aware of any "historical" definition of Genocide. He noted that MSF having no experience with the Genocide of the Armenians in 1915 and with the Genocide of European Jewish people in WWII, we were "left with those of us who were in Rwanda in 1994 to tell us what is or is not a genocide." He reminded that MSF never called the abuses against the Nubas in South Sudan, the Rohingyas in Myanmar, or the Bosniaks in Srebrenica a genocide, "although cases can be made."



'Re: Darfur Genocide,' Message from Austen Davies, MSF Holland General Director to Nicolas de Torrente, MSF USA Executive Director cc: MSF Operational Centres General Directors, 26 July 2004 (in English).

Extract:

Dear Nicolas,

Thanks for taking the time to reply.

We here in Amsterdam have been having very hot and long debates over genocide – its meaning and our moral commitments engendered from being in Darfur.

We were concerned with the classification of Darfur as genocide under legal definition by Gorik as much as the classification of non-genocide by Jean-Herve.

We are also concerned by the debate over whether we use the legal definition or the historical definition. As far as we are aware there is no historical definition – and using one or two settings and comparing requires knowledge of those settings which I would guess we do not have from the 2nd WW or from Armenia. Then we are left with those of us who were in Rwanda in 1994 to tell us what is or is not genocide.

Yes, some in America may use anything we say for their political intent – as will Khartoum. We cannot determine what we will say because we are concerned by one side or the other instrumentalising it. We have to determine what we are duty bound to say and what we are credible in saying – which also depends on being coherent across different contexts and over time.

MSF has never called the Nubas a genocide, nor Srebrenica, nor the Rohingyas in Burma – although cases can be made.

If this is a genocide in Darfur, then it is not the singular event that we have talked about – and there are many who argue that genocide is not a singular event – there have been other awful crimes offered that did not capture the popular imagination such as genocide.

If genocide encompasses more than Rwanda's, then can we be so sure that providing aid is futile? If there is intent but not the capacity to kill all – if our presence and actions alter the course of a weak intent?????

If the event is not so singular, then what is the difference to a DRC etc? And again, we come down to the basic MSF agony of trying to bear some moral responsibility in crisis and to just acting as technicians. [...]

It is not such a massive horror as to deny the logic of aid – on that we agree. I do not think MSF should argue that if we want more aid, it cannot be a genocide, which seems to be a very self-referential point of view.

In late July 2004, Gorik Oms sent a message to his MSF general director colleagues when returning from Darfur, stating that “the extermination of part of a population has happened, is happening, and will probably continue to happen.” He added he would find it “quite hard to say that what is happening in Darfur is not genocide,” but he would “stick to the agreed communication line.”



'Darfur Genocide,' **Message** from Gorik Oms, MSF Belgium General Director to MSF Operational Centres General Directors, 26 July 2004 10:34 (in English).

Extract:

Nicolas, Austen, and All,

Thank you for your replies.

I just returned from Northern Darfur. [...]

The extermination of part of a population has happened, is happening and will probably continue to happen whenever the farmers will be forced to return to their villages, becoming once again an easy and unprotected target.

I would find it quite hard to say that this extermination of part of a population has happened without the intention to exterminate. One could say that the main intention was to chase these people away, not to exterminate them, but was there any other method to chase them away that would not involve partial extermination? Would the Holocaust not be a genocide if Hitler were able to show that he didn't really want to exterminate the Jews, that he only wanted to get them out of Germany, but that previous attempts not involving extermination (such as deporting all of them to somewhere in Africa) had failed?

The possibility that the Government of Sudan might have had other intentions when it armed the nomadic tribes, intentions that didn't require the scale of violence that has occurred does not alter the facts.

Therefore, I would find it quite hard to say that what is happening in Darfur is not a genocide.

I would feel relatively comfortable, at this stage, to say that the whole discussion about genocide or not is distracting from the real issues at hand: providing more assistance

and more protection. I would even feel relatively comfortable to warn against simplistic military intervention scenarios, which might lead to Somalia-like situations. So, I will stick to the agreed communication line. But we do need to continue this debate.



What I don't like about the convention on genocide is the weight of intention in there. And it's very difficult for MSF or any outsider to assess the intention of parties involved in a conflict. We cannot read the minds of the people who are taking certain decisions and why they are doing it. And the difference between a violation of humanitarian law and genocide is very difficult to make, to judge because it's really about the intention. So, I came back from Darfur with, I guess, the same opinion as before, thinking, okay, if there is a serious prosecution looking into the records of all the communications between the Government of Sudan, the Janjaweed, et cetera, it is likely that a court will conclude that this is genocide, but it could also come to another conclusion. I didn't know. I didn't know before I went, and I didn't know after. And, frankly, that was not my main worry.

Gorik Oms, MSF Belgium, General Director, 2004-2007 (in English).

On 20 August 2004, the MSF Holland/OCA Head of Humanitarian Affairs Department, Kate Macintosh, circulated an analytical paper entitled, 'Genocide and MSF.' She analysed the following questions: What constitutes genocide? What are the international community's obligations in the event of a genocide? Is there an "historic" or "moral" notion of genocide as opposed to the 1948 convention's legal definition? What are the implications for MSF in the case of genocide? Can MSF work amid genocide? Are we obliged to speak out if we witness genocide or to call for armed intervention?



'Genocide and MSF – discussion paper August 2004,' Kate Mackintosh, MSF Holland/ OCA Humanitarian Affairs Department, 20 August 2004 (in English).

Extract:

Introduction

Some important questions are emerging from the discussions around whether or not there is a genocide going on in Darfur. Is genocide really a crime apart, and does this have implications for humanitarian action? Does genocide demand a particular response from the international community? Does it require MSF to respond in a particular way? If so, is it the singularity of genocide which makes these demands, or are there elements which genocide shares with other international crimes which do so? It has been suggested that the only appropriate humanitarian response to genocide is to cease operations and to call for military intervention; but is it possible to envisage cases of genocide where humanitarian assistance is still of value?

- What constitutes genocide?

The 1948 Genocide Convention defines genocide as:

Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such:

- a. Killing members of the group.
- b. Causing serious bodily or mental harm to members of the group.
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.
- d. Imposing measures intended to prevent births within the group.
- e. Forcibly transferring children of the group to another group.

This text (Article 2 of the Convention) provides the basis for the crime in the Statutes of the International Criminal Tribunals for the former Yugoslavia and for Rwanda (ICTY and ICTR), the Statute of the International Criminal Court, and has been incorporated into national law in countries which have ratified the Convention. It is also generally considered to form part of customary international law, so that it is binding on states even if they have not ratified the Convention itself.

The Convention definition can be broken down into 3 parts:

1. One of the acts in paragraphs (a) to (e) has to be committed

One of the most relevant points to note here is that there is no requirement for a large number of members of the group to be subjected to these acts. This may sound strange as genocide is clearly about destruction of groups rather than individuals. However, while the number of individuals targeted is often relevant to establish the intent to destroy a group (see below), it is not strictly a requirement.

2. There has to be intent to destroy a group in whole or in part through the commission of these acts

Intent, as a state of mind, is harder to establish than a physical act, and it is usually inferred from actions and circumstantial evidence. Relevant factors include the nature of atrocities committed (acts aimed at undermining the foundation of the group, for example), the deliberate targeting of members of a particular group while excluding the members of other groups, and the scale of the crimes: this is where the number of victims becomes relevant. If a large proportion of a group is targeted, it may show intent to destroy the group as such.

Jurisprudence of the ICTY and ICTR has held that if the genocidal intent is only to destroy part of a group, then that part must be "substantial". For example, the ICTY found the Srebrenica massacre to be genocide because it was accompanied by the intent to destroy 40,000 people (all the Muslims of Srebrenica), which was a substantial part of the 1.4 million Bosnian Muslims. The finding was not based purely on the murder of the 7,000 Muslim men and boys.

3. The group has to be "national, ethnical, racial or religious".

Strictly speaking, if the group cannot be fitted into one (or more) of these categories, then its destruction is not genocide. Political, economic, or social groups are therefore excluded, although this is a contentious point among international lawyers.

- Is there a "historic" or "moral" notion of genocide as opposed to this legal definition?

The term genocide is linked historically to the Convention definition. Although genocides have been committed throughout history, the term was invented during the second world war by the Polish lawyer and scholar Raphael Lemkin and was mentioned in the Nuremberg proceedings (although not used as a basis for the charges, nor referred to in the Judgement). Soon after the Nuremberg judgement was delivered, the United Nations General Assembly passed a resolution affirming that genocide constituted a crime under international law and recommending that work be started on a draft convention which would provide a firm legal basis for its prevention and punishment. These moves culminated in the 1948 Genocide Convention.

While it may not be useful to seek to establish some other definition of genocide, genocide is popularly understood to involve killing on a massive scale, killing for its own sake, and to be the worst crime, and this popular sense can be opposed to the legal definition in certain respect. Killing on a mass scale is not a requirement of genocide. Not all killing (not even all mass killing) for its own sake is genocide, for example where the victims do not belong to a protected group, and these reasons combined mean that genocide need not always be the worst crime. The obstacles to marriage and procreation placed on the Rohingya population on Northern Rakhine State in Burma might constitute genocide, assuming the Burmese State's intention is to destroy them as a group in substantial part. The terrible violence in DRC does not. Which is worse? Where would you rather be?

The popular sense is also relevant to the debate on how humanitarians should respond to genocide. Situations in which we cannot work and must speak out will probably be those characterised by mass killing for its own sake, rather than those which can necessarily be called genocide.

On another view, however, there is something about genocide in technically accurate sense which does make it the worst crime. First the dehumanising effect of all persecution based solely on membership of particular group – recognised in international human rights law by the key prohibition of discrimination – and then the loss to humanity as a whole of the elimination of an entire group. In this understanding the moral notion of genocide overlaps with the Convention definition.

- What are the international community's obligations in the event of a genocide?

The full title of the 1948 Convention is the "Convention on the Prevention and Punishment of the Crime of Genocide", and this is echoed in Article 1 where States ratifying the Convention ("Contracting Parties") undertake "to prevent and to punish" genocide. In fact, most of the Convention focuses on punishment (which may in itself prevent, of course). The Convention explicitly states that all offenders up to and including heads of State shall be punished for committing genocide, and Contracting Parties are obliged to prosecute offenders if the genocide was committed on their territory, or otherwise to comply with requests for their extradition. Interestingly, these provisions are weaker than the comparable provisions of the Geneva Conventions (drawn up a year later); under the Geneva Conventions, States are obliged to search for suspected war criminals and then to try them before their own courts irrespective of where the crime was committed (or extradite them, if they prefer); a system known as universal jurisdiction.⁸

8. There is, however, a strong case for arguing that universal jurisdiction over genocide exists under customary international law, although not provided by the Convention on Genocide.

The Genocide Convention does not specify how States are to implement their undertaking to prevent genocide. However, according to Article 8, "Any Contracting Party may call upon the competent organs of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide". This article is often read as a coded reference to enforcement action by the Security Council and may be at the root of what appears to be a common misconception: that if a genocide is declared, the UN is obliged to authorise military intervention. Regrettably perhaps, this is a major overstatement of the position.

The Genocide Convention does not (cannot) alter the basic law contained in the UN Charter that force may only be used as a last resort when the Security Council determines that it is necessary to maintain or restore international peace and security.⁹ Over the last 10 or 15 years it has become clear that mass violations of human rights can constitute threats to international peace and security (particularly when accompanied by mass refugee flows), so it is possible for military intervention to be authorised to put a stop to genocide. However, it is the scale of the atrocities which determines this, and not whether or not they are genocidal. Other enforcement action should be undertaken first. In the case of Darfur, the Security Council has already determined that the situation constitutes a threat to international peace and security; this is the basis on which it has ordered the arms embargo to non-government entities in resolution 1556. It has therefore already crossed the threshold that can lead to armed intervention. Legally a determination that genocide is taking place would add little, although it might add moral weight based on the popular perception of genocide as the worst crime.

Again, it is interesting to compare the Genocide Convention with the Geneva Conventions of 1949. In Article 1 of the Geneva Conventions, States undertake to "respect and to ensure respect for the present Convention" (emphasis added). This has also been cited as putting parties under an extra duty to enforce respect for the Conventions internationally, similar to the undertaking to "prevent and punish" in the Genocide Convention. In other words, States are also under an obligation to prevent war crimes.

- What are the implications for MSF in the case of genocide?

The pieces by Jean-Herve Bradol and Fabrice Weissman both raise the question of whether there is any point providing humanitarian assistance in the midst of genocide, and indeed whether to do so might be morally wrong, perhaps even involve us in complicity with the perpetrators. Both also suggest that the only appropriate action might be to call for military intervention to stop the killing.

- Can MSF work in the midst of genocide?

Fabrice Weissman writes that "food and medical aid are of little use to civilians who have been marked out for extermination by a state that is mobilising all its forces to this end" and suggests that humanitarian assistance should stop in these conditions. He acknowledges that this description covers a wider set of circumstances than genocide, and that his argument applies to any "process of organised destruction of civilian populations".

But is humanitarian assistance always worthless in these circumstances? In the case of "slow" genocides, the deliberate inflicting on the group of conditions of life calculated to destroy it in whole or in part, perhaps, humanitarian assistance might be key to its

9. With the exception of cases of legitimate self-defence, recognised in Article 51 of the UN Charter.

survival. Access will presumably be a problem. Some might argue that this was the situation recently in Darfur. The role for humanitarians in such a case is clear: the traditional appeal for access to the population. But Weissman may be referring rather to situations of overwhelming violence. Even then, assistance will only really be useless in the total absence of protection. If, as is more usually the case, some victims manage to flee to a place of relative safety (maybe crossing a state border) then presumably food and medical aid are very useful indeed. And even when protection has completely broken down, wouldn't it be important for MSF to stay to bear witness to the fate of the population? We cannot speak out if we are not on the ground.

While it might be futile (or even destructive, diverting attention from protection needs) to aid where a population cannot be protected from "a process of organised destruction", this lack of protection and the determination of the perpetrators to kill the victims is more important than whether the violence is genocidal in the technical, legal sense. And on contrary, it is also possible to imagine situations which while formally genocide do not meet the pull-out criteria, where members of a targeted group could be protected enough for humanitarian assistance to be meaningful.

n is a qualitatively different act to bearing witness to genocide. By calling for intervention we move beyond recoinage and into the political arena of solutions. The suggestion that this might be necessary in the case of genocide rests on the assumption that it is the only way to protect a population targeted for destruction, in whole or in part. This assumption in turn relies on an understanding of genocide closer to the popular notion than the legal one. There may be other ways to stop a genocide which is not characterised by overwhelming lethal violence. Unfortunately, if we cannot rely on the notion of genocide to tell us when force should be used, we have no simple substitute. Situations where this is the only way to protect a population? How do we identify these? How can we be sure enough to justify calling for more violence?

Even if we could establish criteria on which to base calls for intervention, other factors are at play. As the appeal is a strategic one to obtain protection for a population in danger, then we should also consider whether we add value – whether powerful voices in the international community are already calling for the intervention, or whether our voice adds to the likelihood of that happening – and (as identified by Weissman) whether there is a realistic possibility of the intervention putting a stop to a genocide. We might also want to consider the image of the organisation (neutrality, independence), and how a call for intervention aligns us with political actors.

As to whether we should always speak out when we witness genocide – call it publicly by its name – this will depend on whether speaking out is also a strategic activity, aimed at improving or obtaining protection, or whether we feel that there is an absolute value in bearing witness to terrible crimes. In the first case, the usual considerations for any advocacy apply. In addition, as genocide is popularly thought to be the worst crime, it may increase the chances of protection and the likelihood of international pressure if we state publicly that we are witnessing genocide.

If speaking out has an absolute value, would we always speak out about genocide? Put another way, would we ever not speak out about a genocide on the grounds that it was not bad enough? It seems unlikely, but is perhaps not unimaginable, unless we believe that there is something about genocide beyond numbers of victims and level of violence,

a qualitative rather than quantitative aspect, something about the loss to humanity that the elimination of a group represents, that makes it really the worst crime.

2. MSF's Relevance and Interest in Stating Whether or Not Genocide Was Committed

In the MSF movement there weren't many ready to publicly qualify the situation in Darfur as genocide. At the same time, many did not see the relevance of publicly stating that there was "no genocide." The possible consequences of each position were anticipated and discussed for months and continued after the "no genocide" statement:

- The "genocide" position might provoke the government's anger and hamper MSF operations in Darfur with a ban on access to the population. It could also be used as a justification for an international armed intervention that would worsen the situation.
- The "no genocide" position, could be perceived as MSF minimising the Government of Sudan's violence and therefore, facilitate MSF operations – which it did.
- Both positions could be instrumentalised either by the Government of Sudan or those who wanted to justify an international armed intervention in Darfur.

a) "Speak About What We See, Not About What We Don't See"

MSF Holland/OCA was clear they were against MSF qualifying any public position on the situation in Darfur on genocide. That official position was because MSF Holland/OCA was not deployed extensively in Darfur and were unable to describe the events as a genocide. However, they pushed for speaking out on abuses/crimes their teams witnessed and asking for more protection.



Our position was that we should not say 'it is' or 'it is not.' Because we did not have a full overview. We did not have a widespread presence in Darfur. We were in a few places but not everywhere. We did not have enough information. We had limited expertise in the timeframe to decide and prove whether it was a genocide or not.

We also did not have enough information to convince us that it was a genocide. Our attitude was: you comment on the atrocities that you do see. So, if you see a massacre or if you see wounded from a massacre, you talk about the massacre. If you see, as we did, mass graves, you talk about the mass graves and you can talk about it as what they clearly are, crimes against humanity, war crimes and so on. But to say there is no genocide, for us was irresponsible because it was not based in something that we could verify.

This was the official decision which we put on paper as the position of MSF Holland. There were probably some people who wanted to say more, some people who wanted to say less. But I don't think there was anybody in a senior position who wanted to say more. We had a lot of junior people, some of whom worked in Darfur, who said, 'No, you should call this a

genocide,' and we told them that we didn't think this was appropriate. But one can never say that everybody in the organisation agrees on the position. Otherwise, it wouldn't be MSF!

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).



I don't think there was a movement in favour of classifying the events in Darfur as genocide. But on site we thought that it was getting close. We had no point of comparison because none of us had any experience in a genocide context. Even if it wasn't genocide, it looked a lot like it.

Everyone, including within the staff, was divided on the issue of whether we should speak out. I remember having heated discussions with Vince [Hoedt, MSF Holland/OCA Emergency team]. He said, 'We've got to prioritise operations. If we're expelled, we won't be able to help people in the camps and anywhere else! They won't have anything!' And I said, 'Really, do you think, given what they've experienced, that doling out aspirin will help? Will give them strength? I think they need more than that! They need aspirin AND justice!'

Auréli Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan, April 2004 to April 2005 (in French).

When pressured by the media on the situation in Darfur, several MSF leaders felt obliged to take a position on genocide.



How can you avoid speaking about the existence of genocide when a journalist is interviewing you specifically to get you to speak about it? In fact, a lot of people were talking about genocide. The journalists were asking, 'What is it? Is it really genocide?' And we had to answer, 'I don't know, it's not for me to say ...' That didn't make any sense! Our teams were physically present. So, we said, 'Here's what we observed,' and we explained what we were seeing. 'Yes, there were huge numbers of killings, but they didn't kill everyone.'

Thierry Allafort-Duverger, MSF France/OCP, Emergency Programme Manager, 2003-2006 (in French).



Anyway, it's sort of quite aggressive questioning. I went on Hard Talk on the BBC. It's kind of fun but kind of scary. It's that whether we describe what we see and ascribe responsibilities versus giving solutions, like there should be a military intervention or they should go to the International Criminal Court and things along those lines. And I think when I did that interview, I thought about something Kenny and I'd said: 'we don't want to tell people what to do.'

Dr Rowan Gillies, MSF International Council, President, 2003-2006 (in English).

b) Distancing MSF from Political Moves Towards a Military Intervention

In early September 2004, MSF France President, Jean-Hervé Bradol explained to his colleagues from the MSF France Board that the objective of his “no genocide” June statement for Darfur was to prevent instrumentalisation of MSF’s statements by those pushing for the situation to be qualified as genocide. Singularly, it was to avoid MSF “serving a policy of American political pressure on the Sudanese government based on the possibility of military intervention.”

Another argument was that the campaign of heavy massacres conducted in 2003 was complete. Thus, the main priority now was to urgently bring substantial assistance to the more than one million displaced in Darfur. The argument posited that a military intervention would hamper a scaled-up assistance campaign.

However, in the MSF movement, most were convinced that there would be no international military intervention in Darfur, let alone a US intervention.

According to Kenny Gluck, an MSF Holland/OCA Operational Director, this happened against the background of the rise of the “Responsibility to Protect” doctrine. He considered that to maintain impartiality, MSF should avoid focusing on the first part of the concept, the “obligation to intervene.”



'Minutes of MSF France Board of Directors Meeting,' 3 September 2004 (in French).

Extract:

Virginie Raisson: While I agree in essence with this summer’s public positions on the exploitation of genocide, I would nonetheless like you to explain and present the arguments for our public position that this is not genocide.

Jean-Hervé Bradol: It’s critical to classify the nature of the events accurately to respond appropriately. If we had classified this as genocide, the first consequence would have been to direct our aid to helping our staff and the target population to escape. That classification would enable those who use it to threaten Khartoum with armed intervention. In early June, we had to draw a clear line when we realised that some of the media – particularly American – were taking our proposals out of context to serve the US policy of putting political pressure on the Sudanese government, relying on the possibility of a military intervention.



'Message from Gorik Oms, MSF Belgium General Director to MSF Managers in Charge of Darfur,' July 2004 (in English).

Extract:

Accusations of genocide could indeed trigger a military intervention in the Sudan. I doubt if the US administration is keen to wage another ‘just war’, as both the US army and Halliburton are already overstretched, but UN-sponsored peacekeeping interventions could become a lucrative business for African governments sending in troops and invoicing those wealthy nations feeling responsible to do something but hating to see more body-bags coming home. And I doubt if an African army could do a better job at

avoiding Afghanistan-like situations where humanitarian workers are considered allies of the enemy. Ultimately, it would worsen the situation for the people in Darfur.



'Re: ICC,' **Message** from Kate Mackintosh, MSF Holland/OCA Humanitarian Advisor, to Fabien Dubuet, MSF France/OCP Deputy Legal Advisor, 12 August 2004 (in English).

Extract:

Hi again Fabien,

It seems like Jean-Hervé's remarks on genocide are driven by the wish to distance MSF from political calls for military intervention in Darfur, and to avoid "banalisation" (how do we say that in English?!) of the term, both of which I understand. But I am not sure it is necessary to enter the genocide debate on the first point, and on the second point I doubt that we are in a position to do so, nor that it is helpful to the population concerned. To be more specific on (1), while a characterisation of genocide certainly increases the pressure on States (signatories of the Convention or not, probably) to do something to stop it, it is hardly an authorisation of military intervention, as the debates over Rwanda and Ex-Yugo in the security council showed, and even less does it make military intervention compulsory. Even if it did, wouldn't taking a position on this then be analogous to taking a position on military intervention, which MSF would generally not do? On the second point, is it helpful to the victims to insist that there is no genocide? If a characterisation of genocide increases the chances of action to suppress the violence, then should we try and stop it? Particularly if, as in this case, we probably don't have enough information to decide. Genocide's special intent (to destroy the group) is not as easy to spot as the elements of other international crimes, which may be apparent from straightforward violence against civilians. Perhaps one clouding issue is that genocidal intent was easy to spot in Rwanda; but for the ICTY to determine whether genocide was committed in Bosnia, for example, they had to piece together a much more subtle picture. It is one thing to feel that you do not have enough evidence to call the events in Darfur genocide (the position of Human Rights Watch), but quite another to say that the contrary is proved, which seems to be Jean-Hervé's position.



We didn't want to end up in the camp that was stirring up a threat of international military intervention based on a possible genocide. We made a political choice to take the historical approach to the question of genocide and not to take a position on the issue of international military intervention – to remain 'neutral' – but not to call for a military intervention against the Sudanese regime. Particularly given that working in Sudan had never been so easy. So, we tried to take maximum advantage of the space that had opened up. What I wanted to do by making this kind of statement in my op-ed in Le Monde was to set us apart from those calling for war in Sudan, from the people who were saying, 'This is genocide. We must go to war against the regime.' I thought, rightly or wrongly, in any case, this is what I believed at the time – that MSF should set itself apart from that, to try to carry out a successful aid operation for which a minimum of space existed

*Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007
(in French).*



The watchword was, 'This debate does not involve us, we don't have to take a position, we'll only get beaten up.' And what's more, taking a position might weaken the pressure on the Sudanese government just when it was useful. It wasn't necessarily explained in those terms, but we were able to discuss the possibility of taking a position in this debate knowing that one of the possible outcomes was to weaken pressure on the government. The position we advocated with Jean-Hervé was to say that classifying the situation as genocide meant participating in pushing the conflict to the extremes. Jean-Hervé was focused on the question of the diagnosis. He was saying that a wrong diagnosis would lead to the wrong kind of operations.

There was also a very practical perspective. The priority at that moment was not to bring troops in, but to bring trucks, so that we didn't face a terrible shortage of transportation resources. There were nearly 1.5 million displaced persons staying at some 100 sites. The logistics challenge was enormous. And we wanted to save people quickly.

By the time the controversy arose, the mass killings had, for the most part, ended. Clean-up operations were still going on, but the militias were no longer setting fire to the countryside on a large scale. There were more than 1.5 million people living in extremely precarious conditions, in camps with very little food, water and shelter, where malnutrition rates were worrying, and where the urgent need was to deliver aid.

So, for us, the issue of classifying the situation was to re-establish the priorities. For humanitarian aid workers, troops weren't the priority – trucks were

Fabrice Weissman, MSF France Foundation/CRASH, Director of Studies from 2000, MSF France/OCP, Coordinator in Darfur, August 2005 to August 2006 (in French).



The heart of the issue is that Jean-Hervé felt very strongly that we needed to distance ourselves from the demonisation of the Sudanese regime. He thought that there was a Western project to use humanitarian suffering for political agenda, and that we should proactively distance ourselves.

For us, Jean-Hervé's position was a distortion of reality. You don't distort reality to favour the US position nor to hurt the US position.

Jean-Hervé's argument from already a year ago was that we should not speak out about issues which were seen also by Western powers as crimes against humanity. He said we should actively distance us from the western demonisation of Sudan.

Now, there's a long history of MSF France not having the same problems with the government in Khartoum, certainly if you're talking about the 90s. So, in MSF Holland, it was seen as really nothing new that MSF France wanted us to be less hostile or speaking out less about issues which involved the Sudanese government.

But I do think that the main reason which Jean-Hervé expressed very well and openly was 'you don't want to allow MSF to be seen as allying with a campaign, sort of in the American public.' Indeed, some of the activists wanted a military intervention. But the US government did not want a military intervention. They wanted to do nothing. They wanted to pretend that they cared when they did not care.

Activists on genocide had always assumed, based on the experience from Rwanda, that the US government was very reluctant to call something a genocide because if it called it a genocide, it was obligated to do something in the Darfur case. This was why in Rwanda the US administration was very aggressive in not using the word genocide.

In the Darfur case, very early on, Colin Powell said 'this is a genocide.' However, he added: 'but it does not mean that we're obligated to do something militarily.' He said: 'We're going to support Darfur issues in the Security Council,' which basically meant 'we recognise it's a genocide but we're not going to do anything about it.' I think their strategic decision-making was Darfur

was irrelevant to US interests because it was a geopolitical backwater. So, there was no way that the United States was going to invest US soldiers and significant amounts of money in a place like Darfur because there was no strategic interest, unlike Iraq. After that, everything was just for show: we'll send humanitarian aid, we'll send a lousy, understaffed peacekeeping mission, and then it will become the UN's problem.

Saying genocide means an obligation for military intervention, that's not legally correct. The Genocide Convention does not come with a legal obligation to intervene.

Now, all of this happened against the background of the Responsibility to Protect doctrine, which was coined sometime in 2000 but not yet accepted. And the discussions were going on while Darfur was happening. So, this was really an important case to try and influence that. And in my opinion, the role of humanitarians in that discussion had to be extremely modest, to stay impartial. Because once you're talking about an international responsibility to protect, you know what it may trigger, and you know that it will always be welcomed by some parties and refused or rejected by other parties. So even if it's not the case yet, you know that whatever position you take in that debate, it's going to affect your impartiality along the line.

I think that if MSF said anything about that, it should be on ... the responsibility to protect people. Most people only remember the first part, and that is the obligation to intervene in which circumstances, et cetera. But there are also these precautionary principles in there: do no harm and make sure that it's proportional, that you measure well whether the impact of your intervention is going to improve the lives of the people that you are trying to protect

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).

c) Keep a Sense of Purpose for the Humanitarian Work

According to MSF France Former President and Director of Studies at the MSF France Foundation/CRASH, Dr Rony Brauman, there were two main internal stakes to the “no genocide” public position:

- **Support the teams who, under the accusations of complicity with genocide, ended up doubting the meaning of their work.**
- **Trigger reflection about the reality of the arguments put forward to support plans for armed intervention.**



The teams were faltering under the weight, the shock of these accusations of genocide and their corollary, that humanitarian workers were somehow unwilling, but active, accomplices to a genocide in progress. That's obviously very discouraging when you're in the field and you feel that you've been assigned that role. So, the task was to help the teams recover a sense of purpose in their work. Particularly because what was being done in the camps was clearly useful. For me, that first consideration was 80% decisive.

It also contributed to the thinking about the interventions, the threats of intervention, the legitimacy, and the reality of the arguments advanced to support the project, etc. It was on a more political level, you might say, but still related to specific humanitarian issues.

Dr Rony Brauman, MSF France, President of Board of Directors, 1982-1994; MSF France Foundation/CRASH Director of Studies since 2000 (in French).

Rony Brauman further considered that speaking out about a mass crime that MSF does not consider as genocide should always be “analysed with the same vigour and insistence” as speaking out about an actual genocide. If it is not, the whole MSF discourse on genocide itself is worthless.



Our Belgian and Dutch colleagues disapproved of taking a position on classification. They said that it wasn't our role.

In the Rwandan case, MSF took up the idea and the word genocide. We highlighted it in our appeals and when we criticised the world for its inaction, but also in the case of MSF Belgium, to preserve the memory of these specific victims. But MSF wasn't involved in preserving the memory of the victims of the tsunami or the war in Bosnia. It's that impact of genocide that fuels emotions.

So, when the issue is something other than a genocide, it also deserves to be addressed and analysed with the same energy and emphasis.

Support for the idea that genocide is a unique form of violence that deserves to be singled out and ranks a bit higher on the scale of seriousness assumes that we are capable of classifying something negatively as well. Otherwise, what we say about genocide no longer has any meaning. So, whatever the motivations underlying this critique, there is an argument about consistency on the other side that should have won out. Based on what I could see, that didn't happen. I think that we should have had that discussion. This played out in the middle of an internal crisis within MSF, so that also affected the way we positioned ourselves. It might also have been an obstacle. In the end, it's too bad.

Dr Rony Brauman, MSF France, President of Board of Directors, 1982-1994; MSF France Foundation/CRASH Director of Studies since 2000 (in French).

3. MSF Internal Tensions in the Background

On 25 June 2004, the very day the MSF France' president's interview was published in *Le Monde*, an MSF International Council meeting was held. The MSF France president was absent, he was still in Sudan. He was replaced by a member of the MSF France board.

The IC members regretted that the “no genocide” statement was delivered without any prior discussion at the IC, where principles should be discussed and noted that this was a recurring behaviour by the MSF France president.

This statement was also perceived as a break of the agreement the directors of operations took in April 2004, which was not to take a position on the question of genocide.

The meeting occurred in a contentious climate within the MSF movement, due to long-standing sentiments surrounding lack of information sharing, undiscussed unilateral actions, and unilateral statements on several serious issues, including the management of a volunteer's abduction case in the Caucasus.¹⁰

10. See Laurence Binet, 'War crimes and politics of terror in Chechnya 1994-2004,' September 2014, URL: <https://www.msf.org/speakingout/war-crimes-and-politics-terror-chechnya-1994-2004>

Further, the movement was in shock after four MSF Holland/OCA volunteers were brutally murdered in Afghanistan on 2 June.

Because MSF Holland/OCA was focused on Afghanistan, little energy was invested in the “genocide” debate.

MSF Belgium/OCB, whose teams were establishing operations, remained cautious in taking any stand on the issue of genocide for fear of hampering their access and operationality. They did not want to talk about forced return and sexual violence because of the lack of evidence and data from their Kabkabyia programme.

On 9 July 2004, the MSF Belgium board of directors recommended that MSF call for more assistance, “without taking any political position,” and continue documentation to develop an analysis of the situation.



'Minutes of the International Council Meeting,' Amsterdam, 25-27 June 2004 (in English).

Extract:

Debate on the “genocide” issue:

IC members first noted that genocide is a legal term. MSF is now present in a number of locations and collected a lot of information / data and we therefore know of extensive violence, rape, torture, etc. Nevertheless, we have neither the expertise nor the ability to make legal analyses and qualify the situation. Our position (dirops – March 04) was rather to communicate on what we could observe including consequences of violence on health statute of the population (data collection). Declarations such as the one Jean-Herve did in Le Monde may put MSF in a difficult position as these declarations may be used by the Government of Sudan.

At IC level, we have to recognize that this is a big crisis and that there is a massive need for assistance. But some IC members regretted that Jean-Herve did this declaration without any internal debate having taken place beforehand, especially at IC level where principles should be debated.

Next steps:

It was noted that this issue highlighted what was perceived as a recurrent problem. It was decided that Rowan would first speak to Jean-Herve to understand his position and then send information around to the IC for discussion. [...]

Internal conference on Rwanda

Rowan very briefly presented his first thoughts on what this conference would include. The initial idea is that this conference would first address Rwanda commemoration and dilemmas and then move on to broader questions such as our response to the crisis in Darfur, humanitarian space, etc.



'Minutes of MSF International Executive Committee Meeting,' 16 July 2004 (in English).

Extract:

Current tensions / difficulties and impact on governance [...]

Among the points that should be improved: [...]

Ideas, opinions, analyses, and debates developed at section level are so far too internal and should be more systematically shared with and put up to critics in the rest of the movement in order to better understand sections rationale leading to decisions / positioning and focus disputes on issues and the rationale behind positions. We need to be ready to create the best shared analysis and the resultant position from it – this means different sections need to argue about issues and then be prepared to later their position for the shared position. Shared positions need to be clear and coherent based on an analysis and not some political compromise of different positions. This is crucial to reduce tension and ensure MSF is quick and clear in our positioning. This is a major challenge for the movement. Some examples to illustrate this point: [...]

- Darfur and discussion in MSF France on the responsibility of humanitarian actor in denouncing genocide: the problem is that the debate is not shared with the rest of the movement before going public (Le Monde article) and this could lead to tensions. Nevertheless, Darfur / Sudan is potentially a mobilising international project. There is indeed an urgent need for analytical work to be done on the whole area and collectively be better there; could be an issue to have collective success on.

[...] There has been huge external pressure on MSF, as one of the first agencies to actually start working in the region, to talk about what we are seeing and give statements and interviews. As an organisation that sees 'speaking out' as part of our very identity and responsibility, there are also intense internal pressures within the movement to bear witness to what we are seeing on the ground.



'Minutes of MSF Belgium Board of Directors Meeting,' 9 July 2004 (in French).

Extract:

Communication: The level of violence is very high (one person in 20 killed in Janjaweed attacks on the villages and outside the resettlement sites), but it is still too early, and we do not have enough information to state that we are confronting a genocide. Other NGOs with expertise in this area are in a better position to do so. Thus, our message currently emphasises the great need for assistance, without taking a position on the political situation.

Still, we must continue to monitor and document the situation internally to develop our own analysis and decide, based on sufficient information, whether to speak out. Here, again, it is unacceptable that an agreement achieved internationally would not be respected and that the media would be used to avoid an internal debate!

Conclusion

The Board of Directors stresses the need to form an opinion, first internally, on how to characterise the political situation in Darfur by continuing to document and monitor actual events that we observe in view of a possible public statement on this point.



The tensions were significant because there was arguing about various issues. At that time, it was the Rwandan genocide commemoration, which was more just a political angle kind of thing. Then there was the Arjan Erkel kidnapping case ... It was challenging to get him out. And then once he was out, all that stuff. And then there were MSF staff killed in Afghanistan, which created tension but also brought people together a bit and the evacuation from Afghanistan. And so, people sort of pulled back then around Darfur: 'do we talk about it, what do we talk

about and how do we talk about it? Do we talk about justice? Do we talk about human rights? Do we talk about what we see?

And I think the other thing was that we were seeing different things in different areas. And there probably wasn't enough appreciation between sections that it may not be that the other section had a different understanding. It may have been a slightly different context.

I think Kenny and Jean-Herve were probably the two big talkers in that. They were the two pillars, through strong debating points. They're certain they know what's right and wrong. And everyone else sort of just went around the sides because they're very articulate people and have thought about a lot.

Rowan Gillies, MSF International Council, President, 2003-2006 (in English).



We had the assassinations in Afghanistan, which were very traumatic for the headquarters sucked away a lot of the attention from Darfur.

The killings were on 2 June when we were still creating everything in Darfur, with this very big effort to launch the operations to get them up to scale early on. When the genocide discussion was happening, we all got distracted in Afghanistan. So, we lost some of the focus on Darfur.

I think also that the way everything happened around Arjan Erkel's case eroded trust in the movement and so undermined our ability to have a serious discussion on issues like the debate on genocide in Darfur. One of the problems at the time in the movement, was that there was a very low quality of discussions on many issues.

However, on Afghanistan, there was a lot of unanimity in the movement after the killings and there was rapidly a consensus on what our approach would be. Now, one of the key differences is that the discussion on Afghanistan was all in the directors of operations groups. We informed the general directors of our decision, but it was not a broader discussion. For the genocide issue, we had Jean-Hervé making comments.

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).



As for MSF Belgium, the President didn't really have a clear position. And in June, we were kind of seriously down because of the murder of our volunteers in Afghanistan ... So, it was all quite emotional. The General Director had not left yet but she was not taking a position. I think she was down at that moment because of the murder and the disagreement about the handling of Arjan Erkel, which was still making waves within the movement. So, there was a kind of vacuum, I cannot describe it otherwise, which I tried to fill, but from a rather uncomfortable position.

Gorik Oms, MSF Belgium, General Director, 2004-2007 (in English).



MSF's Belgian and Dutch sections believed it was a mistake to take this position. The right thing to do would've been to stay on the sidelines. They wanted us to be less vocal. They held that classic position about us: 'Hey, you French people, if you would quiet down a bit, that would be better for everybody.' But they did not campaign for recognition of

genocide in Darfur. It was mentioned a few times in the public comments of some of our Dutch and Belgian leaders, but nothing more. It wasn't what you'd call 'campaigning.'

*Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007
(in French).*

MSF Switzerland/OCG and MSF Spain/OCBA were focusing on starting operations in Darfur and aligned with the position taken by the MSF France president, with which most agreed.



At MSF Switzerland, we were focused above all on building the operations. We followed the debate, but we didn't take a strong position.

The discussion over the Dutch and the French positions was tense. By saying nothing, we were more aligned with the French. We had let the dominant narrative on the genocide persist, but we were – de facto – associated with it. So, the question came up of taking a position on it. But the Swiss section didn't formalise it or discuss it. I don't remember significant tension around this issue. My impression is that, as always, the Swiss served as a bridge between those on one side and those on the other.

Christian Captier, MSF Switzerland, General Director, 2003-2009 (in French).



I don't remember having a big difference of opinion with Jean-Hervé. He was right. You could see in the field that that was not very well prepared. The Janjaweed, they were given a green light to do whatever they wanted but this was not coinciding with the definition of genocide practices, in my opinion. We didn't give too much importance to that in the public communication public in Spain.

*Aitor Zabalgogezkoa, MSF Spain/OCBA, Emergency Programme Manager, 2003-2005,
MSF Spain General Director, 2006-2012 (in English).*

Within MSF France, the president's unilateral positions were a source of frustration to some.



The movement's operations directors had said, essentially, 'there is no genocide, but we can't say that.' I remember Jean-Hervé saying, 'screw the operations directors, I'm elected.' At the time, tensions began to develop between the president and the operations department.

Thierry Allafort-Duverger, MSF France/OCP, Emergency Programme Manager, 2003-2006 (in French).



I don't remember that Jean-Hervé simply decided on his own to make that statement. My impression is that it was more organised. But I also have no recollection of a discussion, as such, specifically on this topic. At the international level, everyone was wary about what he was going to come out with next.

Stephan Oberreit, MSF France, Communications Director, 2000-2006 (in French).



After the June one, the next Board meeting wasn't held until September. I think that, basically, we agreed on the need to maintain a sense of proportion regarding our analysis of the various situations. There were, indeed, war crimes, large-scale killings, etc. But there wasn't the will to eliminate one segment of the population, so it wasn't necessarily genocide. But we shouldn't create the impression, either that by saying that it wasn't genocide we supported the Khartoum regime. There was a rumour to that effect going around. So how do we 'hold the line' between the need to remain very clear and very firm on the actual commission of war crimes and killings and the notion of genocide?

The way we took positions, the very unequivocal and radical nature of our positions, which made us look like we were defending a regime that we knew was responsible for mass killings made many people uncomfortable.

What's more, tensions already existed within the board of directors because of Jean-Hervé's earlier positions, because of the way these positions were always debated after the fact. I started my term, and I didn't know the reasons behind these tensions. So, I didn't have a very good understanding.

And then the board quickly raised the question of conducting an evaluation of MSF's operations and the positions we took over that period.

Dr Marie-Pierre Allié, MSF France, Member of the Board of Directors, 2004-2007, MSF France/OCP Deputy Operational Director, 2007-2008, MSF France President of Board of Directors, 2008-2013 (in French).



If we're honest, most people in MSF France didn't agree with that as well. It was Jean-Hervé going solo. For me, this was not the MSF France positioning.

I guess even Mercedes Tatay's declaration a few months before. There was an agreement among the directors of operation to not talk about genocide, and that included the MSF France director of operations.

Once it was said, it was difficult for anyone, I guess, to go against it. The line that Mercedes Tatay took a few weeks before saying, 'we're saying we shouldn't be talking about genocide. It's a semantic discussion,' was more in line with that agreement. So, from my perspective, initially this was not the MSF France position, but it quickly became the MSF France position. For me, the internal discussion could go on forever. My concern was the external positions.

Gorik Oms, MSF Belgium, General Director, 2004-2007 (in English).

On 19 August 2004, a compromise on the disagreement regarding the "no genocide" statement was suggested during an operations directors' platform (RIOD) meeting. The compromise said that the "no genocide" statement was based on an "historical" definition of genocide, not based on the "legal" definition. MSF did not know if there was a genocide or not. There was no agreement on this suggestion.



'Minutes of Meeting of MSF Operational Directors (RIOD),' 19 August 2004 (in English).

Extract:

DARFUR/CHAD

Public Communications [...]

Several sections found it irresponsible for MSF to continue taking a public position that there was no genocide underway in Darfur. This remains a strong difference of opinion between the different sections, which should be referred to the ExCom.

One section feels that genocide is being overused in general which has the effect of banalizing the crime. The accusations of genocide in Darfur in particular, are politicized and part of an Anglo-American political strategy against the Sudan government. In order to stand apart from this strategy, it is necessary to clearly state that we do not believe that a genocide is underway in Darfur.

Other sections feel that MSF does not have sufficient information either to claim or to deny genocide. The accusations of genocide which are being debated use the legal definition of genocide, based on the Convention for the Prevention and Punishment for Genocide. Using a 'historical' or 'popular' definition of genocide in defending the government is disingenuous.

Stating publicly that there is no genocide is a baseless defence of the Sudanese government which betrays our trust with victims of massacres, rape and forced displacement in Darfur.

A compromise was suggested in which any claim that there was no genocide in Darfur would explain that this was based on a historical definition of genocide and that MSF doesn't know if there is or is not a genocide based on the legal definition. There was no agreement on this question which was also referred to the ExCom.

4. Caution In MSF's Communications

After the release of the June 2004 report, the campaign for more assistance and to stop the violence began. Incidents occurred in both MSF France/OCP and MSF Belgium/OCB projects, suggesting that MSF was perceived as challenging the Government of Sudan.

MSF communications advisors adapted messages with caution across the movement.

A few days after the MSF "no genocide" statement, MSF communications had to readapt messaging / speaking out to avoid falling in the opposite trap: perceived as supportive of the Government of Sudan's policies.

Guidance was given on how to respond to the media on this tricky question regarding support for the Government of Sudan, including specific recommendations for the "Islamic media."

The MSF International Communication Coordinator, Anouk Delafortrie, proposed the following line: "despite the debate about whether these crimes constitute genocide, today people are continuing to die because of ongoing violence and a complete lack of assistance on the ground."

The MSF Holland/OCA Director of Operations, Kenny Gluck suggested to push further saying, “whatever the legal classification is, genocide or otherwise, it demands an international action to stop the violence against civilians and to provide assistance for those in need.”

As military logistical means were to be deployed to increase assistance, MSF had to be clear that support to this deployment was not an MSF call for a military intervention.



‘Darfur comms update - internal ‘Anouk Delafortrie, MSF International Communications Coordinator, to List Web, List Press,” 25 June 2004 (in English).

Extract:

Communications

Our communications last Monday – there was no press conference as such – got some coverage in the press but was not headline news in most countries. One of the reasons could be that among the many outcries about the situation in Darfur, MSF seems to be one among many. Also, the message about the lack of assistance was not perceived as NEWS and many journalists regarded it as useful background information (Caroline also told us that a photographer of Paris Match was disappointed after arriving in Mornay, because according to his standards it was not an emergency and there was nothing to shoot ... not sure who should be disappointed here)

Although our MESSAGE may not be perceived as original, we want to continue emphasizing that – there is continuing violence; this results in the IDPs being de facto imprisoned in enclaves where they are completely dependent on assistance ... – BUT that assistance is not there. With more than 100 expats and 1800 national staff working in West-, North, and South-Darfur, MSF is only covering a fraction of the needs. Others need to come in urgently with large-scale programs given that the needs are immense (food, water, shelter ...). [Although many organisations have assistance in the pipeline, the teams on the ground still see little operations of any importance on the ground]

On GENOCIDE, the debate is building up, especially in the US where officials have said that a determination of genocide – which would require action under international conventions against genocide – is under active review on the eve of Powell’s visit to Khartoum. Human Rights Watch does not use the term genocide, as proof is currently missing, but does not exclude that this might arise. However, for MSF it is not the most important issue to get into. From where we work, we have indeed not observed a genocidal logic or practices, although the violence is ferocious and can be qualified as war crimes and crimes against humanity. Our line should be that “despite the debate about whether these crimes constitute genocide, today people are continuing to die because of ongoing violence and a complete lack of assistance on the ground.”

On MILITARY MEANS: although some sections believe huge logistics are needed to bring in aid (means you may only find in the military sphere) MSF does NOT want to be misinterpreted as calling for a military intervention. Therefore, we should avoid the word military altogether, and rather point to the responsibility of states about this crisis (if they then decide to implement their military means, for instance planes for airlift, fine).



Message from Kenny Gluck, MSF Holland/OCA Director of Operations, to MSF decision-makers on Darfur,' late June 2004 (in English).

Extract:

Dear all,

I would suggest something along these lines instead of the text sent around by Anouk yesterday. I do think it is important that we not provide a defence for the Sudanese govt regarding the charges of genocide. We should clearly describe the nature of the abuse and the quality of the assistance which we do observe, leaving the debates on genocide to others. There will be accusations of genocide (and MSF's mortality studies will be cited as primary sources of evidence) we should not go out of our way to contradict this. Let me know if there are thoughts or objections.

tnks. Kenny.

IS IT GENOCIDE? Where we are providing assistance, we have seen extensive violence against civilians, widespread forced displacement and the destruction of people's livelihoods. This has created massive suffering among the civilian population. MSF's surveys demonstrate that in many places over 60% of the deaths were caused by violence rather than disease over the past five months. Whatever the legal classification is, genocide or otherwise, it demands an international action to stop the violence against civilians and to provide assistance for those in need. We leave legal terms to the experts in international human rights. And as doctors we focus on saving lives. The sad reality is that serious crimes against civilians are committed and continue to take place as we speak! People have fled the violence and taken refuge in the main towns or trading centres. But they have not found safety there. The displaced continue to face violence and high level of rape. Their basic needs for food, shelter and water are still unmet.



'INTERNAL Update,' **Message** from Kevin Phelan, MSF USA Communication Advisor to MSF Communications Directors, 3 July 2004 (in English).

Extract:

1. Recently, unmarked commercial trucks carrying relief supplies (food and non-food items) have been attacked and looted in between Mornay and El Genina. One driver has been killed.
2. Much closer to home, a clearly marked MSF car traveling back to Mornay from Zalingei was attacked by men in uniforms and on horseback. The five national staff were handled quite aggressively (thank goodness no one was hurt) and threatened with death unless they paid 4 million Sudanese dinars as ransom. Eventually the

looter took much of what was in the car – a computer, other goods, etc. They even tried to take an older man's glasses.

This of course follows two incidents in Kebkabiya in which official authorities in less threatening, more official encounters have confiscated cameras, USB keys, CDs, and computers from MSF.

At the same time in Mornay, the MoH has posted several staff within MSF's clinic in Mornay. This will obviously make it more difficult to work freely, but more important it may make patients (especially victims of violence) reluctant to come to the clinic.

This has already been the case elsewhere in Darfur. Authorities have even said there is no violence because people are not reporting such things to the police. In this atmosphere, several of the HoMs (Belgium, France, Switzerland) feel that for the moment it might be wise to cool down direct communications from Khartoum and from the field, especially as in the coming week or so there may be a clearer picture and strong message about the possible forcible resettlement of people to devastated home areas. On an operational front, there may be swift scale up of activities in the camps outside Genina after a retrospective mortality survey showed pretty awful mortality rates.

Right now, MSF France and MSF Switzerland are figuring out a plan of action. Rowan will be heading there tomorrow morning, and I will go Tuesday to catch up with him – most likely in Mornay



'Communication Lines Darfur,' **Memo** by Lucy Clayton, MSF Belgium/OCB Communication Officer, 20 July 2004 (in English) *with comments from Dan Sermand, MSF Belgium Coordinator in Darfur.*

Extracts:

Is it genocide?

Without going into details of the very long debate, there is now an agreement between all the sections??? *Ha yes ??? since when????, JHB declared publicly that it was not Genocide in Darfur (which I do share, but this is personal) while Gorik wrote a paper saying that we don't know! that we do not want to state publicly that we think the situation in Darfur is genocide.* However, we also have to be careful of saying that it is NOT genocide, since our words can easily be used for political purposes in support of the Government of Sudan. = *Belgium compromise? to me we don't have many ways to handle it, first you just don't talk about it at all (skip the question and full stop, everybody is happy) but in any case, we cannot say at once, "we cannot say publicly that we think there is a genocide" and the second after saying "yes, but we don't want to state that there is not neither????" = that's what I call the Belgium compromise, let's just simply don't talk about it at all...we will simply avoid complications like we had in Tirana 99...indeed we are not expert!*

Therefore, the agreed line is:

"As a humanitarian organisation, we want to make sure that the debate over whether or not this is a genocide does not distract attention from the vast humanitarian needs of the people of Darfur. We know from our work that the population has suffered terribly from ongoing violence, and that the violence continues. However, genocide is a legal definition and MSF would prefer to leave it to legal experts and human rights organisations to determine whether the situation in Darfur should be defined as genocide or not."

- Are IDPS being forcibly 'relocated' or returned to their villages?

We have not seen evidence of this happening in the places where we are working. The Government of Sudan has said that it will not relocate anyone involuntarily. We feel very strongly that any involuntary relocation must not happen, and this issue should be kept very highly on the agenda.

- The UN deadline for reining in the Janjaweed is approaching. Have you seen improvements in security? Are the Janjaweed being incorporated into the Sudanese army?
We don't feel that the security situation for the civilian population has improved since we arrived. People are still frightened; they are still at risk of being attacked if they move out of towns and camps. It's true that some people seem to be able to return to their lands to cultivate during the day, but this is not true for the majority.

We don't know whether the Janjaweed are being incorporated into the Sudanese army.

- What has been the effect of AU troops on the ground?

We have been told by the people we meet in the course of our work that the presence of foreigners on the ground has made displaced people feel more secure. However, we cannot specifically gauge the impact of the AU troops at this stage.

- What should the UN/International Community do next? Sanctions? Military Intervention?

Be Careful! We don't want to get into talking about whether there should be sanctions or a military intervention. You can warn journalists about this before you start the interview, explaining that MSF cannot comment on political issues. If pressed, you CAN say...

On the humanitarian front, we have to ensure that aid agencies get access to the remote smaller pockets of vulnerable people. We need to make sure that the needs are matched by the capacity of international and national agencies and identify the gaps that remain. (If probed on HOW people should be protected and accessed, we have to be careful not to be seen as calling for a military intervention.)

It is clear that the international community will need to be committed for the long term.

- When you left Afghanistan, you criticised that the coalition forces were responsible for blurring the distinction between humanitarian and military roles. Now aid agencies such as yourselves are accepting help from the French and Belgian armies to fly in supplies. Isn't this totally hypocritical?

We insist that there must be a clear separation of roles between the military and humanitarian organizations. However, in extreme crises we have to balance the needs of the population and the principles of impartiality.

If we have no other way of getting aid to people in desperate need, we consider accepting purely logistic help from armies in order to transport goods. The situation in Chad and Darfur is completely different to that in Afghanistan and Iraq since the armies involved are not occupying forces.

Extra Points to try and make during interviews with Islamic media.

- MSF is a neutral and independent organisation. Our sole objective is to bring humanitarian assistance to people in need.
- MSF is an international organisation. Our staff come from a huge number of different countries and a variety of religions, including Islam.

- MSF relies largely on funding from private individuals – about 80% of our funding internationally is private. It is this which allows us to do our work neutrally and independently – we do not rely on government funds, so we are free to act in a way that is independent of political agendas.
- We have many Sudanese and Chadian staff working alongside us during this crisis, doing a fantastic job.

IV. AFTERMATH OF CLASSIFICATION AS GENOCIDE BY USA (March to May 2004)

A. US STATEMENTS ON GENOCIDE, AU REINFORCEMENT, AND A UN INVESTIGATION (September 2004)

On 8 September 2004, the USA proposed a resolution to the UN Security Council authorising the expansion of the African Union forces in Darfur.

On 9 September 2004, based on a US State Department survey conducted in refugee camps in Chad in July - August 2004, the US Secretary of State, Colin Powell, stated to the US Senate Foreign Affairs Commission that violence in Darfur was acts of genocide. V2 

A few hours later in a public statement, the US White House asserted that genocide was underway in Darfur, according to the US State Department investigation and other information.



'Darfur labelled a 'genocide' by Colin Powell,' Christophe de Roquefeuil, AFP (France) Washington, 9 September 2004 (in French).

Extract:

"Genocide has occurred and may still be occurring in Darfur," Mr Powell testified before the Senate Committee on Foreign Relations given over to the situation.

He added that "the Government of Sudan and the Janjaweed bear responsibility" and called on the UN "to initiate a full investigation" on the atrocities committed.

In response to Mr Powell, Sudan's Minister of Finance Al-Zubair Ahmed Al-Hassan stated that the conflict in Sudan was "an internal tribal problem" [...]

Colin Powell drew on an American investigation that was conducted in refugee camps in July and August, over the course of which 1,136 people were interviewed in 19 camps in eastern Chad. [...]

Most of the interviewees describe combined attacks launched by government forces and the Janjaweed to raze villages. One-third say they have heard racial slurs from their attackers, 61% say they have witnessed a family member's murder, and 16% say they have been raped or know rape victims.

Mr Powell also drew on the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, which defines genocide as acts that are "committed against members of a national, ethnic, racial or religious group; and the third criterion is, they are committed with intent to destroy, in whole or in part, the group, as such."

Mr Powell called on the UN to “initiate a full investigation” into the atrocities committed against the people of Darfur, and into “all violations of international humanitarian law and human rights law that have occurred in Darfur.”

He nevertheless stressed that the qualification ‘genocide’ alone did not trigger additional measures. “No new action is dictated by this determination,” he stated, recognising that “genocide is our judgment and not the judgment of the international community.” [...]

Finally, on Thursday, Mr Powell called on the entire international community to increase its assistance to the people of Darfur. [...]

The American administration is under intense pressure from its Congress, which voted 422 to zero to pass a resolution qualifying the crisis in Darfur as “genocide”.



'Statement by George W. Bush, President of the USA,' 9 September 2004 (in English).

Extract:

President's Statement on Violence in Darfur, Sudan [...]

I sent Secretary of State Powell to Darfur and Khartoum to demand that the Sudanese Government act to end the violence. We sponsored a strong Security Council Resolution, which passed on July 30. This resolution called on the Government to disarm the Janjaweed militias which have terrorized the people of Darfur and bring their leaders to justice. Secretary Powell later sent a team of investigators into the refugee camps to interview the victims of atrocities. As a result of these investigations and other information, we have concluded that genocide has taken place in Darfur. We urge the international community to work with us to prevent and suppress acts of genocide. We call on the United Nations to undertake a full investigation of the genocide and other crimes in Darfur.

On 16 September 2004, the European Parliament adopted a resolution on Darfur. They considered that crimes against humanity, war crimes, and human rights violations committed in Darfur could constitute genocide



'Humanitarian situation in Sudan,' European Parliament Resolution on the Darfur region in the Sudan, 16 September 2004 (in English, in French).

Extract:

The European Parliament, [...]

16. Urges the Sudanese authorities to end impunity and to bring to justice immediately the planners and perpetrators of crimes against humanity, war crimes and human rights violations, which can be construed as tantamount to genocide; considers that, should the Sudan fail to exercise its sovereign jurisdiction, the international community will have to find a way of ensuring they are brought to justice, including those responsible in the present Sudanese regime; calls on the Council and the Member States to request the United Nations Security Council to exercise its referral powers pursuant to Article 13(b) of the Rome Statute of the International Criminal Court; [...]

On 18 September 2004, the United Nations Security Council adopted a resolution proposed by the USA, “determining that the situation in Sudan constitutes a threat to international peace and security and to stability in the region.”

Acting under Chapter VII of the United Nations Charter which enables the Security Council to take coercive action with respect to threats to peace, breaches of peace and acts of aggression, they requested that “the Secretary-General rapidly establish an international commission of inquiry to immediately investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable.”



'Resolution 1564 (2004) adopted by the United Nations Security Council at its 5040th meeting, 18 September 2004 (in English in French).

Extract:

The Security Council, [...]

Determining that the situation in Sudan constitutes a threat to international peace and security and to stability in the region,

Acting under Chapter VII of the United Nations Charter,

1. Declares its grave concern that the Government of Sudan has not fully met its obligations noted in resolution 1556 (2004) and the 3 July Joint Communiqué with the Secretary-General to improve, as expected by the Council, the security of the civilian population of Darfur in the face of continued depredations, and deplores the recent ceasefire violations by all parties, [...].
2. Welcomes and supports the intention of the African Union to enhance and augment its monitoring mission in the Darfur region of Sudan and encourages the undertaking of proactive monitoring. [...]
12. Requests that the Secretary-General rapidly establish an international commission of inquiry in order immediately to investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable, calls on all parties to cooperate fully with such a commission, and further requests the Secretary-General, in conjunction with the Office of the High Commissioner for Human Rights, to take appropriate steps to increase the number of human rights monitors deployed to Darfur; [...]
14. Declares that the Council, in the event the Government of Sudan fails to comply fully with resolution 1556 (2004) or this resolution, including, as determined by the Council after consultations with the African Union, failure to cooperate fully with the expansion and extension of the African Union monitoring mission in Darfur, shall consider taking additional measures as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector and the Government of Sudan or individual members of the Government of Sudan, in order to take effective action to obtain such full compliance or full cooperation ...

On 28 September 2004, US Secretary of State Colin Powell, stated that he was now sure that what was happening in Darfur was genocide. Powell said he was disappointed that, "not more nations have made this clear statement of what's happening there."

He called for increasing the number of AU monitors but specified they were "not peacekeepers or fighters."



'Colin Powell's interview on the **Michael Reagan show**,' 28 September 2004 (in English).

Extract:

Secretary Powell: [...] As you know, the US Congress went on record even before I did, a month or so before I did, and I waited until some people I had sent out there to examine the situation returned. They had interviewed some 1,400 people and based on what they reported to me, genocide was taking place in Darfur under any definition that you'd like to use with respect to the Genocide Convention. And that's exactly what I reported to the Congress, and we reported to the UN. And it's contained in a UN resolution that the Secretary General now has to go out and make his own assessment, and that's what Secretary General Annan is doing.

But I must say, I am disappointed that not more nations have made this clear statement of what's happening there. Reality though, Mike, is whatever you call it, genocide, ethnic cleansing, or any definition you apply to it, people are suffering out there and we have to do everything we can to help them. [...]

I think we have learned from the situation in Rwanda some 10 years ago, but the world community is doing quite a bit. The UN has all of its agencies working in the Darfur region. There are humanitarian workers there. We have tripled the number of humanitarian workers in the last several months and we're working with the UN, even though they have not classified it as genocide, we're working with them to get the African Union to send in 3 to 4 thousand more troops to help monitor the situation and perhaps create a sense of security within the country so that people will start leaving these camps and going back to their homes. [...]

We've got roughly 120 AU monitors, African Union monitors, protected by 300 other troops now and they can't cover an area that size, which is close to the size of France, but they can monitor what's going on. If we have 3 or 4 thousand in there they can spread out, monitor what's going on and report violations so that we can do something about them with the Sudan Government and, in extremis, can protect people who might be in need. But they're not going in as peacekeepers or fighters. They're going to provide a presence throughout the countryside in Darfur so that people have some confidence that the international community is there to help them return to their homes.

On 30 September 2004, in a report to the UN Security Council, the High Commissioner for Human Rights, Louise Arbour, and the UN Secretary-General's Special Advisor on the Prevention of Genocide, Juan Mendez, concluded "crimes against humanity, war crimes, and violations of the laws of war are likely to have been committed systematically and on a massive scale."



'Crimes against humanity' in Darfur, according to an advisor to Kofi Annan,' **AFP** (France) New York (United Nations), 30 September 2004 (in French).

Extract:

On Thursday, Juan Mendez, UN Secretary-General Kofi Annan's special advisor on the prevention of genocide, declared that "crimes against humanity" and war crimes had been committed in Darfur. "I believe that following our mission, we can conclude that crimes against humanity, war crimes and breaches of the laws of war have probably occurred on a large and systematic scale," he said in a statement to the UN Security Council. "Secondly, we do not believe that we have turned the corner on preventing further violations in the future and we must remain vigilant to this end," added Mr Mendez.

Between 18 and 25 September, Mr Mendez and the UN's High Commissioner for Human Rights Louise Arbour travelled to Khartoum, followed by Darfur's three regions, on Mr Annan's instructions. Following their mission, both reported back to the Council on Thursday.

"Putting an end to impunity is an imperative, and the most vital for the immediate future. The Sudanese government is responsible for putting an end to the current climate of impunity," added Mr Mendez.

He emphasised the fact that his mission in Darfur was not to establish whether genocide had taken place in Darfur, explaining that this task would fall to the International Commission of Inquiry Mr Annan has been tasked with opening under Resolution 1564 of 18 September. The United States has already labelled the situation as genocide.

Ms Arbour, speaking in her own statement to the Council, also flagged the impunity enjoyed by the perpetrators of the abuses committed against the people of Darfur as being one of the most serious problems to solve.

She accused the Sudanese government of "failing" the people of Darfur and recommended an international police presence be deployed on site as a matter of urgency.

B. ANOTHER MSF INTERNAL DEBATE ON GENOCIDE STATEMENT (September to November 2004)

The UNSG report and Colin Powell's statement qualifying the situation in Darfur as genocide, rekindled the MSF internal debate on the issue. Articles were published in the media by MSF leaders and debates continued at various internal meetings.

This gave rise to criticism and attempts at political exploitation.

A possible MSF positioning on the relevance of a military intervention to protect populations in Darfur was now the burning issue on the MSF international agenda.

The MSF USA Liaison with the US administration was surprised by Colin Powell's statement, which said there was a genocide in Darfur. This was because MSF's contacts at the State Department previously explained that the US would not make a statement confirming genocide, because of the legal implications. The

MSF liaison suggested that MSF challenge this “devaluation” of the term genocide. However, according to the MSF Belgium General Director, Gorik Ooms, the 1948 convention says that states may take “action as they consider appropriate,” which “can mean anything and nothing. States ratifying this convention do not commit to end an ongoing genocide, from a legal point of view.” Ooms furthered, that challenging a “devaluation” may invite new and tougher measures unwanted by MSF, in this case.



‘Genocide in Darfur,’ **Message** from Michael Neuman, MSF USA Advocacy and Representation officer to MSF in charge of Darfur, 10 September 2004 (in English).

Extract:

Dear all,

Words have a meaning. I thought they had. But Powell’s statement put that notion at stake. Whether or not you consider what has been going in Darfur for 18 months a genocide, there are disturbing elements in the testimony. Please find the transcript below. To most observers, the determination comes as a surprise. To us in NY as well, as most officials we’ve talked to over the last weeks at State Department, NSC ... gave the impression the US would not make the determination because of its legal implications. Reading Powell’s statement, they should be reassured. To him, “There are no implications”. Thus, at the same time, the Secretary of State calls the situation in Darfur a Genocide, he devaluates the very meaning of the word by assuring that “no new action” shall be dictated. Indeed, the draft resolution to the UNSC sponsored by the US stays in the same line as the first one (res. 1556) with some adjustments, even if the tone is much stronger: redefined threats of sanctions (petroleum sector, status of Government of Sudan officials), a call for the augmentation and enhancement of the AU monitoring force ...

It very [much] looks like a way to put more pressure on the Government of Sudan and it’s very bizarre to use the concept of genocide as a political tool.

From what I heard from USAID this afternoon, Powell’s speech also came as a big and unpleasant surprise to them. Actually, the Coordinator of USAID for Darfur said in a round table yesterday that “calling the situation in Darfur would be too dangerous legally speaking – how to prove the intent – plus would have implications for the humanitarian assistance.” It told me that very few people knew and did not seem to be happy. As you can imagine, it is much more difficult to have comments from State Department officials. [...]

If I had to give my opinion on how MSF should react if asked, I think that we have to insist on the incoherence of the messages sent by the USG and underline the regrettable devaluation of the word. We can surely still take no side on the determination debate and yet explain that this is too serious to be used as a way to gain leverage.



'Fwd: Genocide in Darfur,' **Message** from Gorik Oms to Michael Neuman, MSF USA Program Officer, 15 September 2004 (in English).

Extract:

Hi Michael,

Thanks for this. Can you please clarify what you mean by "devaluation" of the word genocide?

Is it because you think that Powell uses the word too lightly, when calling Darfur a genocide? Or is it because he calls it a genocide without considering "new actions"?

According to article 8 of the Convention on the Prevention and the Punishment of the Crime of Genocide: "Any Contracting Party may call upon the competent organs of the United Nations 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."

'Such action as they consider appropriate' can mean anything and nothing. States ratifying this Convention do not commit to end an ongoing genocide, from a legal point of view.

Within MSF, we seem to use a particular concept of genocide (referring to Rwanda 1994 as the standard) and one of its particularities is that we seem to think that the qualification of genocide entails a legal obligation to launch a military intervention. But that's an MSF concept of genocide, not the legal concept of genocide.

Of course, MSF could advocate for a new legal definition of genocide, one that only applies to situations like Rwanda 1994. It would have the advantage of avoiding confusion ("Darfur 2004 is not Rwanda 1994 and therefore not a genocide") and we could try to add a legal obligation to intervene in such situations (but then we would only be creating a new "droit d'ingérence" and I don't know if we want to do that). It would not stop military intervention if the stricter definition of genocide is not applicable (US government didn't need accusations of genocide to intervene in Afghanistan or Iraq.) Given the current definition of genocide, an MSF complaint about Powell calling Darfur a genocide without considering new actions would be an open invitation for new and tougher measures, and I doubt if that is what we want.

1. MSF France Issues New Public Statements on Genocide & Subsequent Internal Controversy

On 14 September 2004, in an Op-ed published in the French Daily *Le Monde*, MSF France President Jean-Herve Bradol stated, those who applied the term genocide to the situation in Darfur, using a "literal interpretation of an international convention" to describe "a genocide perpetrated by Arab militias, aimed at destroying African tribes were allowing the biological notion of race to make a comeback."

Once again, Bradol opposed the "legal" definition of the term genocide in favour of the "historical definition," which did not qualify the situation in Darfur as genocide.



'From one genocide to the next?,' Column by MSF France President Dr Jean-Hervé Bradol, **Le Monde** (France), 14 September 2004 (in French).

Extract:

In June 1994, I met National Security Council member Donald Steinberg. Just back from Kigali, I had gone to ask the United States to provide Blue Helmets for the armed transport vehicles to ensure the safety of wounded people threatened with extermination during their evacuation. At the time, my contact believed genocide was being committed against the Tutsi in Rwanda but refused to use the term.

Indeed, using the word 'genocide' would have triggered a legal obligation to intervene by States that had signed the Convention on the Prevention and Punishment of the Crime of Genocide (1948). The recent American debacle in Somalia (1993) had prompted the United States to restrict their external military operations to merely defending their vital interests. Taking action to put an end to the extermination of the Rwandan Tutsi did not come under this category.

In August 2004, the American Congress unanimously voted for a resolution qualifying the events in Darfur as genocide. On 9 September, speaking before the Senate Committee on Foreign Relations, US Secretary of State Colin Powell declared that "genocide has occurred and may still be occurring in Darfur". In 10 years, we have shifted from Rwanda to Sudan, and what has changed is the United States' perception of the threats to their national security and strategic interests. And while the regime in Sudan isn't top of the list, it ranks high on the inventory of enemy states drawn up by the Bush administration. Despite its obvious political opportunism, this change in how the term genocide is used may nevertheless be legitimate in a scrupulous reading of international criminal law. Under the 1948 Convention, to be termed genocide, the massacres committed by the army and pro-government militias in Darfur must stem from an "intention to destroy all or part of a national, ethnical, racial or religious group". In the case of Darfur, those in favour of the term genocide state that the action taken by the "Arab" militias aims to obliterate the "African" tribes. The argument underpinning this perspective assumes Sudan is populated by two races: Black and Arab. Race in the biological sense of the term was cast off many decades ago, and has therefore now been revived, under the pretext of a literal interpretation of the international Convention taken out of its historical context. Critics who state that the notion of race is no longer relevant, and moreover dangerous, risk a response that shines a light on the Sudanese people's mass, unprompted support for the idea that social antagonism is the product of racial divisions within society. What is undeniable is how popular the idea of race is in Sudan, as well as in the United States: two countries with a legacy of slavery, and whose societies remain deeply coloured by the everyday use of racial categories. This observation cannot be used as an argument supporting the relevance of racial classifications of populations, yet it does give a clear indication of the harm that cultural capital marked by a racist past and legacy of slavery continues to exercise on political decision-making.

The need to resurrect the notion of race to support the thesis of genocide in Darfur is not the only chink in the armour here. Public manifestations of the intent to destroy a human group are no more evident than the existence of distinct races. No traces of said manifestations can be gleaned in the Sudanese dictatorship's positions or laws. In short, supposing the intent is real, the desire to destroy a human group is not manifested and defining the group of victims requires using a category that was quite rightly invalidated many years ago.

However, it must be said that although the thesis of genocide in Darfur has not been universally accepted, it has met with considerable success within human rights and humanitarian organisations, buoyed by a driving force that is at its core just as political

as the UN Congress's unanimous vote. The formula used to define the political vision we are being implored to support is the right to intervene in response to mass, gross violations of human rights. For those who support building this new international order based on proactively promoting human rights – weapons in hand if need be – progress is not being made swiftly enough due to the inertia of the major powers, as demonstrated by the way the United Nations Security Council currently operates.

In response to this lack of action, using the qualifier genocide, the “crime of all crimes”, offers a clear advantage. Among the gravest of human rights abuses, genocide is the category that most indisputably triggers an obligation to intervene, not only retroactively to reprimand, but before and during the events in order to prevent or bring them to an end. In this line of thought, the primary objective is no longer to determine whether the extermination of the Rwandan Tutsi and the massacres in Darfur are historical events similar enough to be filed away in the same legal category, but rather to ensure proactive international responses to serious crimes are more frequent. While qualifying the crimes committed in Darfur as genocide paves the way for the expected result – an enforcement of the law, by force if necessary –, the constraint of being forced to qualify highly dissimilar events using the same label becomes secondary.

It should be noted here that to drive this thesis, the Security Council's permanent members must be given the will and power to put an end to the gravest crimes across the globe. When we consider these permanent members and their recent histories (China, the United States, the United Kingdom, and Russia), and when we consider the frequency and complexity of conflicts resulting in major violations of human rights, the naivety of such a belief is breathtaking. At a time when the world at large is becoming aware of the scale of the torture practiced in American prisons in Iraq, and the severity of the Russian army's crimes in Chechnya, it is highly tempting to interpret this stance as not only naive, but incredibly cynical.

Humanitarian aid workers must be independent to avoid being seen as a contributing factor to hostilities. Compliance with this principle requires parties not to appropriate projects aimed at creating a new international order, and to focus their efforts on providing impartial aid instead. But reminding people of the principles is not always enough to garner support when set alongside the temptation to build another world, which, is always presented as a better one. Carefully examining the arguments in favour of the right to intervene, and the record of contemporary international military interventions to date, should be enough to warn us off this path.

In September 2004, Rony Brauman, former President of MSF France and Director of Studies at the MSF France Foundation/CRASH published an article in the French press challenging the ethnic interpretation of “Arabs against blacks” in the Darfur conflict, which led to qualifying the Darfur atrocities as genocide by the USG and the UNSC.

Brauman also criticised the Eurocentric interpretation of the situation, which took for granted that massacres, expulsions, and destruction of villages could only occupy a European representation of “absolute evil,” or a “Hitlerian genocide.”



'Genocide, a word with many meanings,' Op-ed by Rony Brauman, MSF Director of Studies at MSF France Foundation/CRASH , in **Alternatives Internationales** (France), 1 September 2004 (in French).

Extract:

How should the atrocities committed in Darfur by the authorities in Khartoum be qualified? Ten years after the massacre of Rwandan Tutsis, the response seems obvious. Ethnic cleansing, genocide: the vocabulary of the struggle between races comes more easily to the fore at a time when the international community's culpable failure to act over the 1994 genocide is being recalled in this 10th anniversary year. The memory of such criminal indifference goes some way to explaining the degree to which an ethnic interpretation of the conflict has come to be seen as self-evident. But this sense of guilt only serves to strengthen the European colonial imagination, which, with its tribes and ethnic groups, still dominates people's minds where Africa is concerned. And this is precisely the view that sparked the stereotype of "Arab horsemen massacring African peasants", whilst in fact, they are all black, Arabic-speaking and Muslim. Politics, with all that it presupposes in terms of conflict over different forms of power, access to decision-making, the distribution of wealth and the relationship between the centre and the periphery, seems however not to feature in this reading.

Neither the strength of representations derived from imperial ethnography nor the fear of leaving the way clear for another genocide can account fully, however, for this problem of qualification. It is important to remember at this point that, far from being a question of hair-splitting, the discussion is fundamental to the nature of international reactions, and it is this status that is morally problematic. It appears a strategy of terror consisting of massacres, expulsions and the destruction of villages and crops can only really be taken seriously if it can be related to our own representation of absolute evil, in other words Hitlerian genocide. As in many other areas, the only effect of a Eurocentric interpretation of this kind is to conceal the complexity of the actual situation, replacing it with notions that are quite alien to it. Or rather, if it has any other effect, it is to make us gradually less sensitive to anything that is not seen as a Crime with a capital 'C' and which is then relegated to being just another miscellaneous item in the international news. In practice, if we want to remind ourselves that peace and democracy are not just something that can be injected into a situation, the current imperatives are clear: continue to exert pressure on the Sudanese government (political condemnation, freezing of assets abroad, judgement of criminals, etc.) to disarm the militiamen, increase emergency aid and deploy significant logistical resources, which are still scandalously inadequate at the time of writing. An armed international intervention in this context would simply heap catastrophe onto catastrophe. It would ruin the possibility of providing more and better relief without offering any kind of political alternative that would support emergence from the crisis, which is the main reason we need to get away from the 'all or nothing' approach inherent in a classification of genocide.

However, in legal terms, the Srebrenica precedent makes the accusation a tenable one. If the massacre perpetrated in 1995 was an 'act of genocide', as was recently asserted by the International Criminal Tribunal for the former Yugoslavia the same can be said of Darfur. But it is the weakness of the notion, and not the strength of the law, that is illustrated here. How many killings and acts of political violence, from Burma to Chechnya and Liberia to Angola, could be classified as 'genocide'? Almost all of them since this highly questionable interpretation reached by the ICTY. Justice gains nothing from maximalism of this kind, and one can only hope that the International Criminal Court will have the wisdom to resist it in future. It can be helped to do so by making political judgements something other than moral condemnation and/or legal verdicts.

In a second article published in October 2004, Rony Brauman elaborated on the precedent he considered as set by the International Criminal Tribunal for the Former Yugoslavia (ICTY), which officially ruled that a genocide occurred in Srebrenica. In April 2004, the ICTY convicted the Bosnian Serb, General Krstić, for complicity in crimes of genocide, commanding forces in Srebrenica to massacre 8,000 men.

According to Brauman, “a mass crime is always the result of a planned action, therefore necessarily involves intent. And a group, even when it is stable, is always an arbitrary construction.” Therefore, based on such a precedent, any crime causing a “substantial number of victims from a group established in accordance with stable criteria as was the case in Srebrenica, could be classified as genocide.” So, mass crimes in Darfur could also be labelled genocide, as well in Liberia, Congo, Chechnya, etc.

However, according to the MSF France/OCP Legal Advisor, Françoise Bouchet-Saulnier, it did not make sense for MSF to use the case law of the Krstić trial to analyse the relevance or not of qualifying the mass violence in Darfur as genocide. According to her, this trial was in fact a prelude to the impending trial of the former Serbian President Milošević, who died before his trial. The objective was to prove Milošević’s intent to exterminate the Bosnian and Kosovar Muslims, whom he considered as polluting an “ethnically and historically pure Serbia.”



‘Genocide, upping the stakes,’ Rony Brauman, MSF Director of Studies at MSF France Foundation/CRASH, *Alternatives Internationales* (France), 1 October 2004 (in French).

Extract:

The “Sudan affair” is far from over. I described in a recent issue of this journal how an ethnic interpretation (“Arabs against Blacks”) of the conflict in Darfur and its qualification as genocide are dead ends. The gravity of the accusation, voiced primarily by the American authorities and the European Parliament, has prompted me to return to it. It is important to remember that the term genocide refers to “any criminal undertaking intended to destroy either all or part of a particular type of human group, as such, by certain means. The special intent required for the crime of genocide is twofold: the act or acts must target a national, ethnic, racial, or religious group; and the act or acts must seek to destroy all or part of this group.”

The first person in Europe accused of crimes of genocide was General Radislav Krstic, the man in charge of Serbian forces during the massacre of 8,000 Bosnian Muslims in Srebrenica, in July 1995. “You agreed to evil ... You are guilty of having agreed to the plan to conduct mass executions of all the men [in Srebrenica] of fighting age. You are therefore guilty of genocide, General Krstic,” the President of the court, Judge Almiro Rodrigues, told the defendant. The fact that women, children, and old people were spared, and that the wounded were evacuated clearly did not excuse such a terrible massacre, but made such a charge problematic at the very least. As the victims were assassinated on the basis of their membership of a group (in this case, male Bosnian Muslims old enough to bear arms), the act was, however, qualified as a genocide, following some very detailed and yet highly unconvincing arguments. The existence of logistical preparations (vehicles, fuel, and equipment for digging mass graves), for example, was deemed sufficient to prove an intent to destroy the group which, as we know, is essential for a classification of genocide.

But a mass crime is never committed accidentally! It is the result of a planned action, and therefore necessarily involves intent. And a group, even when it is stable, is always an arbitrary construction: it is by definition the product of a number of attributes selected from amongst others, such as age, social status, religious affiliation, geographical location, skin colour and many other things. Based on such a precedent, any crime causing a 'substantial number' of victims from a group established in accordance with stable criteria could be classified as genocide. From Liberia to Chechnya and Burma to the two Congos, the number of situations giving rise to such an accusation will increase. There is no doubt as to the moral gravity of the planned physical destruction of a human group. There are, on the other hand, good reasons to be sceptical about the ability of justice to take full account of the gravity of "these crimes that can be neither punished nor pardoned" (Hannah Arendt).

It is possible that the Krstic case was only a stepping-stone to get to Milosevic and bolster the accusation of genocide against him. It is clear that the Darfur question is now a significant electoral issue in the USA, mobilising Christian conservatives to vote for George Bush and African Americans for John Kerry. Crimes against humanity have been committed in both Srebrenica and Darfur, and it is right that the world should not be unmoved by such events. Upping the judicial stakes, however, driven by considerations that have little to do with the law, does a disservice to international justice by undermining its credibility. More seriously, it increases radical fervour by removing any possibility of compromise, since there cannot be any negotiation with perpetrators of genocide. Either you fight them to the bitter end, or you die. The enemies of the International Criminal Court will be rubbing their hands in glee. They are the ones who gain the most from an escalation of this kind.



I had explained the stakes at play in this judgment to MSF. In the context of the International Criminal Tribunal for the former Yugoslavia, using the qualification complicity in genocide in the context of the Krstić case was a move towards establishing the nature of criminal intent in Milošević's trial: had there or had there not been an intent to commit genocide against the Muslims in Eastern Bosnian, living in Serb-held territory? Srebrenica was a step towards reaching a conclusion on the nature of the plans Milošević and his regime had for the Muslims of Bosnia, Kosovo, and Serbia: what was to become of them in this ethnically cleansed space? Milošević died before his trial could take place, and as a result, the scale and nature of his genocidal and criminal intent towards Muslims will never be fully established.

Françoise Bouchet-Saulnier, MSF France/OCP, Legal Advisor, 1991-2005, MSF Legal Director 2005-2022 (in French).

On 18 October 2004, the MSF France Foundation/CRASH organised what was presented as a "conflicting debate on the definition of genocide and the broader application of the 1948 convention."

MSF France/OCP Legal Advisor Françoise Bouchet-Saulnier, who was tasked by the MSF France/OCP general director and president to organise this debate, considered it biased. She felt there was an intent to disqualify the legal definition of genocide.



'Minutes of MSF France Executive Committee,' 10 August 2004 (in French).

Extract:

Communication: Stephan Oberreit

Sudan - Darfur

The debate still rages on within the movement as to the qualification of the term genocide. Today, US Senate Majority Leader Bill Frist stated that a genocide is underway in Darfur. On this subject, with the help of Françoise Saulnier and Fabien Dubuet, Jean-Hervé would like to reflect on the term genocide as defined by the now-obsolete 1948 Geneva Convention.



'Minutes of MSF France Executive Committee,' 14 September 2004 (in French).

Extract:

Direction : Pierre Salignon

Genocide [...]

In Paris, Françoise Saulnier is organising a Foundation meeting from another angle, with guest legal experts on hand to debate the definition of the term genocide, and the wider application of the 1948 Convention used by some.



'Minutes of MSF France Board of Directors Meeting,' 24 September 2004 (in French).

Extract:

Jean-Hervé Bradol: the Foundation's conference on genocide scheduled for 18 October is designed to platform legal experts, whose positions often lie contrary to our own, with a view to fuelling debate. We wish to give ourselves the opportunity to hear the other side of the debate without falling into caricature.



I agreed to organise this debate and invite legal experts and a journalist from the Le Monde newspaper who was following the latest in international criminal justice. I thought it would be interesting to talk. But the topic set for the debate was not relevant, and it was biased. Jean-Hervé had chopped the issue up into small chunks to make it seem as if it were about taking a stand against 'an adversary', meaning the legal experts invited to attend the debate, and against their 'legal definition' of genocide. Yet the definition of genocide does not belong to the guest legal experts: it is enshrined in a convention written and signed by the States. The legal experts explained this reality: 'this is what the convention says, this is what is ambiguous', etc.

The expectation was that this debate would first result in a critique of the legal arguments used by the International Criminal Tribunal for the former Yugoslavia judges in the Krstić case, who had acknowledged the existence of genocide in Srebrenica. But this component of the discussion was intended to justify a wider conclusion, supported by the organisers: that the 1948 Convention's legal definition of genocide was wrong and unusable, and that consequently, MSF needed to get rid of this legal definition and return to a political, historical definition of genocide. Although the participants' speeches were very balanced, we were asked questions that were in a way intended to prompt us to turn our backs on the relevance of the

law, giving MSF the freedom once more to take a political stance. And so, this wasn't beneficial as such, as it wasn't the point.

I was aware of the issue of the 1948 Convention's legal frailty, I could explain it, I didn't need us to have a general debate about it. In fact, I had already explained it in the context of former Yugoslavia, and it was ultimately decided that it would be called 'ethnic cleansing'. 'Crimes against humanity' was used for Srebrenica. But that didn't mean there was no genocide, we had no idea. The legal qualification of 'genocide' can only be established by judges at the end of an extensive process aimed at clarifying the facts and intents, upon investigating whether there was an organised plan, dusting off archive materials, etc. It is therefore difficult to determine whether a situation is 'genocide', or 'ethnic cleansing', or some other mass crime.

MSF France had already experienced this type of debate in the context of Rwanda. Prior to acknowledging and publicly stating that this was a genocide, some had said that MSF had a duty to denounce political responsibilities rather than use legal qualifications. In the context of Darfur, MSF France returned to the same intellectual framework: do we have to go looking for a legal qualification, can we not stick to political qualifications? Added into the mix was the fact that those who used the term 'genocide' did so to drive the idea that international military intervention was needed, or to invoke the court's jurisdiction in prosecuting those responsible. Yet MSF France was opposed to this external intervention because on an operational level we were managing to provide aid, and had there been a call for external intervention, our work would have been jeopardised, and the authorities would have blocked us. There were significant factual and operational dilemmas to weigh up: the operational space needed in the context of mass crime, the compromises needed to gain access to the people, what role for speaking out, the humanitarian position to take within the international diplomatic debate, and more. And rather than tackle these in a clear manner, we were creating a legal bogeyman that would become a scapegoat for all the problems, and we threw ourselves into a sterile legal debate.

I felt that how all these dilemmas slotted together was lacking and muddled, as if we were trying to convince ourselves that if only, we could disqualify the 1948 Convention and its definition of genocide, our problem with the word 'genocide' would vanish, and we would be able to shake off the risk of potential international intervention, too.

MSF could have simply satisfied itself with saying that no military intervention was needed, or that the term was being weaponised on a diplomatic level. But ultimately, MSF went even further by arguing that no genocide had occurred.

Françoise Bouchet-Saulnier, MSF France/OCP, Legal Advisor, 1991-2005, MSF Legal Director 2005-2022 (in French).

2. External Critics and Exploitation of MSF Position for Political Ends

Meanwhile, in the political and media world, the MSF France 'non-genocide in Darfur position' continued to be criticised, interpreted, and instrumentalised in various ways.

MSF was accused of "burying crimes against humanity under humanitarian thinking" and of becoming "complicit" in the Government of Sudan's policies.



'Humanitarian, You Say?,' by François-Xavier Verschave, *Survie*, **Billets** (France) no. 128 - 1 September 2004 (in French).

Extract:

This autumn's outpouring stems from the nauseous way the massacred people of Darfur have been "treated" ideologically and in the media. It all started with an often-indecent debate around the use of the word "genocide". There are different forms of genocide, and some differences between the legal and historical definitions of the term. Legally speaking to massacre and violate a section of the population, forcing the survivors into exodus and depriving them of all means of subsistence, is uncontested genocide. Historically speaking, it is akin to the *modus operandi* for the Armenian genocide, which is undisputed (except by Turkey).

It is argued that genocide might not be fully committed in Darfur if the "international community" feeds and treats those who are fated to die in the desert. This speculation as to the diligence of said "community" is both scandalous and hazardous, especially when the driver of this deadly programme does everything in its power to block aid, only ceding to external outrage when the wet season rolls in to sabotage this aid. When, in addition to this, murderers and rapists are disguised as police officers and assigned to "protect" refugees, let us admit that the boundary between "crimes against humanity" and "genocide" has well and truly been crossed. But the fact is that using the term "genocide" would force everybody to intervene, which practically no State wants. And so, we quibble. This nauseous sense arises from the overuse of the word "humanitarian". From the moment it cropped up in "Biafra", it was used to cover countless wretched dealings. It was used to mask French complicity in the 1994 genocide in Rwanda. One might have thought that following on from this ignoble legacy that was sooner or later decried by "humanitarian" organisations – including Médecins Sans Frontières (MSF) – it would be unthinkable...

Yet MSF has positioned itself in the crosshairs of the controversy surrounding the word "genocide": a controversy in which, let us not forget, the primary purpose is to prevent the international intervention that might anger the Sudanese government responsible for a tidal wave of crimes against humanity and genocidal intent at the very least. There is no "genocide", says MSF, because this government gives us visas (albeit late). "These days, there is a tendency to overuse this term, and what we are seeing is a propaganda-driven distortion that can only hinder aid" [...] "People are forced to flee but are not systematically murdered" (1): they just don't have anything left to survive, is all. It allows MSF to launch a gigantic media campaign to raise funds, in step with the scale of the crime. Without naming the guilty party, of course.

We do not underestimate matters of the conscience: we do indeed need to be able to reach those who are hungry and exposed to epidemics, which can sometimes call for keeping a low profile. But there are limits to the accommodations that can be made, which MSF has managed to bear in mind before (in Ethiopia and Goma). And if we cannot speak out, at the very least we can stay quiet, rather than take a stance that bolsters the criminal State: "The British and Australian urge [to intervene] has already sparked a very violent reaction from Khartoum. This is worrying. [...] Responsibility for protecting the people lies primarily with the Khartoum government" (2): the one that has been murdering a section of the Darfur population or stripping them of all possibility of survival for a year now.

Ultimately, we cannot help but note the extent to which burying crimes against humanity beneath humanitarian philosophy serves the French government's plans (3), releasing it from any reason to shake off the perspective it inherited from Mitterrand: "in such countries, genocide is not too important".



'How Bradol's comments continue to be used,' **Message** from Eric Reeves to Nicolas de Torrente, MSF USA Executive Director, 11 September 2004 (in English).

Extract:

Hello, Nicolas

Not only do Bradol's comments look increasingly foolish, indeed simply unsupportable, but they continue to be used by Khartoum in ways that bring disgrace on all of MSF. (By the way, I never heard from Bradol.)

I've talked with a number of people involved in the in the US-funded genocide investigation conducted along the Chad/Darfur border. These are professionals, most of them not at all sympathetic to the Bush administration---and they are unanimous in their assessment: this is clearly, unambiguously genocide. We will not see a better, or even comparable, assessment of the issue of genocide in Darfur for the foreseeable future. [...] So, I must confess to feelings somewhere between shame and disgust at Bradol's comments, which live on and will live on---and with what sort of currency in France and in the French govt, I don't know, but I have very bad feelings. They are certainly being exploited widely in some circles.

As you know, Nicolas, it has been clear to me for many months that what is occurring is genocide---I knew well before my Washington Post op/ed ("Unnoticed Genocide") in February 2004. One only had to collate the data from Amnesty Intl, Human Rights Watch, ICG, and numerous dispatches from the field. I also had many other private sources, but these public sources were enough.

For MSF to be so adamant in its statements, as represented in public commentary by Bradol and Tatay, has put them disastrously on the wrong side of historical judgment. For make no mistake: in less than six months, this genocide finding will be more than fully confirmed by additional data, especially if the AU secures a fuller presence.

Please explain to me, Nicholas, how MSF will explain these public pronouncements at that time: what will MSF do by way of "apologizing" for being so disastrously wrong? for deliberately eliminating all indications of race/ethnicity in its numerous public reports, but nonetheless adamantly, and again very publicly, concluding that no racially/ethnically-based crimes have been committed? I look back to what MSF became in the wake of the Biafran genocide in Nigeria and I am immensely proud of my association with this organization, and for many other reasons as well. But this point of origin has always loomed large in my mind and my dedication to celebrating MSF. Now, I look at the public record of MSF on genocide in Darfur, and there really is shame. I don't know how to live with that shame.



'Genocide in Darfur: A growing International Strategy of Equivocation in Place of Humanitarian Intervention, Studied Avoidance of Moral Responsibility,' by Eric Reeves, **The Sudan Tribune** (Sudan), Paris, 6 December 2004 (in English).

Extract:

Even humanitarian organizations have become complicit. Doctors Without Borders/ Médecins Sans Frontières (MSF), which has performed superbly in the field, has not only made extremely ill-considered public comments on the issue of ethnic crimes in Darfur, but continues to bleach out of its reports virtually all data and observations that reflect the ethnic character of human destruction. The exceedingly rare references to ethnicity are typically disingenuous. In an October 2004 study by MSF Holland ("Persecution, Intimidation and Failure of Assistance in Darfur"), the organization can bring itself to say only that "the majority of patients treated in MSF clinics and feeding centres are of Fur,

Massaleit, and Zaghawa tribal origin" (page 7). But of course, the truth is that the overwhelming majority of people seen by MSF are members of the targeted African tribal groups—certainly over 95%, and likely well over. This self-censorship is evidently the price MSF is willing to pay to retain humanitarian access, though this seems not to preclude ignorant and presumptuous statements about the issue of genocide. Comments by Pierre [Jean] Hervé Bradol, head of MSF-France, are a particular disgrace to an organization that was born out of a refusal to accept international protocols of "neutrality" during the genocide in Biafra (Nigeria) in the late 1960s.



The problem with political positions is that they expose you to the risk of falling into the other camp and being accused of concealing certain facts that don't align with your narrative. And suddenly, you're no longer talking about the Fur or Zagawa communities, just civilians. That's what is dangerous about wanting to take a stand. Eric Reeves was one of our sponsors, he supported us. He had become an activist in Sudan through MSF, as he explains in his message. He had told me that [the, former MSF U.S. Executive Director] had said to him: 'Sudan needs a champion.' At the time, this was South Sudan, a crisis that flew under the radar. He took that to heart and became obsessed with South Sudan, despite never having set foot there. He had slipped into a kind of 'good guys versus baddies' mindset. At the same time, he was an utterly devoted idealist with good intentions, in a way. But his perspective was clearly that the Sudanese regime is responsible for what happened in South Sudan, and overall is responsible for how Sudan's periphery was handled by force, and so the only solution is a change in regime. You could explain to him that we didn't see it as genocide, and he would understand, up to a certain point. But he had the sense that we were deliberately hiding what we knew, such as who the victims were. We used the term 'civilians' rather than go into the specifics of the Furs and Zagawas, who formed most of the victims, the people we were treating in the camps, who were displaced in the villages, who had had their villages burnt to the ground. He reproached us: 'You are hypocrites, you know it and you never speak it.'

Nicolas de Torrente, MSF USA, Executive Director, 2000-2009 (in French).



When MSF talks in terms of 'genocide' or 'non-genocide,' it impacts on the political and media debates to a certain extent. So, throwing MSF's weight behind the idea that there was no genocide could indeed lessen the blow for al-Bashir. Al-Bashir didn't deserve to be supported, that much is obvious. But in response to criticism that MSF served the regime, I have two things to say. Firstly, these were the terms we used to qualify the situation. There was absolutely no dispute concerning the scale of the repression, and the disproportionate force and violence that were used. And so regardless, we described the mass violence measured in dozens of thousands of deaths, and where needed, we qualified these as 'crimes against humanity.' Accusing a government of crimes against humanity, of mass crimes, and of having the blood of tens of thousands of dead people on its hands, is not what I call support.

Secondly, there is the often-paralysing fear of being taken up by people we do not want to see coopting our words, and so seeing our communications and positions be weaponised – even those that are operational. This isn't the first time that this has happened, and it is important to remember that this has no untoward consequences. We must accept a principle that is difficult to stand by, yet vital: not caring how our words are taken up and used. Perhaps we must allow for exceptional circumstances, because no rule will ever fully apply considering

the sheer range of crisis situations, we can find ourselves in. Without a doubt, there are moments where it is best to stay silent.

But at any rate, this principle ought to be remembered, failing which three-quarters of the issues we deal with – de facto sensitive issues – would fall into silence.

It is important to note that this is happening increasingly frequently these days with our public statements. Serious violations of humanitarian rights are committed 'by all parties,' there is no longer Yemen, Saudi Arabia or the Sudanese government, there are 'belligerent parties.' It means our positions are depersonalised, and therefore depoliticised in the widest sense of the term. I find it highly regrettable that MSF has taken on such a pronounced and all-pervasive classic diplomatic flavour. It truly is a sorry shift to my mind.

Dr Rony Brauman, MSF France, President of Board of Directors 1982-1994; Foundation/CRASH Director of Studies since 2000 (in French).

On 6 October 2004, the pro-government newspaper *Sudan Vision* published an article praising MSF's statement that "government troops and militias had committed massacres, but not genocide."

The author of this article, David Hoile, an academic and long-time supporter of the Government of Sudan, published a list of MSF France/OCP leaders' statements about MSF teams *not* having witnessed signs of genocide in Darfur.

Hoile quoted the MSF France President, Jean-Hervé Bradol, stating that the US motive to qualify the situation in Darfur as a genocide was to fulfil US strategic interests. Hoile furthered, "the United States Administration sought to use claims of 'genocide' in Darfur for crass and electoral political reasons."



'Médecins Sans Frontières challenges US Darfur genocide claim,' David Hoile, *Sudan Vision* (Sudan), 5 October 2004 (in English).

Extract:

One absolutely neutral source, perhaps the only one, by which to examine American claims of genocide in Darfur, however, is the international humanitarian organization, Médecins Sans Frontiers/Doctors Without Borders (MSF). [...]

Médecins Sans Frontières is an exceptionally credible observer in this respect for two reasons. Firstly, MSF was amongst the first humanitarian groups to establish a presence in Darfur as the conflict unfolded. MSF is very heavily involved in the provision of medical and emergency services in all three of the states that make up Darfur, deploying two thousand staff. [...] It has been actively assisting 250,000 people displaced by fighting throughout the region. [...] It was therefore able very early on to form a particularly well-informed opinion with regard to claims that genocide was being carried out in Darfur. By comparison, Washington's "genocide" determination was based upon access to one thousand refugees living in refugee camps in Chad, with unanswered questions about the feasibility of impartial translation, sensationalism, political bias, and rebel pressure within refugee camps. The US claim was made on the basis of fleeting, and in comparison, momentary access to approximately one percent of the total number of people to which MSF has had regular, sustained access over several months. Secondly, MSF's reputation is quite simply beyond reproach. Médecins Sans Frontières was the recipient of the

Nobel Peace Prize in 1999. It has also received numerous other awards recognizing its outstanding humanitarian work throughout the world. [...]

Dr Mercedes Tatay, MSF's Deputy Emergency Director, was an early observer of the situation in Darfur. Dr Tatay worked for some time with 12 expatriate doctors and 300 Sudanese nationals in field hospitals set up in the towns of Mornay, El Genina and Zalingei in the heart of the Darfur emergency. Asked if comparisons between events in Darfur and Rwanda were justified, her answer was blunt: "I don't think that we should be using the word 'genocide' to describe this conflict. Not at all. This can be a semantic discussion, but nevertheless, there is no systematic target – targeting one ethnic group or another one. It doesn't mean either that the situation in Sudan isn't extremely serious by itself." Dr Tatay was also asked if the "ethnic cleansing" label was appropriate for events in Darfur. She said: "That is not necessarily accurate. There are several different tribes and clans and families and not all of them are persecuted or executed just for the sake of their tribe." [...]

In June 2004, MSF President Dr Jean-Hervé Bradol, following visits to MSF projects in Darfur, clearly challenged claims of genocide in Darfur: "The word genocide has been used, but it creates confusion. The situation is severe enough to be described for what it is – a mass repression campaign against civilians. Civilians were targeted and a large segment of them were killed. Since Médecins Sans Frontières started working in Darfur in December 2003, teams have not witnessed the intention to kill all individuals of a particular group. We have information about massacres, but never any attempt to eliminate all the members of a specific group." [...] In July 2004, Dr Bradol stated that the use of the term genocide was inappropriate: "Our teams have not seen evidence of the deliberate intention to kill people of a specific group. We have received reports of massacres, but not of attempts to specifically eliminate all the members of a group". [...] Dr Bradol subsequently described the August and September American declarations of genocide in Darfur as "obvious political opportunism". [...] Dr Bradol has noted that there are several weak links in the genocide claim. He finds claims that "Arab" militias are seeking to destroy "African" tribes questionable, stating that "the concept of race, discarded many decades ago with regard to biology" is irrelevant and "dangerous" and has been used "outside of its historical context". Dr Bradol has also noted that "Public expressions of an intent to destroy a group of humans are no more apparent than the existence of distinct races. There are no signs of this either in speeches by the Sudanese dictatorship or in the countries' laws. To sum up: though we might suppose the intent is real, there has been no outward show of intent to destroy a group of humans and defining the group of victims necessitates using a category that has, for good reason, been rendered illegitimate for many years." [...]

Dr Bradol sees a geopolitical motivation to the American move: "In the ten years from Rwanda to Sudan, what changed is the perception by the United States of the threats posed to its national security and strategic interests. And the Sudanese regime, while not at the top, figures prominently on the list of the nation's enemies drawn up by the Bush administration." [...] Dr Bradol notes that claims of genocide have "met with great success among human rights organizations and humanitarian groups. The source of this enchantment is, in the end, just as political in nature as the unanimous vote by the US Congress." [...]

Dr Bradol's intervention has been deeply significant. Both Bradol and Médecins Sans Frontières are simply beyond question in the authority with which they speak on the issue of genocide. He headed MSF's programs in Rwanda in 1994 and spent several weeks assisting the surgical team that struggled to remain in Kigali during the genocide. He has very firm views on genocide, the Rwandan genocide, and its implications for the humanitarian aid movement: "The genocide itself torn to shreds the humanitarian

movement's famous neutrality. Even when emergency aid saves lives, it cannot justify neutrality when faced with a political movement determined to exterminate an entire group of human beings. The only way to oppose such a movement is to call for armed intervention against the aggressors. That is what MSF did in June 1994 with its call, 'Doctors can't stop genocide.' Genocide is that exceptional situation in which, contrary to the rule prohibiting participation in hostilities, the humanitarian movement declares support for military intervention. Unfortunately, an international military intervention against the genocide never came to pass and the Rwandan Patriotic Front did not win its military victory until after the vast majority of victims were killed." [...] Indeed, in 1994 Dr Bradol actively sought American and international military intervention to end the Rwandan genocide. [...] He has pointed out that Rwanda and Darfur are "highly dissimilar." [...]

Dr Bradol's point about US strategic interests, rather than reality, dictating what it deemed to be "genocide" has also been made elsewhere. Richard Dicker, a Human Rights Watch expert on international law, has pointed out Washington's history of its politicisation of responses to "genocide": "In the case of the crisis in Kosovo, the use of the term was encouraged by Washington to justify military intervention; in the case of Rwanda, when there was no readiness to intervene, its use was discouraged." [...]

In his book 'Rwanda and Genocide in the 20th Century', former Secretary General of Médecins Sans Frontières Alain Destexhe says: "Genocide is distinguishable from all other crimes by the motivation behind it. Genocide is a crime on a different scale to all other crimes against humanity and implies an intention to completely exterminate the chosen group. Genocide is therefore both the gravest and greatest of the crimes against humanity." [...] Washington's ploy must be seen for what it is. That the United States Administration has sought to use claims of "genocide" in Darfur for crass and electoral political reasons is clear. In crying wolf on "genocide" the Bush Administration has not only undoubtedly banalised the concept of genocide, but it has also enflamed an already fraught situation in Darfur. In the wake of Washington's claim radical Islamists in Sudan have attempted a military coup, and the anti-government Islamist rebels in Darfur broke off peace talks aimed at settling the conflict. There is also no doubt that Washington will seek to push its "genocide" declaration upon the international community, inevitably causing strains once again within its European allies and the European Union.

The courage of Médecins Sans Frontières in directly challenging Washington's propaganda is clear.



Our position delighted the Sudanese government to the extent that they reprinted it in an English-language newspaper, Sudan Vision, with an apology for this MSF France position. We stood by our words.

All foreign states and humanitarian organisations were accusing them of genocide, threatening them. They were in a tricky situation. But our position wasn't what eased them out of the sticky diplomatic situation they found themselves in.

The risk of us being weaponised was low because this was a government that was beyond any help. We were the ones who had best documented the government's crimes with our epidemiological survey. There is no equivalent report from this time demonstrating just how severe the repression was, just how close to the brink of demographic catastrophe they were, with 5% of all men killed. That's huge. It means that across a sample of one hundred or so villages, one out of every five men had been killed, and that's not counting the 10% to 15% who vanished and were probably killed.

So, they can't come and tell us: 'You are washing the Sudanese government clean of its crimes.' We felt entirely legitimate in our process because we knew we weren't serving as handmaidens for the Sudanese government, a criminal government. We did the complete opposite.

*Dr Jean-Hervé Bradol, MSF France, President of Board of Directors 2000-2007
(in French).*



What MSF was saying was that this wasn't genocide, but a somewhat desperate counter-insurrectional strategy rolled out by a Sudanese army that was meant to be fighting in the South, and so didn't have many units available. As a result, it drew on armed horseback and camelback groups that sowed terror, with all the violence and reported crimes that went with it. But we didn't think there was a government intent for genocide behind it. That, I think, had been heard where it needed to be. Naturally, those set on conducting such and such a policy, or championing such and such an initiative, however...

Dr Christophe Fournier, MSF France/OCP Programme Manager, 2003-2006, MSF International Board President, 2006-2007 (in French).

On 28 October 2004, the Sudanese President Omar al-Bashir issued a strong statement against INGOs, considering them as the true enemy in Darfur, mentioning a "plot against Darfur."



'The Sudanese president states that NGOs are the 'real enemy' in Darfur', AFP (France), Khartoum, 28 October 2004 (in French).

Extract:

According to statements published in Sudan's official press on Thursday, President of Sudan Omar al-Bashir lashed out at international humanitarian organisations operating in the Darfur region (west), labelling them "enemies."

"The [humanitarian] organisations are the real enemies," Mr al-Bashir told the region's authorities. "Plotting against Darfur is not new," he was quoted as saying in daily newspaper *Al-Anbaa*.

3. Assistance and Protection: Internal Differences in Approach

Since early August 2004, the international mobilisation to bring assistance to Darfur increased dramatically, particularly with scaled food drops by WFP.

As mass violence continued, the Government of Sudan maintained pressure on the Darfuri displaced, forcing them to return to their villages, despite the persistent insecurity.



'Humanitarian efforts for Darfur ramped up,' **AFP** (France), Nairobi, 2 August 2004 (in French).

Extract:

The first WFP airdrops are landing in Darfur, in a "humanitarian" operation launched by the French Army on the Chad-Sudan border: international efforts have been ramped up over the past few days to aid this western Sudanese region in crisis.

This summer campaign is occurring at a time when the clock has started ticking for the authorities in Khartoum: on Friday, the UN Security Council adopted a resolution demanding that Sudan put an end to the atrocities in Darfur within 30 days, failing which sanctions will apply.

MSF communication teams maintained continuous efforts to keep the situation in Darfur on the international media agenda.

However, there were some differences regarding how far MSF should go in asking for more protection for the Darfuri. While MSF France/OCP insisted on giving priority to call for more assistance, MSF Holland/OCA pushed to raise more awareness on the continuing high levels of violence and calls for additional protection.



'**Minutes** of MSF France Executive Committee Meeting,' 7 September 2004 (in French).

Extract:

Darfur communication:

Bénédicte [Jeannerod, Deputy Head of Communications] sent the sections a detailed plan of our new proposed position about Darfur (a four-page document containing a new situational assessment). While we note that improvements have been made where MSF France is active (improved mortality indicators) and in the effects of deploying aid (particularly WFP food parcels), we must also flag the fact that the situation remains fragile in many places in Darfur (in particular in Kalma, where 750 children are being cared for in therapeutic nutrition centres (CNTs) by MSF Holland), and that the violence is continuing, albeit on a less massive scale than before.

MSF Holland is in the process of writing up a report compiling eyewitness accounts of the violence. Amsterdam is concerned that communication surrounding frontline improvements to the situation may potentially have a demotivating effect. Yet objectively speaking, in many regions the situation is better than it was a few months ago. The ExCom agrees on the need to publicly describe this trend on aid. Along with his ExCom colleagues, Pierre will be keeping an eye out for the forthcoming MSF HOLLAND report and asks that the Operations department do the same.

It should be noted that the finishing touches are currently being made to an article that might hopefully be published in *The Lancet*. This article will examine the findings to come out of the various Epicentre studies conducted on the ground.



'Minutes of MSF France Board of Directors Meeting,' 24 September 2004 (in French).

Extract:

Review of public statements concerning the challenges that humanitarian organisations face (Bénédicte Jeannerod [MSF France Deputy Communications Director])

The debate on genocide in Darfur was sparked in April 2004 with Koffi Annan, and we lent our voices to the discussion via Jean-Hervé Bradol [MSF France President] (in *Le Monde*, 25 June 2004), Rony Brauman [MSF France CRASH] (various publications, such as *Alternatives Économiques* and *Le Nouvel Observateur*) and Françoise Saulnier [MSF France/OCP Legal Advisor]. MSF wishes to shine a light on how the term “genocide” is weaponised for political purposes. Our statements did not give rise to any direct responses, but our arguments were taken up, without us noting any shift in the official discourse or journalists’ assessments. Let it be noted too that MSF France is alone in taking this stance. The movement adheres to a “no comment” policy.

A month and a half after we launched our campaign, on 15 September 2004 we issued a report on the current situation in the camps in Darfur. We shared it as a two-page press kit that was made available online. In it, we reported an improvement in health indicators in places where aid was provided. We know that people viewed the press kit, but overall, journalists made little use of it. We have failed to communicate the information that would allow us to move away from a catastrophic discourse. Even within the MSF movement, most of the communication teams were reluctant to handle this data. There may be two possible explanations for this: worry that it would cause donations to flag, and fear that it was out of step with the figures published by other organisations (which remained alarming). This demonstrates that there are discrepancies in the roles and functions of MSF’s communication teams across the movement.

MSF International set up a website dedicated to articles on Darfur. While acknowledging substantial improvements in assistance, these articles addressed the risk of aggravation of the already fragile nutritional and health situation, due to various factors, such as the rainy season, lack of crops, and persistent insecurity.

The articles stressed urgent needs: to strengthen food distributions, pointing the failure of the August WFP distribution in reaching their goal, and the risk for WFP to fail again in September; to continue mobilisation and deployment of aid in isolated areas; and to address the ongoing violence in certain areas in North and South Darfur, particularly sexual violence.



'Despite heavy mobilization of aid in Darfur, the situation remains fragile, and assistance must continue,' **Project Update**, MSF Website, 15 September 2004 (in English).

Extract:

Today, MSF has observed that the arrival of aid has, for now, made it possible to stave off the worst in the areas where we are working. Relief was deployed in the key areas where people fleeing repression had gathered. With Sudanese authorities easing travel restrictions and authorizations, other agencies were able to set up relief operations in

Darfur. Although the World Food Program's (WFP) general food distributions are still extremely inadequate, they have provided people with the means of survival. Health indicators have improved in the camps of West Darfur, including Mornay, Zalengei and Nyertiti. In Mornay camp, which houses 80,000 displaced people, mortality rates have been stable and below the emergency threshold for several weeks. [...]

Violence continues against civilians in certain areas.

While insecurity in West Darfur seems to have diminished markedly, the situation is still very tense in certain areas, specifically in North and South Darfur. Twenty thousand people fleeing attacks have recently gathered in and around Shariya and Muhajariya, east of Nyala (South Darfur). An improvised camp has also been set up near Kalma camp, which already houses 80,000 displaced people and where MSF still is treating 800 children for severe malnutrition at its therapeutic feeding center (TFC). In North Darfur, in the area of Al Fasher, several thousand people fled destroyed villages in late August. These pockets of destitute people as well as the continued arrival of displaced people at Kalma camp demonstrate how fragile the situation is in many areas of Darfur. [...]

A fragile health situation

The rainy season, which began in mid-July and will continue until October, still aggravates the health situation in the areas where people have gathered. Heavy rains promote the spread of malaria, respiratory infections, and diarrhoea, which are the primary reasons why people seek treatment in our health facilities. While malaria has been relatively under control, MSF fears a seasonal peak in October-November that could be deadly for people who are already extremely weak.

MSF has not yet recorded any cholera cases in the camps, but the combination of rains, poor hygiene and overcrowding makes an outbreak a real threat. Teams have pre-positioned supplies in case the illness should appear. [...]

Aid must continue and be deployed independently to isolated areas.

Displaced people who have lost everything are completely dependent on humanitarian aid. Most had their food reserves destroyed or looted and were unable to plant their fields. Their only means of survival is continued international aid. Despite harsh living conditions in the camps, they do not want to return to their home areas, mainly because they fear more attacks.

It is therefore imperative that aid mobilization continue, even if media coverage stops or Sudan disappears from the international political agenda.

A drop in aid delivery could have serious consequences for the displaced people. MSF is particularly concerned about the WFP's general food distributions, which failed to reach their August goal and risk falling even further short in September.

Humanitarian aid has had a significant impact in the large, displaced persons' camp, where the catastrophe MSF feared has been avoided. It is now urgent for aid to be deployed in villages and isolated areas where smaller groups of people remain destitute. While displaced people are said to be returning home, MSF has not observed any such movement in the areas where we are working. The displaced are still terrified, which is why MSF continues to pay close attention to possible resettlement and how Sudanese authorities in Khartoum may implement it. Any return must be voluntary and only with adequate security guarantees. MSF's provision of humanitarian aid in home communities will be conditioned on these two requirements.

On 1 October 2004, the medical journal *The Lancet* published an MSF / Epicentre article entitled, 'Violence and mortality in West Darfur, Sudan (2003–2004): Epidemiological evidence from four surveys.' This article was based on the results of several Epicentre surveys and on IDP accounts collected from various sites in Darfur.

The authors explained that though their findings did not substantiate claims that “events in Darfur amount to genocide, “but high mortality and family separations in the surveyed sites did “amount to a demographic catastrophe.” The authors documented the “striking extent of killings, [and] systematic accounts of other crimes, such as mass rape.” Together, these findings strongly suggested that between 2003 and 2004, populations in West Darfur experienced massive attacks against life and property.”



'Violence and mortality in West Darfur, Sudan (2003–04): epidemiological evidence from four surveys,' Evelyn Depoortere, Francesco Checchi, France Broillet, Sibylle Gerstl, Andrea Minetti, Olivia Gayraud, Virginie Briet, Jennifer Pahl, Isabelle Defourny, Mercedes Tatay, Vincent Brown, *The Lancet* website, [link to full paper](#), published online October 1, 2004 (in English).

Extract:

Summary

Introduction

The situation in Darfur, Sudan has drawn increasing international political and media attention. Although much interest is justifiably directed at relief needs, the violent events that brought about the humanitarian crisis have also come under scrutiny.

The present conflict in Darfur began in earnest in February 2003, with the emergence of two anti-government rebel groups (the Sudan Liberation Army and the Justice and Equality Movement). The ensuing anti-rebel offensive, led by pro-government Janjaweed militia and Sudanese army units, resulted in the displacement of more than one million people within Darfur itself, and the flight of about 188 000 to neighbouring Chad up until August, 2004. Militia attacks in particular were blamed by refugees and internally displaced people for indiscriminate killings, rape, abductions, cattle, and property looting, and razing of villages.

Available evidence on the extent of violence in Darfur largely relied on testimonies from refugees in Chad, or mostly non-quantitative assessments done when access was possible in selected sites within Darfur itself. Estimates of the number of people killed increased progressively from 3000 in January, to 10 000 in April, reaching 30 000 to 50 000 in July, 2004. To our knowledge, however, these figures did not represent systematically gathered epidemiological evidence, mainly because of the dire absence of international relief organisations working on the ground within Darfur.

Factors accounting for this lack of assistance included ongoing insecurity, severe governmental restrictions on the entry of international aid staff and material to Darfur, and low institutional donor interest.

Médecins Sans Frontières (MSF) was one of the first non-governmental relief organisations to obtain an authorisation to work in Darfur. Beginning in December 2003, the French section of MSF gradually implemented nutritional, medical, and water and sanitation programmes in several sites for internally displaced people in West Darfur state. As part of comprehensive, site-specific assessments of the health and nutritional status of these populations, we retrospectively measured the extent and causes of mortality both before

and after displacement to these sites. We also investigated the effect of the events on demographic structure. [...]

Our findings do not in themselves substantiate claims that events in Darfur amount to genocide, not least because this would require demonstration of such an intent on the part of the perpetrators, which is clearly beyond the scope of an epidemiological survey. Nevertheless, we believe that, in the four sites we surveyed, high mortality and family separations amount to a demographic catastrophe. While our data reflect the striking extent of killings, systematic accounts of other crimes, such as mass rape, have been put forward. Satellite maps have also suggested widespread village destruction. Together, these findings strongly suggest that between 2003 and 2004, populations in West Darfur experienced massive attacks against life and property. One of the most serious and long-lasting consequences of such attacks may be widespread mental trauma among survivors and witnesses. Although we did not survey this issue, we believe that it is largely overlooked in the present Darfur relief context.

The Darfur crisis resembles most armed conflicts, small and great, that have affected the world—in particular Africa—in recent years. The victims are mostly civilian. Women and children are not spared, although in West Darfur the risk of being killed was far higher for men. Displacement also results in excess mortality and loss of livelihoods, creating chronic dependence on aid. Aid itself is insufficient and late, often due to a deadly combination of international neglect and warring parties who do not grant humanitarian access to the affected populations when they need it most. West Darfur's case seems exceptional because of the overwhelming contribution of violence to mortality, resulting in crude mortality rates that were higher than mortality rates among children younger than 5 years, contrary to what is commonly observed.

In humanitarian emergencies, field epidemiology can, in addition to helping to orient and evaluate aid programmes, provide key scientific testimony about past events. Overwhelming epidemiological evidence on the consequences of armed conflicts, including that provided here, should be a tool to advocate respect for international humanitarian law.

On 6 and 7 October 2004, the MSF ExCom discussed the lack of a common movement-wide position on Darfur combined with a “feeling that the more vocal is the more heard.” Once again, the “genocide issue” was rehashed.

The MSF France justification of the “no genocide” position was challenged once more. MSF France reiterated the need to distance MSF from Western agendas in favour of “armed intervention to protect populations from genocide.”

MSF Holland/OCA regretted that the “no genocide” position did not include a stronger denunciation of the ongoing violence against the population.

A majority of the ExCom tentatively agreed there was no genocide and that it was not for MSF to call for a military intervention.



'Minutes of MSF ExCom Meeting, Paris,' 6-7 October 2004 (in English).

Extract:

Darfur [...]

• Communications:

Background: there is no common position and the feeling within the movement is that the more vocal is the more heard (MSF France on the no-genocide position in which other sections do not systematically recognize themselves). This situation led to a request to re-address the issue of our positioning re. genocide and military intervention, and ensure we represent the concerns of victims in Darfur.

Comments from the ExCom:

Genocide issue:

For Christian [Captier, MSF Switzerland/OCG] and Austen [Davies, MSF Holland/OCA], if we call it a genocide, we then have to review the past 40 years in South Sudan, Nuba Mountains as genocide. But in MSF HOLLAND, the feeling is that MSF does not have to qualify it and some in the sections questions the motives of MSF France: positioning themselves not to be considered in the US side.

For MSF France, it is impossible when so largely deployed in the field not to have a point of view about the Genocide. If we are convinced it is a genocide, we can't ask only for more help for the population (assistance is no more the issue). If we are convinced it is not a genocide, we also have to tell it because of the political agenda of western governments that use this qualification for other political reasons than assisting the population. And calling for a military intervention could have jeopardized all humanitarian efforts. Re. whether MSF is misused because of the "no genocide" communication line of MSF France, Pierre clearly prefers not to be trapped in the US/British hands, even if they still use some MSF data to try to show there is a Genocide. The Government of Sudan also tried to manipulate the MSF position. In such contexts all groups try to control what we say. It is not a reason to stop speaking out.

Although Austen has some sympathy with the MSF France position, he regretted that their positioning was not strongly associated with a clear condemnation of the violence against civilians. [We should] take more responsibility for communication that defends the best for the population.

Pierre answered that as a humanitarian organization, we have to focus on how to improve the assistance to the population. We have also to denounce massive violence against the civilians and the responsibility of the Government of Sudan. We did denounce the violence all the time and say the responsibility of the Government of Sudan.

As MSF Spain presence in Darfur is more recent, the position of the MSF France position. According to Gorik [MSF Belgium], we can't exclude eventual episodes of genocide, but real dilemma may be more on the issue of protection and military intervention: do we stick to neutrality, or do we go one step further and if so, to what direction? By deploying on the ground, haven't we contributed to protection and stabilisation? More protection is necessary, but we need to document what this means: we have very little analysis of other military interventions and whether they have been successful. [This] could help us position ourselves better in the future.

Tentative conclusion:

Positions within the ExCom members are not that opposed: it is not as clear as MSF France vs. The others: a majority of the ExCom agrees there is no genocide and that it was not to MSF to call for military intervention.

On 8 October 2004, during an International Council (IC) meeting, MSF International President Rowan Gillies, reported on his journey to Darfur in July. His impression was that there was a “massive, repressive campaign based on a war,” but that, “genocidal intent was almost impossible to prove.” However, he said it did not mean there was not a genocide occurring.

During the IC debate, the MSF role in this context was clarified: “to make the best description of the consequences of the violence,” but “not to give potential solutions,” and “not to call for protection” since, “protection is not in our charter / out of our scope.”

Some IB members argued that MSF France's communications could be feeding the Sudanese government's propaganda. Others believed that the October publication by MSF/Epicentre in the Lancet could feed into the US propaganda.



'Minutes of MSF International Council Board Meeting,' Paris, 8-9 October 2004 (in English).

Extract:

Political positioning on genocide in Darfur

Rowan first gave feedback of his trip to Darfur (July) where he visited all sections and nearly all MSF locations.

Re. genocide: Rowan did not see one but emphasized on the fact that it doesn't mean there isn't. His impression is that there are massive repressive campaigns based on a war but intend genocide is almost impossible to prove (there could have been intention at the beginning – a secret one?). For most of the field teams, this was not an issue: the feeling was that the security was bad but that it was still possible to work. When Rowan is asked by journalists, his speech on behalf of MSF is “we think there is massive violence against civilians”.

Re. Protection, there is still a significant level of violence going on and political decision has to come from the international community”.

Jean-Herve's position is rather similar: when in Darfur, he never mentioned the genocide issue as he thinks that it is not a relevant category to understand what is happening in Darfur. In the Le Monde tribune in September, it was a comment more than a positioning in a context of attempt to give genocide stamp more systematically on part of humanitarian / human right community (see HRW, Amnesty à their line is similar to ours) and his comment was to say that the genocide notion was “déplacée” (misplaced) in such a context (and it would rather be crime against humanity).

Main points of the debate:

The genocide issue has created significant discussion in the movement and gave the impression that Jean-Herve had overruled decision made by the directors of operations by going public re. genocide. It also gave the impression that the debate became public before having been internally matured. One feels that when questioned on the genocide issue, we cannot just say that we don't know while we have been in Sudan for the past 25 years à illustrate our position with data.

How does MSF address the need for protection / safety in Darfur? Feeling is (at least at ExCom level) that the debate is now on protection & military intervention: when some in MSF protests that the international community is not present enough and call for increased mobilisation, is it a tacit request for military intervention?

Question of the role of MSF: our job is to describe what we see and not call for protection (protection is not in our charter / out of our scope): we definitely have to make the best description of the consequences of the violence but don't have to give potential solutions.

Does MSF have responsibility on the consequences of what is being said?

Re. the feeling that MSF France communications is fuelling the Government of Sudan propaganda, it was argued that the article in The Lancet ["Violence and mortality in West Darfur, Sudan (2003–04): epidemiological evidence from four survey" – 1 October 2004] is considered to fuel the US propaganda. Whatever the position, there is always a risk of being recuperated [taken up] by any of the parties or being used by both parties, whatever the communications, demonstrate our independence.

On 27 September 2004, the MSF directors of operations specified that, MSF Darfur teams were confronted with varying levels of violence against the population, depending on the location. And, due to security and capacity constraints, MSF teams had not yet reached several areas of ongoing violence, that lacked assistance. This situation created different opinions about which MSF message should be employed.

The MSF Holland/OCA teams continually witnessed high levels of violence and thus, insisted that MSF "relay truthfully the nature of the causes of the suffering."

In early November 2004, MSF Holland/OCA released a report prepared a few months prior, entitled 'Persecution, Intimidation, and Failure of Assistance in Darfur.' The report included accounts collected from IDPs in camps in Darfur, where MSF Holland/OCA ran programmes, and pieces of the Epicentre report. The objective was "to create some understanding of the magnitude and depth of the suffering and the failure to address these problems."

The report revealed that "in all surveys conducted by MSF, the leading cause of death for those over the age of 5 years was violence rather than disease or malnutrition."

The timing of the report's release was challenged by MSF Belgium/OCB's director of operations over a concern that it might "feed into the ongoing demonisation of the Sudanese government and some of the politically motivated use of the humanitarian crisis to attack the government."



'Minutes of RIOD, MSF Director of Operations Meeting,' 19 August 2004 (in English).

Extract:

Darfur/Chad

Public Communications

MSF Holland is planning a public report to coincide with the completion of Epicentre mortality studies in September. The report will seek to frame and explain the results of the mortality data which will show both levels and causes of mortality and malnutrition. The report overall will aid to show the extent and the nature of violence against people

in Darfur and its impact on the health and nutritional status of the population through our medical data and the qualitative information and to illustrate the failure of assistance over the 9 months of humanitarian intervention in Darfur (since October 2003).



'Minutes of RIOD, MSF Directors of Operations Meeting,' 27 September 2004 (in English).

Extract:

Darfur

[...] The different MSF sections are facing vastly different situation in terms of violence and mortality. In South Darfur, the MSF Holland teams still see ongoing violence, continued displacement, and extremely poor conditions in several large IDP concentrations. In the large camps in central Darfur, the improved aid has led to a stabilization of the situation. This creates differing visions of our role in Darfur and conflicting messages emerging from our operations. The Belgian and Swiss teams expected to see extremely high levels of mortality in their areas of operations. These teams have had trouble in re-directing their strategies for a situation in which the mortality isn't as overwhelming or obvious. There is a fear that some teams remained out of touch with the community and therefore have ignored important sources of mortality and therefore have not developed an adequate response. Likewise, there are still some areas of ongoing violence and lack of assistance, which we have not yet reached because of security and capacity restraints.

The less than catastrophic levels of mortality should not be an excuse for lack of assistance, particularly since we are arriving after the death of many of the vulnerable groups and in light of the tremendous violence inflicted on these communities over the last year.

MSF Belgium questions the timing of the planned MSF Holland report which was presented and discussed in the August RIOD. There was concern that that report would feed into the ongoing demonization of the Sudanese government and some of the politically motivated use of the humanitarian crisis to attack the govt there. There was seen [to be] little need for MSF to publicly expose the nature and the extent of the abuses because there is already significant coverage of the ongoing abuses and needs from the media and human rights organizations.

MSF Holland feels that our tendency should be to relay truthfully the nature of the causes of the suffering of those we are serving in Darfur. MSF first came across reports of mass forced displacement, massacres, widespread rape in Sept and Oct 2003. In the interests of access to victims in Darfur, other sections pushed MSF Belgium to hold off on this report. Given the fact that aid in Darfur was still largely blocked for many months following this, we should deeply regret that we failed to expose the extent and the nature of the abuses on-going in Darfur to the public from the beginning of the crisis, though we do not know whether a hardline communication strategy would have impacted on MSF work in Darfur later. There will always be manipulation of our communications. We have to ensure that we remain true to what we are observing and documenting as part of our engagement with the victims in Darfur. MSF Holland feels that it is unacceptable to remain silent based on a political calculus. It is extremely unfortunate that this calculus has driven some of our communications in Darfur as this violated our trust with victims of violence and atrocities who we have cared for.

MSF Holland feels that it is all the more important to continue with the planned communication because of other MSF communications which have sought to downplay the levels of needs and ongoing violence against civilians in Darfur. Recent

communications focused on a few of the mortality studies and failed to cite mortality studies in nearby camps which demonstrated a much graver situation. To delay the communication would also mean running into the period of the US elections in which it will become exceedingly difficult to obtain public attention for the report.

For these reasons, MSF Holland will plan to go ahead with the report in early October. MSF Holland will circulate drafts to all other sections well before release so that comments and concerns can be considered. All sections also commit to sharing the results of all mortality and nutritional surveys done in Darfur so that this information can be used to highlight our concerns and direct our action.



'Minutes of MSF France/OCP Executive Committee Meeting,' 14 September 2004 (in French).

Extract:

Communication: Stephan Oberreit [MSF France Communications Director]

Sudan - Darfur

[...] The aim is to continue appealing to journalists while explaining how the sanitary situation is developing on the ground. They will find all the details in our online (this is a first!) press kit.



'Persecution, intimidation and failure of assistance in Darfur', MSF Holland/OCA Report, October 2004 (in English). [Link to full report here](#)

Extract:

Introduction

The scale and impact of violence has been documented in a series of nutritional and retrospective mortality studies, which MSF conducted through the spring and summer of 2004.¹¹ The results of these surveys reflect the pervasiveness of the violence and appalling consequences of the atrocities committed against people in Darfur, but also the failure of the response to aid the victims of this violence.

In all surveys conducted by MSF, the leading cause of death for those over the age of 5 years was violence rather than disease or malnutrition. In one study in Wade Saleh district in West Darfur, 60% of the deaths in people above 5 years of age were due to violence. Surveys completed by MSF in September 2004 showed that the leading cause of death (32.5%) suffered by displaced people living in Kalma camp over the previous seven months was violence and this figure was a staggering 78% of those aged 18–49 years. Among the displaced population in Muhajaria and Shariya, who had not been exposed to violence in the first part of the year, mortality was relatively low. But mortality recently surged due to new fighting and recent displacement – almost entirely in those over 5 years of age (95.5% of all deaths in those aged 18–49 years was due to violence in the previous 30 days prior to survey).

While men seemed to be the primary target, women and children were also killed in large numbers. Studies in the large, displaced [people] camps of Mornay in West Darfur showed that 75% of the deaths of adult women resulted from violence. In the villages around Mornay, which had been torched in the campaign of terror, an average of 5 percent of the total population was killed. Those who survived told MSF staff of people

11. Epicentre surveys in Kalma, Kass, and Muhajaria, September 2004; Epicentre survey in Habilah, August 2004; Epicentre survey in Kabkabiya, August 2004; Epicentre survey in Murnei and Zalingei, June 2004; MSF Holland/OCA food and nutritional survey in Wadi Salih and Mukjar provinces, April 2004.

being locked in houses as they were set afire. MSF staff saw clear signs of torture evident amongst some of the survivors.

The camps of refuge have been turned into congregations of fear, in which people claim they live under the guard of some of the same armed men who burned their villages and killed their families. The displaced are too scared to go home and yet frightened to remain where they are. In several camps, people were too scared to transport wounded children to a hospital, fearing to be attacked on the road. Although the Government of Sudan has claimed that the violence has been brought under control, the displaced still face violence and intimidation.

The massive violence against civil populations resulted in elevated mortality, destruction of livelihoods and flight. The terrified populations that crammed into towns and villages across Darfur, seeking relative safety then suffered a second calamity. These terrified populations faced suffering and death due to a massive public health crisis induced by deprivation during their ordeals and lack of shelter, water, food, an adequate sanitary environment, and access to essential health care. The aid programme was one year late and remains inadequate.

Even in the easily accessible Kalma camp, located 30 minutes from the major urban centre of Nyala, 3.2% of children still suffered from severe malnutrition in September 2004. For many months, the 75,000 people in Mornay camp were forced to survive on less than 1,000 kilo calories per day – less than half of what is minimally required to sustain a human being. Less than a third of the families in the large camps in Kass owned any soap – essential to avoiding diarrhoeal and skin diseases.

The lack of assistance has forced people into desperate measures and dangerous survival mechanisms. In the displaced settlements, people are forced to search for firewood to exchange for food even though it means running the risk of rape for women, of execution for the men. Some told MSF that they were so desperate and so scared they would send the children out in the hours before dawn to search for wood – in the hope they would be less subject to attacks.

In the following pages, MSF seeks to convey what has happened to the health of people in Darfur based on data emerging from our clinics and surveys. We do this in order to create some understanding of the magnitude and depth of the suffering and the failure to address these problems. We try to combine this with a human perspective gathered from the conversations and laments of the thousands who came to our clinics for assistance but who themselves were unable to remain silent about the atrocities committed against them and their families.

While this picture of suffering, which has left hundreds of thousands of broken lives amidst the burned-out houses and villages of Darfur is a reflection of what has happened, we have to remind ourselves that this violence and suffering has still not ended. The people of Darfur continue to live in fear of violence and intimidation, even while an assistance effort goes on around them.

On 18 & 19 November 2004, the MSF International Council organised an internal conference in Geneva on “Dilemmas and MSF Speaking Out,” based on the MSF Speaking Out Case Studies from the Genocide of Rwandan Tutsi. Representatives from the whole movement attended. The relevance of MSF qualifying genocide, specifically on the Darfur situation, was again discussed.



'Minutes of "Past, present and future dilemmas: MSF speaking out," MSF Internal Conference,' Geneva, 18-19 November 2004 (in English).

Extract:

Qualification of genocide in the case of Darfur: Should we talk? Is it our role?

The meeting participants debated the existing legal frameworks available to qualify genocide and discussed if available definitions were adequate or needed to be superseded by something else. Kate Mackintosh of MSF Holland's humanitarian affairs department summarized the history of the Convention of 1948, which includes a legal definition of genocide that was adopted by UN Member States after the horror of the holocaust. She stressed that this is the only legal definition of genocide that Member States have ratified and raised concerns about attempts to weaken it.

Kate questioned whether the presence of genocide means that organizations such as MSF cannot work. She asked, "Can we define genocide as our inability to work? That is, we can't work in a context, therefore it must be genocide?" She disagreed with this idea pointing out that genocide can also take place slowly through famine and other hardships. She also said that the determination of genocide is extremely difficult to ascertain while it is taking place. That is, it is hard to see clear intent to destroy an entire group. Because of all this uncertainty, many would argue that humanitarian action should go on.

When MSF speaks out in situations that might involve genocide, it often speaks out on indicators instead of actually defining the situation as genocide. However, if MSF has strong signals that a group is being targeted, many argued that MSF should send out a warning.

There are now debates in the movement about using the word "genocide" in Darfur and other locations. Some believe we use it too often. They see it as "crying wolf" and fear that it may devalue the term. If MSF does not think that genocide is taking place in a context, then it can say that the organization has not seen the indicators. But Kate Mackintosh questioned why MSF would want to say that there is no genocide in a particular situation. She questioned the motive for doing so and suggested that it was tied to a political agenda, as in the case of Darfur, where she stated some have said it as a reaction to the US pronouncement that there was genocide. The question was raised if such a pronouncement could deprive a group of possible protection.

Others in the audience, led by Fabrice Weissman, director of research at MSF Frances Foundation, viewed the Convention's definition as too legalistic and vague. Instead, they argued, there needs to be a more "popular" definition of genocide. They found that the Convention's vague wording made it possible to think genocide was happening in almost every conflict. Using the examples of Liberia, Tibet, Ethiopia, and Chechnya, they stressed that each included well-documented violent acts aimed at certain groups with the intention of wiping them out. The audience debated whether it was right for any racist crime be considered genocide or if that would dilute the seriousness associated with genocide. As Fabrice Weissman said, "If you have genocide everywhere, then you have it nowhere."

Many were frustrated by the fact that the US Secretary of State Colin Powell had called the situation in Darfur genocide, and nothing had happened. They saw that as evidence that the term's power has been diluted through overuse. Fabrice Weissman also emphasized that MSF has a responsibility to tell its supporters why it is qualifying a certain situation as genocide. He saw it as important to explain how we see the situation and why we are still working there.

Defining genocide

Members of the audience wondered if the definition of genocide was a good foundation for the discussion. Others wanted MSF to talk about crimes against humanity instead of focusing only on genocide. There was some protest on the hierarchy of crimes. That is, some believed genocide is not worse than a crime against humanity. As one participant said, "One crime is just as horrible as the next. A crime is not worse because we call it genocide."

Many participants were strongly opposed to the idea that MSF might disregard the Convention. They reminded the group that 135 states had already signed the Convention and that the definition existed. Some felt it was not right to make a legal argument or try to analyse the US government's strategy in using the term. They called on MSF to talk about its own experience with tens of thousands of people in Darfur and to use that as the basis for testimony instead of personal views on US foreign policy.

A large number of participants agreed that it was not the legal definition that caused the problem. They saw the value of having an agreed definition and legal tool. Françoise Saulnier of MSF-F reminded everyone that it was important to address the political manipulation of the convention definition, and not discard it. The fact that there is no convention implementation mechanism is what seems to cause it to fail.

Some believed that Darfur's civilians were the targets of genocide, and that the Sudanese government might be manipulating humanitarian aid organizations so that they could not see the true extent of the violence.

Preventing genocide

One audience member pointed out that we need to be realistic. The previous presentations had shown that MSF was unable to help our colleagues escape in Rwanda, yet we were now giving MSF the responsibility to define and stop genocide.

Others stressed that an MSF call for military intervention sacrifices the organization's neutrality. It will also destroy some victims. In Darfur, many believe massive crimes are taking place. They wondered if our experience of genocide is based on the bad memories of Rwanda. Some asked: should MSF judge the competence of a military intervention or the reason for it? Participants said many had become disillusioned by military intervention. They thought MSF should push for more effective measures.

Protection and solidarity

Members of the audience said it makes no difference to the people on the ground if a situation is called genocide or a crime against humanity. In Darfur, some said, there is a situation of impunity, where military groups can do what they want, and no one cares. They don't mind if others see it. This is unacceptable. MSF should not get bogged down in legal issues. What is most important is to show the people that MSF is there and is with them. If an organization remains silent, there is always a price to pay. As one participant remarked, "The victims need to know whose side MSF is on."

On 18 November 2004, the MSF International Council President, Rowan Gillies, addressed a letter to the UN Security Council members. This letter was posted on the MSF website. It highlighted the serious health impact of ongoing massive displacement, precarious living conditions, and food shortages in Darfur.

It denounced the unfulfilled promises from both the Government of Sudan and world leaders: to bring sufficient assistance and to stop violence against populations. The letter also denounced attacks and robberies against MSF teams and called for security and safety measures for the welfare of the population and for the effective delivery of assistance.



'Catastrophe in Darfur: unmet promises and continuing violence,' **Letter** to the members of UNSC, Dr Rowan Gillies, MSF President of International Council published on MSF website, 18 November 2004 (in English).

Extract:

It has been six months since Médecins Sans Frontières (MSF) briefed the Security Council on the massive suffering and death toll which had resulted from militia attacks on villages and the forced displacement of hundreds of thousands of residents in the Darfur region of Sudan.

Despite several resolutions and pledges since that time, neither the Government of Sudan nor the international community has provided sufficient assistance and security to the people in Darfur.

Over 18 months since they were burned out of their villages and after numerous promises from the Government of Sudan and world leaders, people's lives are still under daily threat.

The people of Darfur have endured a vicious campaign of violence and terror which has led to massive deaths and forced more than 1.5 million people to flee from their destroyed villages in search of safety. At the beginning of November, MSF released a report, which shows the pervasiveness of the violence and the appalling consequences of the atrocities committed against people in Darfur.

In makeshift settlements throughout Darfur displaced people tell MSF that they are living under the guard of some of the same armed men that burned their villages and killed their families. They are too scared to go home and yet frightened to remain where they are, often they have moved from one place to another in order to find some safety.

People still face intimidation, extortion, and terror in areas where they have sought refuge from the violence. Over the past weeks there have also been incidents of forced and violent relocation of displaced people. This is in violation of the agreement on voluntary relocation signed between the Government of Sudan and the International Organisation for Migration.

MSF clinics receive new rape cases every day. Hundreds of these women have been brave enough to come forward and tell us what happened. In one clinic serving a small camp, 20 women came to us and reported that they were raped within the last four weeks. There is no doubt; these numbers are only the tip of the iceberg.

Although the amount of aid has increased during the last six months, it is still insufficient and often of poor quality. Mass displacement, precarious living conditions and food shortages have a serious impact on the health status of the population.

In addition to violence, the main reported causes of deaths are diarrhoeal diseases, respiratory infections, and malaria.

The high incidences of these diseases are preventable and are traced to the lack of adequate shelter and appalling water and sanitation conditions in the camps. MSF is working in 26 locations and other agencies in many more, however there are countless pockets of displaced settlements, which still have not received any food or relief aid.

The continued violence against the displaced people has also been accompanied by attacks on aid workers. Several staff of aid organisations have been killed in government

and SLA-controlled areas in recent weeks. In addition, MSF teams have been attacked and robbed on several occasions.

This has a major impact on the already limited aid being transported to the rural areas in Darfur. Simple life-saving interventions such as measles vaccinations is often not possible.

The international community has pledged to help the victims of this crisis with assistance and protection. The assistance still needs to improve so people in Darfur receive adequate food, clean water, and shelter.

More importantly, security and safety need to be put in place for the effective delivery of assistance and welfare of the population. No party in this crisis has taken adequate measures to ensure the cessation of violence against civilians in spite of the many assurances made.

On 26 November 2004, MSF Belgium/OCB issued a press release on the evacuation of its team from a health centre in Korma, North Darfur. This was due to a surge in violence and forced relocation of the displaced in the area. A mass measles vaccination campaign was also hindered.



'Renewed violence in North Darfur state forces MSF to evacuate from health centre,' **Project Update**, MSF Website, 26 November 2004 (in English).

Extract:

Médecins Sans Frontières (MSF) has evacuated a nine-person team from the town of Korma, in North Darfur, due to a new surge of violence in the region. Over the weekend, the team treated 12 people with bullet wounds resulting from fighting. The renewed violence, which escalated on Sunday (Nov 22) around the town of Tawilla, occurred despite a ceasefire agreement between government and Sudanese Liberation Army (SLA) forces.

"The evacuation of the MSF medical team from Korma means that there is now extremely limited access to health care for the population in the area," says Dr Nathalie Civet, MSF's head of mission in the region. "Before fighting resumed this weekend, we had been setting up a health clinic in the town, since the previous medical facilities were looted and vandalised during fighting in March. There is now not only a lack of emergency care for those wounded during the ongoing violence, but also a total absence of basic health care to deal with diseases such as diarrhoea, malaria, and respiratory infections."

"When children are dying of these easily treatable illnesses, it is incredibly frustrating that our medical work is being jeopardised by insecurity." Current MSF figures from projects in several locations across North Darfur show that 40% of deaths amongst children are due to diarrhoea, which is simple to diagnose and cure.

Three children died of cerebral malaria in Korma in the last fortnight, all of whom arrived too late to be treated successfully. There have also been some suspected polio cases in the region. MSF's mass vaccination campaign against measles has also been hindered by insecurity in North Darfur over recent months, although 42,000 children have now successfully received the life-saving vaccine.

V. 'THE CRUSHING BURDEN OF RAPE, SEXUAL VIOLENCE IN DARFUR' AN MSF HOLLAND/OCA REPORT (March to June 2005)

A. INCEPTION (2004-Early 2005)

Since the start of MSF's Darfur interventions, teams heard about and treated women raped during attacks in villages and in the vicinity of displaced camps, particularly when collecting wood and water.

On occasion, MSF would directly confront the Sudanese authorities concerning rape perpetrated by government units (police, army, militias) under their responsibility, but the situation did not improve.

In 2004, an MSF Holland/OCA midwife started collecting data and accounts from rape victims who spoke with her during consultations in MSF programmes in Garsila.

In late 2004, an MSF Holland/OCA Humanitarian Affairs Officer, Aurélie Lamazière, took over this task, which was expanded to five other projects.



In Garsila, the teams regularly witnessed the consequences of the rampant violence over the course of their work. There was a difference between rural areas such as Garsila and the camps, where there was a sense of protection in numbers. In the rural areas, the patterns of violence were repeated, again and again. The project coordinator was a nurse and had been there for a very long time. She said they often heard the same stories.

I began sorting through the medical data, speaking to the various people who collected it to lend it a sense of cohesiveness.

The women of Darfur would never have willingly reached out to a 'Reproductive Healthcare' programme. The accounts were in fact gathered in the children's nutrition centres, where the women would talk while they spent hours waiting. They confided in the nurses too, who fed the information back to us in turn. In the healthcare centres too, some doctors and nurses heard stories while they were providing suitable treatment. I can't remember exactly what figures I chose to use, but they were checked by the medical staff, and so were trustworthy.

Aurélie Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan, April 2004 to April 2005 (in French).



It started in West Darfur. The midwife was administering post-exposure prophylaxis and a certain amount of relatively low-level counselling, but also HIV tests and attempting to address unwanted pregnancies. For several months, she'd been gathering testimonies on rape. She'd done an extremely good job in cataloguing witness statements and in maintaining a level of confidentiality whilst pulling together the file of all the different statements that she'd taken.

Aurélie was impressed by the quality of the accounts. We used the midwife to do training else-

where in Darfur. So, she went to all the projects, spoke to all the medics who were dealing with maternal and child health. We expanded the data collecting from one project where it was effective to five projects where very quickly the volume of data increased.

Aurélie started working on the database and bringing together some of the witness statements. She wrote a document which had data analysis. So basically, in its first form, we had two documents. The first was an epidemiological analysis of the data ... it said 3% of the people were raped during ongoing conflict, which meant 97% of the victims or the survivors of sexual violence were raped whilst going about their daily duties, which mostly were managed by the Sudanese authorities. Document one was the data analysis. Document two was a book of witness statements with lots of different quotations from different people.

Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005 (in English).



In the course of the work in Darfur, we felt we were seeing rape, which was punitive. It was used as a means of repression. Secondly, we saw a chronic lack of support for people who had been raped. And that was partly because of government restrictions and obstruction. So that's why we started researching and collecting more data on it. And with that data, we started to pressure the Sudanese authorities going to senior officials saying: your officials, your police or whatever unit, are committing rape in these places. And we think this is illegal, we think this is a violation and we think you should do something about it because you are the government, because you are the commanders of these people.

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).



In It grew out of what we were seeing on the ground. We had a lot of clinics, mental health programming. At the time it was probably not as good as it is today. But we were in the right places, and we had people making sure that we understood how to handle those situations. Doctors hired in Sudan [...] very infrequently women, especially [when it came] to leav[ing] the big city and go[ing] out to Darfur. We had female humanitarian affairs officers on the ground. And I think that plays into it. We were seeing violence regularly and we were tracking all types of violence. But the one that stood out was sexual violence. We were trying to be careful and do not say that we have judged it a rape, but that they claimed that they'd been raped. Many of these rapes had taken place sometime before the women came to us. They had injuries and other consequences consistent with a rape and the stories were circulating. We had good ingress, and we heard these stories, and we documented them. And then it's what do we do with them?

Marc DuBois, MSF Holland/OCA, Humanitarian Affairs Advisor, 2001-2004, Head of Humanitarian Affairs Department, 2005-2007, Senior Researcher, 2007-2008, MSF UK Executive Director, 2008-2014 (in English).

Most of the MSF Holland/OCA executive team, supported by the humanitarian affairs department were aware of the seriousness of sexual violence incidents in many contexts. They were keen to issue a report that could have a large impact, particularly in Darfur, where Sudanese authorities seemed to ignore their alarms.

Some MSF field workers were reluctant to work on this issue, even medically, for fear of possible consequences. Others said that the scope of the problem in Darfur was small, compared to that of the DRC/Congo.

In late January 2005, MSF Holland/OCA issued an advocacy strategy on their “Sexual and Gender Based Violence (SGBV)” response in Darfur.

According to this document, the objective of an accurate collection of narratives from victims was to monitor the trends and scale of sexual violence and identify patterns. The decision to publicly release this information was to be taken by the coordination team in agreement with the field.

Data collection regarding medical evidence of assaults was required for “potential legal channels.” The document mentioned the “possibility to share accounts with legitimate investigators,” such as human rights organisations, UN investigators, and human rights entities.



'MSF Holland SGBV Response **Advocacy Strategy**,' Darfur, 31 January 2005 (in English).

Extract:

Why do we need accurate data collection on SGBV [Sexual and Gender-Based Violence]? [...]

- Monitoring trends of sexual violence to better respond to beneficiaries needs.

In SGBV cases, we collect narratives. It is the story the patient tells us. Some people refer to SGBV narratives as testimonies. However, testimonies are collected in a different way for different purposes. Recording narratives from patients is extremely relevant to monitor the trends and the scale of the problem. This will give us indicators of the prevalence of the problem and changes in the pattern (i.e. cases of domestic violence, increasing violence inside towns/places of refuge, etc.). It is important to record the story step by step according to the patient's words. [...]

- Advocacy by analysing trends in multiple stories narratives.

Based on proper data collection, MSF can choose to be vocal about the pattern of sexual violence that we witness in our different projects. It all depends on the trends that we are able to establish and the reliability and accuracy of our own data. The coordination team, in agreement with the field teams, decides how and when to speak out about the pattern of violence. There are different channels of advocacy that can be used: from passing on our information to reliable actors (such as human rights groups, which can speak more openly about such an issue) or using our information ourselves to advocating for more security and protection of the people we treat.

- [...] For potential legal channels

In case of potential national (Sudanese court, police investigation) or international prosecution (international tribunal), the victims of sexual violence need to have medical evidence of the assault.

Any physical evidence should be noted on the medical certificate. If the victim consents, the medical examination is the most accurate check-up of the physical condition of the patient. However, if the patient does not give consent, any sign of physical AND mental trauma (that are obvious even without examination) should be indicated on the certificate.

Women should have access to their medical record at any time during the 10-year period following the consultation. Therefore, medical certificates will be kept for an indefinite period (until further notice). One copy of the medical certificate should be kept in Nyala. The other copy should be kept in Khartoum. [...]

For the protection of the patient:

- NO NAME will be put on the medical certificate. UNLESS THE PERSON ACCEPTS IT AND TAKES IT WITH HER [...]
- All medical certificates (ONLY 2 COPIES PER PATIENT: one for the victim, if she wants it, and one for MSF) will be sent to Nyala. The MSF copy will be forwarded to Khartoum to be kept in a safe and confidential place. [...]

Possibility to share story with legitimate investigators: [...] But MSF can still pass on information/narratives to a limited list of legitimate investigators: Amnesty International, Human Rights Watch, Office of the High Commissioner for Human Rights and the Genocide Commission of Inquiry). It has to be clear for patients that passing stories on may not help on an individual level but will contribute to larger advocacy efforts.



In Sudan, abortion was only legal within marriage. If women were seen to be pregnant because of gender-based violence, they were automatically charged with immorality or indecency or having sexual relations outside of marriage or whatever. And there was a process of medical certificates and legal certificates, which basically criminalised the women and protected the men.

One of the bigger objectives of MSF Holland was to challenge the legal system which criminalised women for being the survivors of rape. In Amsterdam that was a very well-thought-out objective. Things have changed recently but to have a strong female centric focus on maternal and child health and sexual health was not universal in MSF. However, at the time in Amsterdam, there was a strong focus on that issue.

Mark Dubois [MSF Holland Humanitarian Affairs Officer] had been very instrumental in producing a report in Angola, which was quite powerful, and MSF thought it was well received. In this report, he used witness statements as an illustration of the horrors of war. I'm sure he wanted to do similar with this report. Kenny [Gluck, Director of Operations] always had a view on something that would have a big impact.

It went from basically a scientific medical report with some statements at the end to a very hard-hitting document. And unfortunately, in my opinion, it did the very same thing that we all criticised Jean-Hervé, the President of MSF France for, which is that it politicised the humanitarian narrative

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*



From the beginning, from the operations side there was an understanding that this is a tough conversation [...] but I remember very clearly that the management team of MSF Holland and the operational manager were supportive all the way through.

It had support through the operational line, while for instance, in Myanmar and the Rohingya issue, the Humanitarian Affairs Department team never had that support to speak out.

Marc DuBois, MSF Holland/OCA, Humanitarian Affairs Advisor, 2001-2004, Head of Humanitarian Affairs Department 2005-2007, Senior Researcher 2007-2008, MSF UK Executive Director, 2008-2014 (in English).



In our meetings with the United Nations agencies, everyone repeated the catchphrase: 'Sexual violence occurs throughout Darfur.' But nobody knew what that truly meant. They would add: 'but it's not that serious.' Within MSF, I also heard comparisons being drawn: 'OK, so there's sexual violence in Darfur, but it's not that serious, it's not on the same scale as the Democratic Republic of Congo.' We thought to ourselves: 'This is unbelievable. One rape is less serious than thousands of rapes, but it's still one rape too many.' At the time, some of the medical staff understood that we wanted to take a closer look at what was going on in terms of sexual violence, but others wouldn't hear of it. They didn't even want to say the word with their patients, or with the people they were trying to help. What ended up being voiced publicly could undoubtedly have been spoken earlier.

Auréli Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan, April 2004 to April 2005 (in French).

Initially, the MSF Holland/OCA report was to be used as a "lobbying document to draw the attention of all concerned parties and to the relevant actors to put an end to the pattern of violence."

However, after MSF complained several times to the authorities about rape of women in detention facilities, some of these women who informed MSF, were suspected to have been released, and raped again. After this realisation, MSF Holland/OCA decided to publicly issue the report. The director of operations went to Khartoum to inform the coordination team.



'MSF Holland/OCA Advocacy strategy SGBV Briefing Paper,' March 2005 (in English).

Extract:

T. 4-page briefing paper on SGBV

Objectives of the report:

The briefing document addresses the ongoing sexual violence across Darfur.

It should be used as a lobbying document to draw the attention of all concerted parties and to the relevant actors to put an end to the pattern of violence.

It aims at:

- Presenting qualitative and quantitative data from the victims MSF have treated.
- Drawing the attention of the Government of Sudan and the international community to the ongoing sexual violence that women in Darfur are subjected to in their daily life.
- Encouraging relevant actors to intervene and put an end to the ongoing sexual violence.

Outline:

1st part:

- Introduction
- Data from West Darfur, between October 2004 and first half of February 2005
- Contextual information: how/in which conditions the rapes happen.
- Conclusions?

2nd part:

- Narratives

Deadline for release: March 8th, 2005 (on the occasion of the International Women's Day)

!!! NO RELEASE BEFORE PRESENTATION OF THE BRIEFING PAPER AT THE FIELD LEVEL !!!:

absolutely necessary to present it to the HAC at Khartoum and Nyala levels.

Distribution list:

In Khartoum:

- Humanitarian Aid Commission (HAC)
- Donors: DFID, ECHO, Irish donors, USAID, CIDA, etc.
- Embassies (Dutch, French, American, British, etc.)
- UN agencies: UNHCR, OHCHR (head of Human Rights Monitor + Genocide Commission of Inquiry), UNFPA, UNOCHA (Da Silva), UNSRSG (Jan Pronk).
- Other actors?

In Nyala:

- Humanitarian Aid Commission (HAC)
- UN agencies: UNOCHA, UNHCR, OHCHR
- Other actors?

In Europe:

This briefing paper should be used as a priority as a lobbying document to the relevant actors (separate from purely communication activities):

- Dutch Government
- Human Rights Groups: Amnesty International, Human Rights Watch, Sudan platform
- Other actors??

Communication:

Presentation of the briefing paper as a case study (part of the MSF communication on Sexual Violence during International Women's Day): combined with reports on DRC and Burundi)??? Need to be finalised.



People had already used that data with encouragement from the Humanitarian Affairs Department to make representation to the authorities saying women are being raped, there is gender-based violence going on as part of this conflict, and you're not doing anything about it.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*



We put out the paper on rape for a lot of operational reasons. We had been complaining to the government about rape in detention facilities, which we were seeing the results of in clinics and in hospitals. And finally, when they tried to track down women who might have told us these things and rearrested them and raped them again [...] They didn't have any names or anything, but we had been saying: there are people being raped in detention facilities. So, they went and aggressively tried to figure who might have talked to us. That's when we decided to go publicly with this.

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).



In January 2005, I was made aware of the intention of our headquarters to do a report around Women's Day based on the testimonies that I knew were being collected from victims of violence. In February 2005, when I passed through Khartoum, Pete Buth, the Programme Manager, was there, and we had a conversation. 'We are going to launch a report about sexual violence based on the testimonies we collected [...]' said Pete. It was not a question; it was a statement. Paul [General Coordinator] said, 'Yeah, let's do it.' And I said: 'Well, I'm not so sure. Is it worth the hassle? We're going to get a lot of shit for this. What about security?' I was the most conservative. My concern was largely security. I was thinking like the classical head of mission, short-sighted, putting security continuation of my mission before humanitarian principles. Paul said: 'Don't worry, they're not going to kill us. They're not going to put us in jail. They're not going to close a mission. They may throw one or two people out of the country, maybe Persona Non Grata. They're just going to increase their bureaucratic torture. Every travel permit that now takes two weeks will take four weeks. Every cargo that takes just three months to clear will take six months to clear. I think that's the price we should be willing to pay.'" He really read it perfectly!

Pete said: 'Vince, if you don't want it, tell me in time. We'll get you replaced by somebody else.' It was not meant like, 'We don't respect your opinion,' nor like false democracy. They meant: 'if you really can't live with this, if you think this is not worth the risk, fine, then let us know. Maybe somebody else should take over your responsibilities.'

The next thing was that a report was drafted, and it was shared by email. And as the drafts come in, I must say I grew towards it. I didn't get less concerns for security, but I got more passionate about: 'yeah, this stuff must go out.' I became more enthusiastic.

Vincent Hoedt, MSF Holland/OCA, Coordinator in Darfur, October 2004 to June 2005 (in English).

After several edits, the content of the briefing paper was validated by both MSF in Amsterdam and Khartoum. However, the presentation was not formally discussed. Therefore, when the MSF Holland/OCA team in Khartoum received the final version, a couple of days before the release date, they were surprised and even a bit upset.

The briefing paper was now presented in a 4-page document in which MSF Holland / OCA addressed the ongoing sexual violence in Darfur with a graphic cover and the following quote on the front page: "After they abused us, they told us that now we would have Arab babies; and if they would find any Fur woman, they would rape them again to change the colour of their children."



'The crushing burden of rape, sexual violence in Darfur,' Médecins Sans Frontières **Briefing Paper**, International Women's Day, 8 March 2005 (in English).
[Link to full report here](#)

Extract:

"It happened last August when we were in our farms outside the village. We saw five Arab men who came to us and asked where our husbands were. Then they told us that we should have sex with them. We said no. So, they beat and raped us. After they abused us, they told us that now we would have Arab babies; and if they would find any Fur woman, they would rape them again to change the colour of their children."

Three women, 25, 30 & 40, October 2004, West Darfur

The crushing burden of rape

Since early 2003, the people of Darfur have endured a vicious campaign of violence, which has forced almost 2 million people to flee from their destroyed villages in search of safety. Rape against women children and men has sadly been a constant factor in this violence throughout this campaign of terror. More tragically, it continues to this day even long after people have fled from their villages. The stories of rape survivors give a horrific illustration of the daily reality of people in Darfur and especially of women and young girls, the primary victims of this form of violence. It has has to stop.

MSF teams have been assisting people fleeing their villages since 2003 in Darfur and in neighbouring Chad. These first waves of people in flight repeatedly recounted to our teams how armed militias attacked their villages, killing and raping the inhabitants. The hundreds of thousands who fled the destroyed villages have now sought refuge in makeshift camps with little but rags and sticks as shelter. But they have found no safety there.

In spite of high-profile visits of the world's leaders, people still face persecution and intimidation inside the camps. Rape, a feature of the attacks on their villages, has now followed them insidiously into their places of refuge. Families, in order to sustain themselves, have to continue collecting wood, fetching water or working their fields. In doing so, women have to make a terrible choice, putting themselves or their children at the risk of rape, beatings or death as soon as they are outside the camps, towns or villages. Rape has serious consequences for women's health and well-being, especially without adequate access to health care and general proper attention.

Between October 2004 and the first half of February 2005, doctors from Médecins Sans Frontières (MSF) treated almost 500 rape victims in Darfur. Given the great sense of shame, humiliation and fear felt by victims of sexual violence, a sense which discourages them from going to a health facility to receive treatment, MSF strongly believes that the numbers recorded are only a partial representation of the real number of victims. [...]

Alarming reports [...]

Brutal assaults [...]

Assaults during daily activities [...]

Multiple rapes and abductions [...]

Medical and social effects of rape [...]

Victims treated as criminals [...]

Conclusion

Rape is one of the most insidious forms of violence to which people in Darfur and other conflicts have been subjected. Lacking the flash and thunder of other weapons it has failed to call upon our consciences and action. Unlike the victims of gunshots and beatings, the crime, and its victims are often driven into the shadows – too scared or too ashamed to seek help. However tragic and devastating the consequences, rape has not received the attention that the massiveness of the crime nor the gravity of its impact would call for. This has to change.

Rape as a form of violent oppression against civilians continues to plague people in Darfur and in conflicts throughout the world. MSF clinics and hospitals still see an unending stream of rape victims in search of assistance. In most societies and conflicts where we work there are very few places for them to turn.

Rape destroys individual lives, traumatises the population and fractures society. Rather than care, the women and children who are subjected to sexual violence receive rejection. The horrific practice we have seen in Darfur of actually imprisoning the victims of rape rather than providing them medical care, adds to an already appalling pattern of neglect and abuse. All too frequently the victims of rape find inadequate care even when they do make their way to a clinic. In many places the fear of mistreatment and stigma stops people from searching for necessary assistance.

In Darfur, and in conflicts throughout the world, it is necessary to stop the ongoing crime of rape.

- This form of warfare against civilians must be stopped. Local authorities need to end their tolerance of this crime and must end the impunity of the rapists and their accomplices.
- Local government and other health care providers must ensure full and appropriate treatment for victims of sexual violence.
- There should be an end to the stigma and rejection faced by victims of rape which leads to additional victimisation and the undermining of their future livelihoods.



When we sent it to Amsterdam, it was essentially two reports. It was a data analysis with a narrative which was written by Aurélie and corrected by me. And then it was a bunch of witness statements. It went backward and forward one or two times in draft in that format. Then all said, 'this is the content of the report that we should release.' We'd agreed 100% of the content. But we hadn't discussed the order of presentation. Then when the report came back to us a day or two before release, it had a picture on the front of some distressed looking African struggling with a fallen donkey and had a quote on the front page, which had never been the first quote and never been on the front page, never been used in isolation. It was about people trying to alter the genetic make-up of the whole population using rape as a weapon of war.

It was all real and it was all valid, and there was no artifice, no creation, no misleading. Except, of course, that it was a very clever manipulation of the different elements in the report to make it a little bit more hard-hitting. And it sure as hell did that.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*



We felt backstabbed. You clear a report which is sent by headquarters, 'guys, do you agree with it this way?' With so much reluctance and concern for security [...] And then after it's cleared, somebody slams a picture and a statement on it. Well, for those of us then in Darfur, the concerns picked up again. So up until that moment, carefully, our enthu-

siasm grew and even if it was going to complicate our work, we were willing to do it. Once it was out, we thought: 'Aah, this is going to be trouble!'

*Vincent Hoedt, MSF Holland/OCA Coordinator in Darfur, October 2004 to June 2005
(in English).*

With the release of the report, security precautions were taken to mitigate any risks for MSF patients and teams in Sudan. All the accounts and testimonies of raped women were brought to Khartoum and stored in a safe in the MSF office.



We took significant precautions. The midwife who had gathered all the witness statements had left the country. We were able to say that these are all historical incidences.

They're all genuine. They were supported by a big dossier of witness statements which were transported from Nyala back to Khartoum before we released the report. And they spent the next two months in my safe next to my desk.

Vincent Hoedt, the Darfur Coordinator, was relatively okay with the report, but a little nervous of the implications. So, it was agreed that I would be spokesperson in Khartoum and there were spokespeople allocated in Amsterdam. Our Medco was available to speak to medical journals or to respond to all technical questions. But how do you make more security precautions than you have already in an operating environment like Darfur ... we just accepted that it was an additional risk because we were releasing a report that might stir up a certain amount of agitation.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*



There were probably risks in Darfur, because the report would describe the perpetrators and give the reflection that they are the Arab tribes. That could carry security risk on different people working in the field. But the security risk has always been there.

So, it was not newly introduced by the report. There wasn't too much of a positive perception of MSF from all community components. But clearly the communication in the field wasn't as strong as it is today and internet coverage and so on. So, we did not fear so much the impact of the report because it wouldn't reach to the deep field at least. For it to go there, it had to go through channels of communication from the tribe's leader, from different people who are connected to the media and so on. It would take some time until it trickles down to the grass-roots. And that was what happened. It didn't really reach or affect the community per se or the people working in the field. Nobody was specifically directly being targeted because of the report.

*Dr. Khalid Abdelsalam, MSF Holland/OCA Deputy Coordinator in Sudan 2005-2007
(in English)*

According to MSF Holland/OCA, the briefing paper was shared with MSF sections operational in Sudan before the release. However, the MSF France General Director regretted that there was no possibility to discuss modifications and no agreement on the release.

On 25 February 2005, during the RIOD [international operational directors] meeting, the MSF France/OCP operations director stated that the data presented in the report brought no medical proof regarding the extent of the rapes. He added that MSF France/OCP teams were seeing very few victims of rape in camps where they worked.

Despite the lack of agreement from other sections, MSF Holland/OCA decided to publish the report.

This underscored the lack of a mechanism for consensus to speak out in the movement.

Some years later, some MSF Holland/OCA staff involved wondered about possible bias in the data collection from translators and socio-political interests in the victims' communities.



'Minutes of MSF RIOD Meeting', Paris, 25 February 2005 (in English).

Extract:

Laurent Ligozat [MSF OCG], Marine Buissonniere [MSF IO], Eric Thomas [MSF OCBA], Christopher Stokes [MSF OCB], Kenny Gluck [MSF OCA], Guillermo Bertoletti [MSF OCP]

Communication/Reports

MSF Holland will issue in the coming weeks a report on rape. MSF France questioned the validity of the information stating that MSF Holland cannot prove the extent of rape because in most cases there is no medical proof of the rape. MSF Holland feels that it is necessary to go ahead based on the description of the rape by the patients. MSF France questions about the validity of the data as MSF France teams are seeing very little rape in camps where they are active. Decision is taken to come up with a global overview report of MSF activities in Darfur over the last 12 months that allows a whole vision of violence on civilians and general situation. We will encourage the desks/coms to meet to discuss this issue.



'Minutes of MSF France Executive Committee Meeting,' 15 March 2005 (in French).

Extract:

General Direction : Pierre Salignon

Darfur, Sudan

MSF Holland's report was released without prior agreement from the other MSF sections that were present in Sudan, and without it having been possible to discuss changes to be made to its content. As a result, the MSF movement does not back it, although all the operational sections active in the region agree on the need to continue communicating

on the violence currently occurring in Darfur. It remains a unilateral communication campaign that was undertaken without prior consultation, complete with disagreements as to both its form and content.



When it was released, the report came under harsh criticism from the other sections, and the reasoning was always the same: 'it's not science-led, we have no idea, these figures were just plucked out of thin air, etc.'

It wasn't an Epicentre retrospective mortality study, that's for sure. Basically, we used the data we had available. If I had to rewrite it now, I would be much more consistent in flagging the fact that this data and these accounts were 'reported.' We might have put too much faith in what people said. The people of Darfur might have reached the stage where they thought, 'OK, the white people all want to hear about rape, let's talk to them about rape.'

I and my colleagues in the humanitarian affairs department wanted to give a sense of the scale of the problem and describe the patterns: how was it happening? Who were the perpetrators?

We wanted to describe the intimidation and fear it triggered, which became a weapon almost as fearsome as the rape itself. It's awful to say that because there really were women who were raped. But the perpetrators' tactic was to use the fact that they could instil a sense of fear in an entire community if they made the community aware that just one woman had been raped. This fear was incredibly intense, and that's what we wanted to show in the report.

Auréli Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan, April 2004 to April 2005 (in French).



I said to everybody, 'we think this should be a report of the movement, not just MSF Holland'. MSF France was militantly against it. They really lobbied to stop that report, mobilising people to call me, to call the MSF Holland General Director, to call the MSF Holland President, saying this report had to be stopped.

They told Rowan Gillies, who was the MSF International President at the time, that this report was unacceptable because it complained about the impunity for people committing grave violations. Rowan called me saying, 'this is unacceptable, we must stop this report, the movement does not support it.'

He added that, 'this was the first time an MSF report would ever raise the issue of impunity.' So, while I was still on the phone, I sent him six MSF France reports which referred to impunity, including the report on rape in Congo-Brazzaville in 2002. Impunity had been a common phrase in MSF France reports.

I said two things. One, we always agreed between sections that speaking out is based on your operational experience. And second, no other section can tell a section you cannot speak about this issue. There's no law of consensus. It was even Jean-Hervé when I was still new who said: 'Consensus is death. Consensus will kill all debate and response in the movement.' which I fully agreed with.

So, I said to Rowan: 'MSF Holland is seeing this violence. We think it's an issue. We are willing to take the security risk of speaking out and we're going to do it.'

We were disappointed that they refused to put it on the international website. It was only on MSF Holland's website which limited its visibility.

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).



It's interesting evidence of how these things become politicised inside MSF and how we are used and instrumentalised in all kinds of directions internally in the organisation.

What MSF France was saying about impunity had nothing to do with what was going on and certainly nothing to do with what was happening to people in Darfur.

The same year, MSF France invited MSF Holland to produce someone for the general assembly and have a debate about the report. I ended up going down there.

There was quite a lot in there about the position that MSF France was taking around témoignage [and] appeared to be, in short: 'You have to limit témoignage to scientific evidence.' Literally, what they were saying was: 'We should release a report that talks about an outbreak of vaginal lacerations without using any kind of word about sexual and gender-based violence.'

I saw in the audience a lot of women nodding. Men too, but a lot of women nodded right away. MSF France was going too far. There was quite a debate of bringing témoignage back to a purely medical evidentiary exercise.

Marc DuBois, MSF Holland/OCA, Humanitarian Affairs Advisor, 2001-2004, Head of Humanitarian Affairs Department, 2005-2007, Senior Researcher, 2007-2008, MSF UK Executive Director, 2008-2014 (in English).



The Janjaweed, who patrolled on camelback, systematically raped the women who went to gather wood on the edges of the camps. It was very difficult because, generally, Sudan is not a country where sexuality can be discussed openly, and rape even less so. But in our dispensaries, we saw women who had been raped, and we knew that what we were seeing was just the tip of the iceberg.

In Darfur, a woman who has been raped will find it hard to go to a dispensary and identify herself as a rape victim. And so, these aren't conditions in which a specific care pathway needs to be put in place, because there aren't enough cases, and we risk stigmatising them even further. It is better to handle them on a case-by-case basis.

But when you conduct a retrospective study of rape and manage to build trust with people, you discover there is a trend. That's what the Dutch did, but they did so clumsily, with the wrong data.

Technically, it is a very poor report because the sources were fragile. We at MSF France felt it had been clumsily executed but that the cause was spot on. And the reality was right there: the sexual violence, the rapes. Thanks to Amsterdam and this 2005 report, we all found our voices again about rape.

Dr Jean-Hervé Bradol, MSF France, President of Board of Directors, 2000-2007 (in French).



Within the movement, there were questions about the nature of the study. They accepted the report, but they weren't happy. But it wasn't any aggressive disagreement. Obviously, there were strong talks, but it wasn't a to the point of cutting-off-ties kind of discussion.

There was a lot of discussion about data. Medical evidence is an interesting thing anyway, because retrospective mortality is based on interviews and that's already, 'is that medical or not, or is it more of a social thing?'

For me, the interesting thing was that everyone was saying: 'The volume of rape is just obviously not true because it's too high.' We could look back at previous MSF report in Bunia

(Eastern Congo) and it was similar: it was a massive number of rapes. That's one of the important things about us documenting these things: if you document it in two or three different places, then the people in that country, here the Sudanese government, can't say: 'Oh, you're just out to get us, you're making these numbers up.' We can say: 'No, no, no. We said the same thing about Bunia, and we've said the same thing about somewhere else as well.' So, I think doing that kind of medical documentation of such atrocious numbers allows you to do it elsewhere and it gives legitimacy when you do it in different places

Dr Rowan Gillies, MSF International Council, President, 2003-2006 (in English).



None, or hardly any, of these survivors of rape spoke English and none of our international staff by then spoke Arabic. So, these testimonies were collected with an interpreter. Who were they? How did we look after their security? How objectively did they translate? Were there any possible motives for them?

Most of our national staff in Darfur were not coming from the pro-government or considered Arab tribes, a sample of our staff heavily weighted towards the tribes that were pro-Zaghawa. And secondly, none of us had the capacity or probably the consciousness to do any cross-checks [as to] whether the translator translated literally what the person said [or not].

By the second half of my stay in Darfur, I managed to [learn] some colloquial Arabic and I could do minor conversations in Arabic.

I remember one situation that I walked up to a water point and asked a woman, 'Why don't you take water from the other pump over there?'

A staff member intervened, probably feeling a bit ashamed for the horrible quality of my Arabic and translated my question, then her answer: 'She doesn't go there because the Janjaweds will rape her.' And that was not what the woman said. I understood that much Arabic. And then I thought: 'Is that how our staff translates with so much interpretation?' And I asked if this man, by any chance, had been involved in the translations of the rape survivors? And the answer was 'yes.' That's where my doubts started. Of course, it will be grossly unfair to judge a whole situation on just this one anecdote. It was for me a point of concern and it made me realise. How can you, in such a polarised context, completely trust translators? And we never answered that question.

I remember a humanitarian affairs officer for the UN who spoke fluent Arabic once told me: 'Vince, have you ever wondered why in a society where rape is such a social stigma, so many women came to you for treatment?' I said 'no.' He says: 'They probably came because the community leaders explicitly told them to do so, as part of the greater conflict.' That doesn't mean that these women were not raped. It means for me that there is a likelihood that the willingness and the openness with which these poor ladies were ready to share their horrible stories was not only from a personal perspective and thanks to the quality of care, the space with which we invited them to share their stories.

It may have well been mostly given from socio-political notions of that collective, the extended family, the tribe, whatever you want to call it, willing to shame the government, their opponents and hence the government of Khartoum. A lot of women were raped in Darfur. It was too obvious. It happened too often. I've seen crying young women being brought into a clinic. I've seen family members who did speak English, saying this girl was raped by and we all heard those stories.

Does it mean that government troops weren't involved? They were. And maybe the rebels did it as well. But it poses questions for us as MSF about what it means for our neutrality. What I'm just telling you in short sentences is a story of a relatively capable and enthusiastic coordinator, that was me, who shouldn't have had to learn this all by trial and error together with

his team. We should have known better. MSF existed already for quite a few decades by the time we walked into Darfur.

*Vincent Hoedt, MSF Holland/OCA, Coordinator in Darfur, October 2004 to June 2005
(in English).*

B. PUBLICATION OF THE BRIEFING PAPER/REPORT ON RAPES (March 2005)

On 6 March 2005, the briefing paper on rape in Darfur was shared by the MSF Holland Coordinator and his deputy during a meeting with the Humanitarian Aid Commission (HAC) Commissioner, who said it should not be released. The MSF Holland/OCA coordinator said it would be released.

A letter from the HAC to MSF Holland/OCA immediately confirmed their opposition to the release. The MSF Holland/OCA programme manager answered that the objective of MSF was to contribute to ending this form of violence.

MSF added that the briefing paper was part of a broader campaign to highlight the issue of rape in several countries.



Letter from Pete Buth, MSF OCA Operational Director, to Mr Ahmed Mohammed Adam, Director, INGO & NGO section, Humanitarian Aid Commission, Khartoum, Sudan, 7 March 2005 (in English).

Extract:

Re: MSF Briefing Paper 'Rape and Sexual Violence in Darfur'

Dear Sir, [...]

We are writing to you in response to your letter dated March 6th, 2004, to the MSF Holland Head of Mission Paul Foreman.

The MSF Holland briefing paper is based on medical data and testimonies collected in the MSF Holland health facilities in West and South Darfur. It is aimed at raising attention to the plight of rape victims in Darfur. The issue of rape has been brought up on several occasions over the past months by MSF Holland in discussions with authorities and other actors responsible for protection and health in Darfur, as well as, among others, the Government of Sudan Commission of Enquiry, the UN Commission of Enquiry, HRW. MSF's role is to offer medical assistance to the victims of violence, witness their suffering and advocate on their behalf. This includes the duty to raise public awareness about the people we assist. Our action is guided by the humanitarian principles of impartiality, neutrality, and independence. For your further information, we enclose a copy of the MSF Charter and the MSF 'Chantilly Document', which defines the mission and identity of the organisation.

By bringing the issue of rape in Darfur to public attention, we hope that all relevant actors will contribute to end this form of violence and provide adequate medical response to the victims. The report will be released as of March 7th and is part of a broader campaign to highlight the issue of rape with which MSF is confronted in several countries. We see this not as a threat but as a challenge; we hope that government, civil

society & international organisations will seize the opportunity to respond to the challenge.

I am more than willing to come to Khartoum to discuss with you further on how the issue of rape can be better addressed by all agencies, as well as ensuring that a cooperative relationship between MSF Holland and HAC continues.



I'd given a prior copy to HAC. And then I sat down with the head of HAC. He told me I could not publish the document. I put in front of him draft press releases. He said, 'You cannot publish these either.' And I said, 'Well, they're going to be published. But you know, my respect for you that is I show you what we shall publish first. But you cannot undo the past. If you can undo the past, then I will stop the publication.'

He was intelligent enough to understand that he had a very difficult job in governing an NGO that was going to publicise the atrocities of the war in Darfur. I'm sure he didn't support the atrocities, but it was his job to regulate NGOs.

However, what he could do was to refine the Sudanese government position on the use of rape as a weapon of war because the report did not specifically name anybody as a perpetrator. It just said men with guns, and it was his opportunity to distance himself from the operatives who were carrying out the atrocities in Darfur. He didn't appreciate me suggesting that it was an opportunity. But they were the nature of the discussions we had. So, HAC knew it was coming.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*

On 8 March 2005, on International Women's Day, the briefing paper/report was publicly released on the MSF Holland/OCA website, together with a press release distributed to the media both inside and outside of Sudan.



'Rape and sexual violence ongoing in Darfur, Sudan,' MSF Holland/OCA Press release, 7 March 2005 (in English).

Extract:

Women told MSF that they were beaten with sticks, whips, or axes before, during or after the act of rape. Some of the raped women were visibly pregnant, as much as five to eight months, at the time of the assault.

The Crushing Burden of Rape: Sexual Violence in Darfur [...]

Women and girls in war-ravaged Darfur are continuing to suffer a high incidence of rape and sexual violence, according to a report issued today by the Holland office of Médecins Sans Frontières (MSF).

Stories of rape survivors told to MSF are a horrific illustration of the daily reality of the ongoing violence that has displaced almost two million people in Darfur.

Between October 2004 and mid-February 2005, MSF doctors in numerous locations in South and West Darfur treated almost 500 women and girls who were raped. MSF believes that these numbers reflect only a fraction of the total number of victims because many women are reluctant to report the crime or seek treatment. Almost a third (28%) of the rape survivors who sought treatment from MSF reported that they were raped more than once, either by single or multiple assailants. In more than half the cases, the

rape was accompanied by additional physical abuse. Women told MSF that they were beaten with sticks, whips, or axes before, during or after the act of rape. Some of the raped women were visibly pregnant, as much as five to eight months, at the time of the assault.

The majority of survivors of rape and sexual violence tell MSF that the attacks occurred when women left the relative safety of villages and displaced camps to carry out activities indispensable of the survival of the families, such as searching for firewood or water. 81% of the 500 rape survivors treated by MSF reported being assaulted by militia or military who used their weapons to force the assault.

In Darfur, as in other conflicts, rape has been a regular and deliberate tool of war. It is used to destabilize and threaten a part of the civilian population, often a particular group. Rather than receiving appropriate medical and psychosocial care, women and child survivors of rape and sexual violence in Darfur often face rejection and stigma. In some cases, victims of rape have even been imprisoned while the perpetrators of the crime go unpunished, adding to an appalling pattern of neglect and abuse.

"Despite its devastating consequences, rape in Darfur and in other conflicts has not received the attention that the scale of the crime or the gravity of its impact call for," said Kenny Gluck, Director of Operations for MSF in Amsterdam. "This has to change. It is time to end this vicious crime, which is a clear breach of international humanitarian law. Perpetrators should be prosecuted not tolerated."

MSF urges local government and other health care providers in Darfur, as elsewhere, to ensure full and appropriate treatment for victims of sexual violence and to help end the stigma and rejection faced by victims of rape.

The MSF Holland/OCA Sudanese staff was briefed on the report before its release, but only a few of them, mostly members of the coordination team, had access to the content. After the release, many staff were upset and disagreed with MSF issuing such a report, for fear of repercussions. One of the main reproaches was that MSF Holland/OCA failed to appreciate how taboo sexual issues were in Sudanese culture, let alone in public debate.



I shared my copy with at least our translator, head of mission assistant and maybe one or two other ones in Nyala. And their feedback was: this is going to cause you trouble but yes, we should. That's, of course, one or two people. Let's not pretend the whole staff was behind it. It's tempting to say so, but we didn't dare let it [be] read [by] the whole staff. It was not that the whole mission knew about it, but the inner circle, the country management team and some of the national staff knew it was coming. We were holding our breath. And finally, we said yes to it.

When later it became public, I thought we could share it. We had stacks of it, 20, 30, 40, 50, which was given to the staff. But many staff said: 'We don't want to have this

*Vincent Hoedt, MSF Holland/OCA, Coordinator in Darfur, October 2004 to June 2005
(in English).*



When we made public statements saying people were dead, there was no issue. But as soon as it involved sexual violence, they wouldn't have it. On the television in Sudan, you would see videos of people machine-gunning and kill-

ing one another with blood splattering everywhere with no problem. But as soon as someone kissed, it would be censored, etc. So, we had to work within this culture, and we hit the wrong note. The Sudanese staff were very angry. When the report came out, Paul and I held a team meeting with all the country's staff to explain the content and the aim. Some of the men were extremely angry. They said (without naming me), that the report had been written by 'women who smoke, who don't know anything, who go drinking in the hotels!' Some of the women told me: 'What you wrote in that report is impossible! We know what women are like in Darfur. They can fight, they can wield an axe, they work in the fields, they are strong, they would never let it happen to them!' I replied: 'Okay, but if you pit an axe against a Kalashnikov, the Kalashnikov wins! That's exactly what we're trying to say: they couldn't use their axes.'

Aurélié Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan, April 2004 to April 2005 (in French).



I told Paul there were lots of sensitive issues in the report, that we needed to rewrite or review the wording. He generously accepted all my comments and shared them. There were discussions in different levels. Some of my comments and recommendations were accommodated in the report. For others, people insisted that they should be maintained, otherwise the report would lose its value. In the translation in Arabic, we were very strict in using specific terms, not to use aggressive language.

The fear at that time wasn't from the authority only. The report was accusing a group of being perpetrators and another group of really having their girls and women being raped and keeping silent. In conservative culture in Sudan, in African setting and in Arab setting, which were a mixture of both, it is quite offensive.

The report really took the account of only the victims' side in terms of individuals, which I understand because that's where it was coming from ... from the clinicians and people working with those groups. People were very passionate into really stop[ping] this aggression from their own perspective. This was the best way to do it. But looking into the whole context was not really considered that much.

Dr. Khalid Abdelsalam, MSF Holland/OCA, Deputy Coordinator in Sudan 2005-2007 (in English).

A version of the report in Arabic was widely shared with the Sudanese media and the MSF network in Sudanese society, particularly with academics and medical institutions.

Darfuri activists strongly supported the MSF report, while the Sudanese regime and its supporters organised a strong campaign against MSF, with the media they controlled.



I think HAC was a little surprised at the depth and penetration that we got because, when the report came out, it was covered in Sudanese news, in Sudanese newspapers. The Sudanese intelligentsia were aware of the nature of the report when it came out because we had gained a certain amount of penetration through the different institutions, academic and medical institutions that we targeted with an Arabic version of the report.

This was possible thanks to Khalid Abdelsalam, my deputy, my right hand. Khalid was an important part of the process of publication and very much an important part of the process of responding to the aftermath of the publication.

He helped us to access Sudanese civil society and talk to Sudanese intelligentsia, the vast majority of whom were not big fans of Omar al-Bashir. But they put up with him on the basis that it was better than being killed.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*



They made a big pro-regime media reaction that MSF was accusing different groups. They really started to flare up the situation from the media aspect. That was the first time MSF came up to the social media, newspapers aggressively against MSF, especially certain hardliner writers

*Dr. Khalid Abdelsalam, MSF Holland/OCA, Deputy Coordinator in Sudan 2005-2007
(in English).*



From Darfuri refugee organisations, it was extremely welcomed. I remember teaching a class in the Refugee Studies School in Cairo, in which there were a lot of Darfuri refugees. And they talked about how appreciative they were of that report because, as they said, it was saying publicly what we all knew was happening: there was a campaign of rape and so on. It was received very positively by a lot of Darfuri and Sudanese rights [representatives] who told us this was very important to publicly condemn the Sudanese government in this way. Western NGOs cited it and said this is proof of the bad faith of the Sudanese government. The Sudanese government, of course, reacted extremely negatively.

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).

The MSF Holland/OCA briefing paper on rape was distributed at the end of an INGOs meeting to brief Jan Egeland, the UN Deputy General Secretary for Humanitarian Affairs on North/South issues and on Darfur. Jan Egeland used it extensively to sensitise the Sudanese government and the international community.



It was the first report on sexual violence in Darfur to be issued by an NGO, and even by the United Nations, which hadn't published anything on the subject prior to this report.

We shared it with Jan Egeland, who was the United Nations Under-Secretary-General for Humanitarian Affairs at the time. He gave us the very best support and counsel. I remember him telling us: 'I went to the Ministry for Foreign Affairs office holding this report, and I told them, "This is a major step forward!"'

Aurélié Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan, April 2004 to April 2005 (in French).

Just before MSF Holland/OCA briefing paper was released, Oxfam and Norwegian Refugee Council (NRC) also raised the alarm on sexual violence in Darfur. On 8 March 2005, the Sudanese government accused the three organisations of orchestrating a political campaign against Sudan.



'Aid agencies' rape reports "political", Sudan says,' **Reuters** (UK), 8 March 2005 (in English).

Extract:

State Minister for Humanitarian Affairs A [...] told reporters it could not be coincidental that Oxfam, the Norwegian Refugee Council (NRC) and Médecins Sans Frontières (MSF) had all produced reports on rape at the same time. "It is not normal that, coincidentally, three organisations come together and say one word. This is a kind of political, orchestrated kind of a movement," he said in Khartoum. "I feel that it is an orchestrated campaign."

The Sudanese government has long denied rape has been widespread in Darfur during a 25-month-old rebellion in which tens of thousands have been killed. Rape is a sensitive issue in predominantly Muslim Sudan.

An MSF report on rape obtained by Reuters on Monday produced some of the first medical evidence that at least 500 rapes had occurred in Darfur in the past 4 1/2 months and said the number was likely to be much higher. The government had asked the agency not to release the report.

A [...] said the aid agencies were trying to attract world attention away from other issues but did not specify which.

The government has in the past accused the international community of focusing on Darfur, rather than crimes it says the United States and Britain are committing in Iraq.

On 15 March 2005, the HAC sent a formal warning to MSF requesting to "adhere to laws and regulations according to which it was registered, if it wishes to continue work in Sudan." In addition to the report itself, the letter referred to several previous publications where MSF was mentioned as a source of information on rapes in Darfur.



'**Letter** from HAC Director to MSF Holland/OCA Coordinator in Sudan, CC: Ministry of Foreign Affairs; Ministry of Interior,' 15 March 2005 (in English).

Extract:

Subject: Warning for MSF [...]

2. We also refer to the letter of HAC dated March 6, 2005, which asked for explanation about the intentions and sources of the report and requested MSF not to release it to any media.
3. We also refer to the meeting held between the Country Director of MSF Holland and the General Director of Organizations of the Ministry of Humanitarian Affairs on March 6 about the subject of the report where the Director of Organizations

repeated his request for not releasing the report and the insistence of MSF Director to do that despite all the warnings.

4. We also refer to the fact that MSF continues to ignore warnings and insist to escalate an anti-government campaign on a CNN program on March 9, 2005, on the rape issue.
5. We also refer to this pattern of unfounded accusations and campaigns that has appeared in an article in the French “Libération” [Libération] newspaper on situations in Darfur on November 22, 2004, accusing government forces of forced evacuation and rapes. The writer indicated that the source of information was Mr. Vincent Hobert [Hoedt], MSF coordinator in Nyala.
6. HAC is of the opinion that addressing the sensitive issues of Darfur in the media does not help in solving them but make them more complicated. We think that the solution could be achieved through dialogue with the concerned entities as they are partners in the humanitarian work being discharged by MSF Holland, and it will get the welcome, cooperation, and appreciation if it pursues this passageway, but it failed to do that and insisted on media excitement.
7. Based on the above positions and others, MSF Holland has violated Articles 13 and 14 of the regulation for registration of foreign voluntary work in Sudan for the year 1999, as well as provisions of the country agreement, and has gone beyond the limits of its work according to HAC law for the year 1995.
8. Based on the above, I regrettably convey to you the decision of Ministry of Humanitarian Affairs warning MSF Holland, Sudan Office.
9. The Ministry hopes that MSF will adhere to laws and regulations according to which it was registered if it wishes to continue work in Sudan.
10. Thank you very much.



The HAC reflected that they had warned MSF several times before. So, it was a last final warning for MSF.

Dr. Khalid Abdelsalam, MSF Holland/OCA Deputy Coordinator in Sudan 2005-2007 (in English).

C. REFERRAL OF THE SITUATION IN DARFUR TO THE INTERNATIONAL CRIMINAL COURT (ICC) (March 2005)

Activists and INGOs continued to push the international community for “more security” in Darfur, for sanctions against the Sudanese regime, and for referral of those responsible for the violence to the International Criminal Court (ICC).

On 29 March 2005, in an off-the-record meeting, UNSG Kofi Annan encouraged INGOs “to be united in their stance towards the Government of Sudan.”

In a press release issued the same day, Kofi Annan reported that during this meeting, “the NGOs discussed the urgent need for further action by the Security Council – including the question of adopting targeted sanctions and on referring the Darfur situation to the International Criminal Court (ICC).”

The MSF International President, Rowan Gillies, sought to distance MSF from the UNSG and the INGO position, in a statement that was posted on the MSF USA website.



'Minutes of Meeting of Rowan Gillies, MSF International Board President, with Kofi Annan, UNSG, Memo, Brigg Reilly, MSF USA Program Officer,' 29 March 2005 (in English).

Extract:

Predictably, the UN used the meeting to state how NGOs wanted an expansion of force, etc. The damage is not thought to be severe, as no NGOs are named, and it received little press. We are considering putting the MSF statement on the web, not actively but as a correction for the record, and HoMs can decide if they need to use it to clarify in Khartoum what MSF did or did not say in New York. [...]

NGOs comments/concerns/requests [...]

- NGOs generally against the Government of Sudan [Government of Sudan], demanded more security and accountability
- Many NGOs asked how they could help AU, how they could speak out to help UN. No real answer
- Some NGOs pushing for HR monitors
- ACF (who had closest position to MSF of all NGOs present) suggested an 'Arria formula meeting' (this is a type of informal meeting of NGOs with members of Security Council that can be organized)
- MSF (like all NGOs) could only speak briefly, stated poor conditions of IDPs, huge and fragile aid pipeline that has become the status quo not sustainable, that humanitarian aid not an excuse for political inaction (this point got some comments of support) - see MSF Statement outline sent to you yesterday
- Some NGOs requested a 'blueprint' from UN they could support/advocate
- Some NGOs commented that Darfur is out of the newspapers and suggested ideas for high-level visit to the region [...]

Next steps

- Press release from UN says attendees requested greater security presence and other things that are clearly not MSF. No names of agencies are given, and the press release does reflect what most of the other NGOs said. We have the written statement we sent around a few days ago (for the record, and we can 1) post it on our website and/or 2) circulate it to Khartoum so at a country level we can clarify what MSF did or did not say if the field deems it necessary. The UN statement does not include any unexpected statements.
- Arria meeting. NGOs can meet with Security Council members, but MSF will not take part if the agenda is ICC and AU ideas. We will get more information. Very unlikely that the focus of the meeting would be on humanitarian concerns. In fact, given our own statement we would rather have it concentrate on political responsibility.
- We will go more in depth on Sudan with UN and other counterparts in the USA during Jerome Oberreit's visit (MSF Belgium Sudan Program Manager) to MSF USA on 18-22 April. The common report should be ready by then and should serve as a briefing base. Please let us know if you have objections to the proposal to make the MSF statement available on the web. Unless we receive feedback from you, we will use the statement on the web. [...]

2. MSF STATEMENT (not directly read during the meeting due to time constraints)

Meeting with UN Secretary General Kofi Annan on Darfur, Sudan

Remarks by MSF International President Dr. Rowan Gillies

March 28, 2005

Secretary General and colleagues,

Good afternoon, I would like to thank you for this opportunity to voice Médecins Sans Frontières (MSF)'s concerns about the current situation of the people affected by the crisis in Darfur.

This time last year, although MSF teams knew that something terrible was happening in Darfur, we had extremely limited access. The humanitarian response was dangerously late, slow and inadequate and the death rates were staggering. The world was not paying attention.

The situation today is different. Darfur has become a household name. It is on the international agenda. A massive humanitarian response has been mounted. Mortality and morbidity in most of the large camps where we are working is down and below emergency thresholds.

But we cannot gain satisfaction from these numbers. The people living in camps and surviving solely on external aid are in a completely unsatisfactory deadlock. The assistance they receive is keeping them just above subsistence levels. Not only are they struggling with physical ailments but also from the mental trauma that comes with the violence that has driven them into camps in the first place and the uncertainty which still keeps them there today.

Moreover, the current aid effort is susceptible to being ruptured due to its sheer size and the insecure environment. As we have seen just last week, the violent acts that predominately affect civilians in Darfur can also threaten the aid effort. There is no doubt that any rupture in the current response would lead to a rapid decline in the health of the people living in the camps.

And, most significantly, the violence continues. Our patients tell us that villages are still being attacked. People continue to flee to crowded and insecure IDP camps. Beatings, shootings, and rapes remain commonplace. Between October of 2004 and the middle of February alone, MSF teams in South and West Darfur treated nearly 500 women who had been raped, primarily in and around IDP camps.

The people of Darfur are trapped in an unacceptable status quo which has gone on for so many months that we are beginning to wonder if, in the absence of a major health disaster in the camps, all involved have become complacent with the current situation. All involved, of course, except the people who are struggling to survive with little hope for the future.

Conclusion:

Humanitarian aid is essential for the many hundreds of thousands of people in today's situation in Darfur. It keeps people alive. The aid efforts need to be improved and expanded to populations not yet reached. There is a need for not just emergency, but sustained comprehensive assistance, both medical and otherwise.

But the fact that the humanitarian response is managing to keep people alive may not be used as an excuse for the current deadlock. The most effective assistance program will not address what most affects the people in Darfur today, the continuing violence that forces them to remain in insecure and overcrowded camps. And today no one can use lack of information as an excuse for not acting.

3. UN PRESS RELEASE SAME DAY

Annan discusses Darfur emergency with representatives of civil groups – (28 March 2005)
United Nations Secretary-General Kofi Annan met today with representatives of leading non-governmental organizations (NGOs) to hear their views and discuss how better to focus attention and generate action on the emergency in Sudan's Darfur region.

The Secretary-General stressed as critical the ability of NGOs to operate without restrictions in Darfur – including to report freely on violations of human rights and humanitarian law, which are continuing on a daily basis, a spokesman for Mr. Annan said in a statement.

Mr. Annan also expressed his deep concern about the rising level of threats against relief workers in Darfur and called on all parties to ensure their safety and security, the statement said.

For their part, the NGOs discussed the urgent need for further action by the Security Council – including on the question of adopting targeted sanctions and on referring the Darfur situation to the International Criminal Court (ICC), as recommended by the International Commission of Inquiry appointed by Mr. Annan to probe allegations of human rights abuses.

The participants pressed hard for a greatly expanded force to focus on the protection of civilians and stressed the need for action now on all these issues, expressing concern about delays in the Security Council.

Two days later, on 31 March 2005, the UNSC issued a resolution to refer the situation in Darfur beginning 1 July 2002 to the Prosecutor of the International Criminal Court (ICC).



'Resolution 193(2005) adopted by the Security Council,' 31 March 2005 (in English, in French).

Extract:

The Security Council,

Taking note of the report of the International Commission of Inquiry on violations of international humanitarian law and human rights law in Darfur.

(S/2005/60),

Recalling article 16 of the Rome Statute under which no investigation or prosecution may be commenced or proceeded with by the International Criminal Court for a period of 12 months after a Security Council request to that effect,

Also recalling articles 75 and 79 of the Rome Statute and encouraging States to contribute to the ICC Trust Fund for Victims,

Taking note of the existence of agreements referred to in Article 98-2 of the Rome Statute, Determining that the situation in Sudan continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. Decides to refer the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court.

2. Decides that the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution and, while recognizing that States not party to the

Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully.

3. Invites the Court and the African Union to discuss practical arrangements that will facilitate the work of the Prosecutor and of the Court, including the possibility of conducting proceedings in the region, which would contribute to regional efforts in the fight against impunity.

4. Also encourages the Court, as appropriate and in accordance with the Rome Statute, to support international cooperation with domestic efforts to promote the rule of law, protect human rights and combat impunity in Darfur.

5. *Also emphasizes* the need to promote healing and reconciliation and encourages in this respect the creation of institutions, involving all sectors of Sudanese society, such as truth and/or reconciliation commissions, in order to complement judicial processes and thereby reinforce the efforts to restore long-lasting peace, with African Union and international support as necessary.

6. Decides that nationals, current or former officials or personnel from a contributing State outside Sudan which is not a party to the Rome Statute of the International Criminal Court shall be subject to the exclusive jurisdiction of that contributing State for all alleged acts or omissions arising out of or related to operations in Sudan established or authorized by the Council or the African Union, unless such exclusive jurisdiction has been expressly waived by that contributing State.

7. Recognizes that none of the expenses incurred in connection with the referral including expenses related to investigations or prosecutions in connection with that referral, shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute and those States that wish to contribute voluntarily.

8. Invites the Prosecutor to address the Council within three months of the date of adoption of this resolution and every six months thereafter on actions taken pursuant to this resolution.

9. Decides to remain seized of the matter.



MSF Holland's report on rape came out in a very particular political context. It came out just before the UN's Security Council on Darfur, in which the situation in Sudan would be referred to the International Criminal Court. MSF Holland stood by the report's timing as part of its silent advocacy policy and humanitarian diplomacy strategy. It was part of the tools used to apply pressure, influencing international decision-making and agendas. Although the Sudanese government hadn't ratified the ICC statute, it was nevertheless forced via this decision to accept the ICC's inquiry. Rightly or wrongly, the Sudanese government therefore saw MSF publishing this report as a key factor in this decision and lent in an extra layer of public legitimacy. In this context, it would be difficult to make the various authorities as well as people within MSF understand the necessity of having a policy of independence and non-cooperation with the ICC.

Françoise Bouchet-Saulnier, MSF France/OCP, Legal Advisor 1991-2005, MSF Legal Director, 2005-2022 (in French).

Security incidents increased in Darfur, fuelled by the highly charged international context and the Sudanese regime's campaign against INGOs.



'MSF France/OCP **Update**,' 1 April 2005 (in French).

Extract:

Sudan

Security in Darfur is beginning to deteriorate. Incidents have been stacking up over the past month and a half:

- A representative of USAID was ambushed on the road between Kass and Nyala (southern Darfur) and shot in the head.
- A few days later, two members of the African Union were ambushed and injured.
- The UN withdrew from western Darfur for a week following threats.
- We ourselves fell prey to two incidents, the first in December (bullet holes on a car when travelling between Mornay and El Geneina) and the second in February, when four armed men surged in front of an MSF car.
- In addition to this, security incidents are occurring on a near-daily basis.

All sections share the same assessment of the situation and have decided to cut back on travel, prioritising emergency medical transport, to avoid ambushes. We are unaware of whether these cases are bandits, pro-Khartoum militias, or rebels.

These events are occurring in a context coloured by international tensions, following the two resolutions passed by the UN's Security Council regarding referral to the International Criminal Court (ICC) and asset freezing for those involved in the violence. This context is also marked by the development of an anti-NGO campaign orchestrated and powered by local authorities (Sudanese President Omar al-Bashir declared NGOs to be the "main enemy").

On 6 April 2005, *The New York Times* columnist, Nicholas D. Kristof, mentioned the MSF Holland/OCA report on rapes in an Op-Ed, quoting Kenny Gluck, the MSF Holland/OCA Director of Operations saying: "We're proud of what we do, but people's villages have been burned, their crops have been destroyed, their wells spiked, their family members raped, tortured and killed, and they come to us, and we give them 2,100 kilocalories a day."

Kristof extrapolated Kenny's words as, "the aid effort is sustaining victims so they can be killed with a full belly." And used this as evidence for Kristof's argument in favour of a security force to stop the violence.



'The Pope and hypocrisy,' Op-ed by Nicholas D. Kristof, ***The New York Times***, (USA), 6 April 2005 (in English).

Extract:

Doctors Without Borders issued a report last month about Darfur that quoted one 16-year-old girl as saying:

"I was collecting firewood for my family when three armed men on camels came and surrounded me. They held me down, tied my hands and raped me, one after the other. When I arrived home, I told my family what had happened.

"They threw me out of home, and I had to build my own hut away from them. I was engaged to a man, and I was so much looking forward to getting married. After I got

raped, he did not want to marry me and broke off the engagement because he said I was now disgraced and spoilt. ...

"When I was eight months pregnant from the rape, the police came to my hut and forced me with their guns to go to the police station. They asked me questions, so I told them that I had been raped. They told me that as I was not married, I will deliver this baby illegally.

"They beat me with a whip on the chest and back and put me in jail."

[...] Mr. Bush has supported a humanitarian relief effort. But even the aid agencies emphasize that what is needed most is a security force to stop the slaughter.

"We're proud of what we do," said Kenny Gluck, the operations director based in the Netherlands for Doctors Without Borders. "But people's villages have been burned, their crops have been destroyed, their wells spiked, their family members raped, tortured and killed – and they come to us, and we give them 2,100 kilocalories a day." In effect, Mr. Gluck said, the aid effort is sustaining victims so they can be killed with a full belly.



I had recently come back from Darfur, and we were able to provide certain amounts of assistance. But what the initial retrospective mortality was showing was that the extremely high levels of death by violence. So rather than malnutrition or malnutrition-related diseases, we were seeing an extremely high level of death by violence, particularly including among women and children. So that was the motivation of that discussion with Kristof. I deliberately did not use the word genocide [...] He was upset, I believe, and he asked me about genocide, 'Is this a genocide?' And I said: 'We cannot make a determination, one way or the other is it a genocide or not.'

Kenny Gluck, MSF Holland/OCA, Director of Operations, 2002-2005 (in English).

On 5 April 2005, the MSF Holland/OCA programme manager, the MSF coordinator in Sudan, and his deputy met with the HAC commissioner ahead of issuing an MSF press release condemning the violence in Darfur.

On 9 April, the MSF Holland/OCA coordinator received a letter from the HAC commissioner renewing the 15 March warning regarding press releases and expressing "dissatisfaction with the approach of [MSF's] Sudan Country Director [Coordinator] dealing with HAC officials."



Letter from HAC General Director to MSF Holland Country Director, 9 April 2005 (in English).

Extract:

1. HAC offers its greetings and refers to the meeting held with Mr. Peter Buth [MSF Holland/OCA Operational Director in charge of Sudan] in the presence of the Country Director and his Assistant in the office of the Commissioner General, Humanitarian Aid, on April 5, 2005.

2. We believe that it will be useful to point out the following:

- a. We affirm that Government of Sudan welcomes the efforts of NGOs and is ready to provide necessary assistance.

- b. Affirm that it is essential that NGOs comply with laws, regulations, and the country agreement which regulate humanitarian activity in Sudan.
 - c. Affirm that it is essential to respect sovereignty and security of Sudan and maintain native peace and social fabric.
3. In our previous letter dated March 15, 2005, we revealed the position of HAC regarding the press release and hope that MSF will commit itself to respecting laws and regulations if it wishes to continue its activity in Sudan.
4. HAC expresses its dissatisfaction with the approach of Sudan Country Director in dealing with HAC officials and thinks that such behaviour negatively affects the relationship between HAC and MSF Holland in Sudan.
5. HAC affirms its commitment to facilitate the humanitarian work and its keenness to dialogue as a method of dealing with its partners.
6. Thanks.

D. MSF HOLLAND/OCA COORDINATOR ARRESTS (May-June 2005)

In late May 2005, the Sudanese Government media campaign against INGOs and more specifically, against MSF Holland/OCA, increased. It was fuelled by information about MSF Holland/OCA internal team issues, that could only come from MSF staff. The team phones were bugged.



After the release there was a temporary period where nothing happened. Except that the Khartoum newspapers started placing interviews with former MSF Holland Khartoum staff who were discrediting MSF about the report.

In addition, whenever I was on the phone with Paul, we could hear that we were getting bugged. We were even joking sometimes: 'Vince, can you repeat that again, the guys recording this conversation can't keep up with it!' We deliberately took the line of transparency in our conversation.

*Vincent Hoedt, MSF Holland/OCA, Coordinator in Darfur, October 2004 to June 2005
(in English)*



We got to learn that there were people in the government that were very irritated by our position and wanted to rein back on the activities of MSF. And specifically at this point, MSF Holland was within the firing line. We had articles published in the newspapers which were written by members of our staff who were in the pay of HAC or in the pay of the authorities being used. Everybody knew that there were spies in all the different NGOs and it sort of identified who the spies were because suddenly information was coming out about some injustice, some unfairness, some people drinking alcohol where they weren't allowed to or whatever, just minor charges. And you'd think there was only one person that could know, X, Y and Z here. So, it was relatively unsubtle.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*



We had expired drugs. Usually for expired drugs we communicate with the health authorities, and we followed the procedures: we used to take them for incineration or discarded through the health authorities and MSF would cover the cost. This time when MSF communicated to the authorities, and we took it to be wasted as medical waste. There was lots of media coverage. It went out in the newspaper.

Look, INGOs are doing this. Look, MSF is doing that. So, there was a preparation of the national community and a collection of some kind of points that could be taken against MSF if needed.

*Dr Khalid Abdelsalam, MSF Holland/OCA, Deputy Coordinator in Sudan 2005-2007
(in English).*

On 28 May 2005, UNSG Kofi Annan visited the Kalma camp in Darfur. He was challenged by displaced people who gave him accounts of rape and murder of civilians. This reactivated the interest of the media and the international stakeholders in the MSF Holland/OCA report, 'The Crushing Burden of Rape.'



*'Kofi Annan confronted with the horrors of Darfur,' **Le Monde/AFP** (France), 29 May 2005 (in French).*

Extract:

Visiting Darfur on Saturday, UN Secretary-General Kofi Annan was greeted by tales of rape and murder, as well as angry civilians in a camp for displaced persons in this civil-war-torn region of western Sudan. [...]

In the camp, Mr Annan met tribal leaders who accused government forces and their allied Arab militias of crimes.



And then Kofi Annan came and visited Kalma. He spoke with women and the report came up again. There was a coincidence of the visit of Kofi Annan and maybe some strings that MSF pulled, that I wasn't aware of. Maybe we pitched the report a second time or whatever and that kind of created the second wave. And that one was too big for us.

*Vincent Hoedt, MSF Holland/OCA, Coordinator in Darfur, October 2004 to June 2005
(in English).*

1. Arrests And Charges

During the same period, MSF Holland/OCA received increasing indirect warnings from well-informed people, that they should not speak out again.

Something was obviously brewing, but the team didn't know how it would play out.

On 30 May 2005, two officers from the Sudanese secret police came to the MSF Holland/OCA office in Khartoum to arrest Paul Foreman, the Country Coordinator.

Paul managed to secure the stories collected for the rape report, at the last minute.



We started to hear some warnings from different actors: 'Be careful, MSF should not do much of what it has done before. Don't do any speaking out again.' We received indirect comments from different actors in the government authorities and we always shared them internally.

*Dr Khalid Abdelsalam, MSF Holland/OCA, Deputy Coordinator in Sudan 2005-2007
(in English)*



Our guys read in the paper that MSF staff will be arrested for publishing false reports against the Sudanese government. We sort of knew it was coming but had no idea how it was going to come. So, I thought that if they're coming for me, I didn't necessarily want to have a file with 250 witness statements in my office safe, that would be very negative for the people who took the statements and the people involved. I think the witness statements were all sanitised in as much as there were no names of survivors, very few in terms of names of the staff involved. But the nature of the statements meant that everyone would identify a location and a time and the date and so on and so forth. It wasn't good data to put in the hands of the Sudanese authorities.

So, I decided for the witness statements to be shipped back to Amsterdam, which didn't happen immediately. And then the following day I had the file on my desk because one of my colleagues going to Amsterdam was going to stick it in his luggage.

Then somebody came into my office and said, 'There's two guys downstairs who say they've got an arrest warrant for you.'

Of course, they didn't know. It was just a red plastic binder, but at the point at which they came to arrest me, I had the prime piece of very important evidence on my desk.

It wasn't a big deal. I called the guy who was travelling. He arrived at my office door at the same time as the two guys who were there to arrest me. I said, "Hello, gentlemen, come in. Just one moment. Simon, could you take this and manage it please?" And gave him the folder. He said, 'yes' and popped it under his arm and walked downstairs right in front of the two guys, the secret police who'd come to arrest me!

In hindsight, it was one of the things that people wouldn't believe. They'd say that's just too stupid. But things happen. And it's only afterwards you think, well, that was bloody stupid. If they had just said, 'Wait a moment. What's that?' We would have all been in deep trouble. But it didn't happen. And this was Sudan. They were hugely sophisticated in their thinking and in their management of how things went about. But their operatives were dumb.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*

While Paul Foreman was driven in an MSF car to a location where he was questioned all day, he received a phone call from a BBC journalist, Jonah Fisher, who was notified of Paul's arrest by the MSF team.

MSF's Deputy Coordinator, Khalid Abdelsalam, translated the interrogation from Arabic to English and back. The MSF Holland/OCA lawyer was also present.

Paul was questioned about the decision-making regarding the briefing paper, 'The Crushing Burden of Rape: Sexual Violence in Darfur' and asked why MSF did not

comply with the government demand not to go public. Paul Foreman was charged with publishing false information, undermining society in Sudan, and spying.

He was told he was under arrest, could go home, but was not allowed to leave Sudan. Paul was informed that the MSF Holland/OCA Darfur Coordinator, Vincent Hoedt would also be arrested.



These two guys had something that looked more like a laundry ticket than an arrest warrant ... which was a piece of paper that was about 5 cm square, all in Arabic, all handwritten.

- 'We've got a warrant of your arrest.'

- What are the charges?

- 'We'll tell you.'

- How are you going to arrest me then?

- 'Well, can we have a lift ... because we haven't got any transport of our own.'

So effectively, I arrested myself. I called down to logistics and there was a car and a driver.

I called down to Khalid who came up and spoke to these guys and said, 'Yes, they're from the office of the Secret Police.' Then we went down, and we got in the car.

I'd said to a few people in the office: 'Make the calls, tell everybody what's going on.'

I was in the car when my phone rang and Jonah Fisher, from the BBC phoned me up:

- 'I hear you've been arrested.'

- 'Well, I'm in the car with two officers who say they're arresting me. But I don't know much more.' The two guys didn't speak much English. So, they had no idea I was talking to the guy from the BBC.

And so that's how the thing became publicised at a very early stage, just because we'd made the necessary media connections beforehand.

I was taken into an unidentified building in Khartoum, that wasn't a nasty place. Because we had driven there ourselves, and our driver and Khalid made notes of where it was. So, it had lost its secrecy as a secret-police base the instant that we drove there. If they'd taken me away in their own car, they could have done all sorts of things in terms of hiding my location, etc. Then we entered discussions. Khalid stayed with me for most of the time that I was under arrest. I was questioned gently by a very sinister guy, dressed all in black in a dark room where he had a desk light pointing at me. He questioned me entirely in Arabic and Khalid translated entirely into English. And I replied in English. And Khalid translated entirely back into Arabic. And the process lasted the best part of the day, on and off. Not a day of oppression but a day of ongoing discussion.

It was just an entire discussion process on how the report came about and the decision-making process to the publishing of the report and why we'd ignored government advice and so on and so forth. A lot of what he asked me was an interpretation that he was putting on things. So, I spent a huge amount of time going back over events, putting our own perspective on it. Then he said he was also going to arrest Vince, who was in Nyala. He said to me, 'You have two choices. If you want, you can spend the night here in the cells or you can go home.' I said, 'I'll go home then.' So, they produced some paperwork which I had to sign, and which Khalid had to sign. Khalid said: 'Well, you're under arrest and you can go home, and you're not allowed to leave Sudan.' But they didn't take my passport away. After the event, I said to the team that they're going to arrest Vince. He was arrested the next day.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*

MSF teams in the Amsterdam headquarters and in Khartoum were mobilised to inform the other MSF sections and international stakeholders in Khartoum about the arrests, including embassies and UN representatives.

MSF Holland/OCA prepared a press release confirming the arrest of Paul Foreman and the charges of “crimes against the State.”

The BBC, informed by Jonah Fisher, immediately broke the news and Paul spent the evening giving interviews to the international media.



'Timelines of MSF Holland arrests,' 30 May 2005 (in English).

Extract:

Internal:

15.35 Other MSF sections in Khartoum informed (follow-up with MSF-Spain?)
15.45 Vince informed. All fine in Nyala. Phone appointment to discuss at 6pm
16.00 PCs informed – Malakal, Um el Kher, Nasir.
16.00 MSF in the UK [...] informed.

British Embassy: [...] Dutch Embassy [...] United Nations: [...]

6.30 Spoke to Jan Pronk [UNSG Special Representative to Sudan] [...]

PRESS:

From 15.00 onwards calls from BBC Khartoum correspondent – Jonah Fisher – Paul provided interviews over telephone from 19.30.

Reuters – interview with Paul in Khartoum office 19.00 – 19.30

AFP called 18.00 – directed to Amsterdam switchboard.

In Nyala, the same evening that Paul was arrested, Vincent Hoedt was informed in a phone call from UNSG Special Representative to Sudan, Jan Pronk, that Paul was arrested and that soon, Vincent would be as well.

Pronk asked Vincent not to resist arrest and promised the UN would take care of them.

On 31 May 2005, Vincent Hoedt was arrested, flown to Khartoum, and interrogated before being released under the same conditions as Paul.

Paul and Vincent were questioned for another day and charges were confirmed.



In the evening, I was called by the Special Representative to Kofi Annan, a Dutchman by the name of Jan Pronk. Quite a reputable left-wing politician in the Netherlands who called me up saying, 'Good evening, Mr Hoedt, I just want to tell you, your colleague, Mr Foreman has been arrested on account of the rape report. You better prepare

yourself. You're very likely to be arrested as well. Don't worry, we'll look after you. Please, no resistance.'

So later that evening we heard Paul was arrested and was back at home. I said to the guys in the house: 'Guys, Paul has been arrested. To my knowledge, he's released. Same can happen to us.'

Then the next morning, I said to a few people, 'Listen, if I get picked up in the next couple of hours, you take over the mission, you're in charge of security, you the communication.'

Then I sat in my office, drank a cup of coffee and then the guard walked in, white as a sheet saying, 'There are some people.' I said, 'Yeah, I know, please let them in.' And two guys walked in, 'Are you Mr Hoedt? OK gentlemen let's go!' We went to the HAC office in Nyala. Mr J [...] was quite a decent fellow as HAC guys go. When I met him eight months earlier and I introduced myself as the new Darfur Coordinator, he was very happy saying, 'MSF you are our friends' because that was when we had just taken the position this is not a genocide. He congratulated me on it.

This day, when I was introduced, J [...] turned pale and ran out of the room through the back door, out of his own office! 'I have nothing to do with this.' I had to ask the guys, 'Guys, what are we doing now?' They called to Khartoum and then they said, 'We are going to bring you to Khartoum.'

I was then driven to the airport, followed by an MSF car and our financial controller to keep an eye on me. At the airport the guys who transported me ran in trouble with the local HAC officials who said I did not have a travel permit. I was not allowed to fly to Khartoum, and they started shouting at each other in front of the gate.

Eventually we went to Khartoum where I was brought to a building and introduced to the guy who led the investigation. He was the only one who was willing to make it sound serious. 'You are a spy. You are a danger to the society, blah blah blah ...' Then I thought: 'Now it's not funny anymore.'

And the next thing was, 'You can go home now.' I was brought to Paul's house where we were kind of under house arrest. The days that followed, we had to go several times to this justice office to be interrogated, formally questioned, accused.

One time when I went outside for a smoke, a fellow walked up to me and sat next to me, had a cigarette as well and said, 'Hi.' I thought he was a guy who's going to play the nice guy and try to let me talk too much. But he introduced himself as a famous medical Sudanese activist, regularly picked up by the Khartoum government, tortured, etc. He said, 'You know who I am. I know you are the guys from the rape report.' I asked him if he was arrested again. He said: 'No, this is Sudan. I come here so often. These people are like my friends. I keep in touch with them.'

*Vincent Hoedt, MSF Holland/OCA, Coordinator in Darfur, October 2004 to June 2005
(in English).*

Both Paul and Vincent were released on bail, thanks to MSF's Deputy Country Coordinator Khalid Abdelsalam, who volunteered to act as guarantor.

According to the Sudanese law, should Paul or Vincent not comply with the conditions of the bail, Abdelsalam, acting as bondsman, would have been found guilty of their charges.



In the Sudan legal system, a foreigner who gets released on bail ... if I use the terminology right, has a so-called bondsman, a person who stands guarantee. Our bondsman was Khalid Abdelsalam, the general coordinator's deputy. And this was all arranged by the Sudanese amongst themselves, in Arabic. In other words, MSF then transferred quite some risk to individual national staff members. And not consciously. This was not part of a headquarter thing: 'Oh, who can we trust? Who do we dare place these risks on?' No. This was the staff themselves thinking, how do we get them out of trouble? Okay. I'll put myself as a bondsman. What courage, what bravery! For them, it could have had lasting implications.

*Vincent Hoedt, MSF Holland/OCA, Coordinator in Darfur, October 2004 to June 2005
(in English).*



They still hadn't told me what I was being charged with, but because Khalid had signed the guarantee, whatever they were going to charge me with if I failed to appear on demand, then Khalid would automatically be guilty of whatever they wanted to charge me with.

But they still didn't take our passports. We could have gotten a flight from Khartoum to Juba, and then we could have gotten a flight from Juba to Nairobi. And then we'd both be out of the country and that would be that. But of course, the problem was Khalid had signed for both of us as guarantor. Killing a Dutch and an English bloke would be very controversial but Sudanese people disappear, intelligentsia disappear and never reappear ... So, the thought of having Khalid having to remain and stand the charges, it wasn't acceptable to either Vince or me and wasn't acceptable to Amsterdam. Amsterdam's overall position was they must withdraw these charges because they're false.

*Paul Foreman, MSF Holland/OCA Sudan Coordinator, October 2004 to August 2005
(in English).*



I said I will sign for Paul. And then the lawyer read exactly what were the charges against him. And if Paul Foreman is not there, I will have to stand the trial. And these are very serious. I said: 'Well, I know that and thank you for telling me, I'm still standing for that.' I did it voluntarily. Honestly, no one asked me for that. I knew Paul Foreman wouldn't run before things would settle in. And I knew he wouldn't run for his life leaving me behind. I knew that for sure. I knew that he would stand for what he believed in because he believed in what he was doing at that time. I knew that, regardless of what happens, because me too, I stood exactly on what I believed in. I value human life. That's what I stood up and took the oath as a medical doctor and I believe in it regardless of my profession. And yes, people should stand to each other and make sure that less suffering is happening. I trust Paul. We had very short time but the trust that was built within that short time and the interaction and the respect, I think it's endless. I did it as a responsibility. No one from MSF Holland offered a commitment. But I didn't ask either for a commitment honestly. I wouldn't ask for that because I did it from me as a person, not as MSF staff.

*Dr Khalid Abdelsalam, MSF Holland/OCA, Deputy Coordinator in Sudan 2005-2007
(in English).*

2. Communication, Political Pressure and Legal Avenues

On 31 May 2005, MSF Holland/OCA issued two press releases announcing: the successive arrests of Paul Foreman and Vincent Hoedt; their release on bail; and the charges against them. These charges included crimes against the State, publishing false reports, spying, and undermining Sudanese society.

MSF Holland/OCA demanded that all charges be dropped and said it remained “extremely concerned about the continued level of violence and deplorable living conditions affecting the population in Darfur.”

MSF Holland/OCA defended the “right to speak about the humanitarian situation in Darfur and views these baseless charges as intimidation against the humanitarian community by the Government of Sudan.”

The press releases were issued by all MSF sections. The MSF France/OCP press release, quoted the MSF France President Jean-Hervé Bradol, which added details about an ongoing lawsuit filed by the Dutch government against MSF for a ransom reimbursement in another context. The Dutch government continually demanded this ransom reimbursement, which they paid in the Caucasus for the release of a Dutch aid worker, Arjan Erkel¹², who was taken hostage while working for MSF. Bradol said, “lawsuits seem to be becoming the new weapon of governments to try to silence witnesses to their crimes.”



‘MSF shocked by arrest of Head of Mission in Sudan – charged with crimes against the state,’ MSF Holland/OCA, **Press release**, Khartoum/Amsterdam, 31 May 2005 (in English, in French).

Extract:

The international medical humanitarian organisation Médecins Sans Frontières (MSF) confirms the arrest of its Head of Mission Paul Foreman, a British national, in Khartoum, Sudan. MSF’s Head of Mission has been charged with crimes against the state. MSF is being accused of publishing false reports, undermining society in Sudan and spying. MSF is outraged by the charges and rejects any notion that the report is false.

Paul Foreman has been released on bail early this evening but is not allowed to leave the country. The charges relate to MSF’s report “The Crushing Burden of Rape: Sexual Violence in Darfur” which was published on March 8, 2005.

Faced with hundreds of women and girls seeking medical care following rape and sexual violence in Darfur, MSF wrote and published the report in order to raise awareness about the ongoing violence against women. It is noteworthy that the report does not accuse the Government of Sudan.

MSF defends its right to speak about the humanitarian situation in Darfur and views these baseless charges as intimidation against the humanitarian community by the Government of Sudan.

“As providers of medical assistance and as human beings we find it impossible to stay silent when we are witnessing these abuses – wherever they occur. MSF wants to make people and governments aware of these serious violations so that real action is taken to stop them,” said Geoff Prescott, General Director of MSF in Amsterdam, Holland.

12. See Laurence Binet, ‘War crimes and politics of terror in Chechnya 1994-2004,’ September 2014, URL: <https://www.msf.org/speakingout/war-crimes-and-politics-terror-chechnya-1994-2004>

"Everybody who has looked into the situation in Darfur, including the Government of Sudan, has concluded that rape is a problem."

While distressed by this latest development, MSF remains extremely concerned about the continued level of violence and deplorable living conditions affecting the population in Darfur. MSF has been working for more than 20 years in Sudan providing health care and emergency aid to millions of Sudanese civilians.

MSF is the principal partner of the Sudanese Ministry of Health in the battle against the Kala Azar and has treated more than 60.000 Sudanese infected. In the last 12 months in Darfur alone, MSF has provided almost a million medical consultations and treated more than 50.000 children suffering from malnutrition. MSF is not only working in Darfur but throughout the Sudan, bringing medical care to Sudanese afflicted by epidemics and conflict.



'Second arrest in Sudan; Dutch co-ordinator for MSF in Darfur held this morning,' MSF Holland/OCA **Press release**, Khartoum/Amsterdam, 31 May 2005 (in English).

Extract:

The international medical humanitarian organisation Médecins Sans Frontières (MSF) expresses its outrage about the arrest of a second representative in Sudan this morning. Dutchman Vincent Hoedt, regional coordinator for MSF in Darfur, was arrested this morning in Nyala.

Yesterday, May 30, MSF's head of mission Paul Foreman was arrested in Khartoum and later released on bail. "These arrests are totally unacceptable," said Geoff Prescott, general director of MSF Holland. "The government is punishing humanitarian aid workers for doing their job for victims of the conflict in Darfur".

The Sudanese authorities accused MSF of crimes against the state, publishing false reports, spying, and undermining Sudanese society. MSF demands that all charges are dropped.

"The arrest of two senior co-ordinators severely undermines our ability to provide humanitarian assistance. The people of Darfur, who have been through so much already, must not be allowed to suffer as a result of these actions," says Geoff Prescott.

MSF has been working for more than 20 years in Sudan providing health care and emergency aid to millions of Sudanese civilians. MSF is the principal partner of the Sudanese Ministry of Health in the battle against the Kala Azar and has treated more than 60.000 Sudanese infected.

MSF works in over 29 locations in Darfur with 180 expatriate and 3000 national staff. In the last 12 months in Darfur alone, MSF has provided almost a million medical consultations and treated more than 50.000 children suffering from malnutrition. MSF is not only working in Darfur but throughout the Sudan, bringing medical care to Sudanese afflicted by epidemics and conflict.

Paul Foreman (45 years old) works for MSF since 2002. He has worked as head of mission for MSF in Congo-Brazzaville, Angola, and Iraq. [...] Vincent Hoedt (35 years old) works for MSF since 1996 and was born in Rotterdam, Holland. Vincent Hoedt has worked for MSF in Colombia, Liberia, Democratic Republic of Congo, Sudan, Zambia, Albania, and Nigeria. Vincent worked first as a logistician, later as project co-ordinator and head of mission for MSF.



'Médecins Sans Frontières protests against the arrest of the head of mission of the Dutch section of the association in Sudan and the coordinator of its activities in Darfur,' MSF France/OCP **Press release**, 31 May 2005 (in French).

Extract:

"Trials seem to be becoming the new weapon used by governments to try and silence witnesses to their crimes. After the Dutch government asked MSF in court to pay a ransom for Arjan Erkel, it is now the Sudanese government that is suing us," adds Dr Jean-Hervé Bradol, President of MSF's French section.

MSF Holland/OCA organised a communication and lobbying strategy to push for the charges against Paul and Vincent to be dropped. They decided to be "hard-hitting and high-profile towards the Government of Sudan." MSF thought this would "best protect the mission and our identity, and ultimately will serve to protect our staff held."

The arrests brought the briefing paper on rape back into the spotlight, giving MSF, UN and international stakeholders support both for the report and for those arrested.

In a press release, UN High Commissioner for Human Rights, Louise Harbour, expressed serious concern over the arrest of the MSF coordinators. She called on the Government of Sudan "to ensure that human rights and humanitarian workers are permitted to work freely and without fear of retaliation."



'Communications line court case Sudan,' MSF Holland/OCA HAD **Memo**, 31 May 2005 (in English).

Extract:

MSF is incensed by the charges brought against Paul Foreman, the MSF Holland HoM, and Vincent Hoedt, the Darfur coordinator. This severely undermines our ability to provide humanitarian assistance to the people of Darfur. They should not be allowed to suffer even more as a result of these actions. In the last year we have provided almost a million patient consultations and nutritional support to over 50,000 children in Darfur, and it is important to continue life-saving services in the months and years to come.

- MSF demands the immediate release of Paul Foreman and Vincent Hoedt and the dropping of all charges against them. For the moment both are free on bail. They have been asked by the Sudanese authorities to report to the prosecutors' office again Wednesday for the continuation of the preliminary investigation. No trial date has been set yet.
- Claims from the Sudanese authorities that the report on sexual violence in Darfur is somehow false are completely baseless. Sadly, many patients who have been treated in our clinics or nutritional centres show signs of violent abuse. Their tales of the abuse they have suffered, including rape, have shocked the conscience of our medical teams. MSF has made public the reports of these abuses so that the Sudanese government and other authorities can more effectively stop these abuses.

- The Sudanese authorities are demanding MSF to turn over information forming the basis of the report on sexual violence in Darfur. However, our patients have informed MSF of the abuse they have suffered on the basis of the confidentiality existing between them and their doctors. This means MSF is not able to release neither the medical details nor the names of the victims to the authorities or to other organizations, including the UN, the International Criminal Court, and human rights organizations. Moreover, women in Sudan who step forward as victims of rape run a serious risk of maltreatment by the authorities.
- MSF has not been alone in reporting widespread sexual violence in Darfur. The Sudanese government commission of inquiry, the UN, other NGO's and numerous international journalists have been reporting many incidences of sexual violence in Darfur as well. However, as access to Darfur for the media and human rights organizations is being limited, raising awareness of the suffering of the population is becoming harder and harder.
- MSF feels it's our duty to speak out about the suffering of the victims of sexual violence and other abuses that we treat in our clinics and feeding centers. We want to emphasize we do so in their interest, so that the Sudanese government and other authorities can more effectively stop these abuses against civilians in Darfur.



'MSF Holland/OCA **Briefing notes** for Operational Centres, Partner Sections, Coordinators', 31 May 2005 (in English).

Extract:

Overall Objective to ensure the safety and security of our staff without compromising our mission and identity.

Strategy to achieve overall objective is through 1) comms/publicity and 2) political pressure and 3) legal avenues (not covered here)

Comms strategy

Will be hard-hitting and high-profile towards the Government of Sudan. Analysis being that this will best protect the mission and our identity, and ultimately will serve to protect our staff held.

Communications will have the broader message of obstruction by Government of Sudan of humanitarian agencies, linking this to the ongoing suffering of the Darfur people.

Lobbying messages

- MSF is appalled at the arrest of our North Sudan Head of Mission and Darfur Coordinator by the Government of Sudan.
- MSF demands that all charges be dropped, and Paul Foreman (HoM North Sudan) and Vincent Hoedt (Darfur Coordinator) immediately and unconditionally released.
- MSF is deeply concerned about the continued levels of violence, fear, and appalling living conditions facing the people of Darfur, the victims of the ongoing conflict.
- MSF protests at the intimidation tactics of the Government of Sudan against MSF and humanitarian agencies.
- MSF is concerned that the arrest of our two most senior international staff will undermine our ability to provide humanitarian assistance. MSF operations will

continue as normal in Darfur and Northern Sudan as MSF does not want the population to suffer this action by the Government of Sudan.

How?

Operational Centres and Partner Section offices should ask of their own governments/ Ministry of Foreign Affairs that the Government of Sudan drop all charges against Paul Foreman and Vincent Hoedt and that they are unconditionally and immediately released. Domestic governments should also censure the Government of Sudan regarding obstruction and intimidation against humanitarian actors.

Operational Centres and Partner Sections to arrange their own meetings with their respective Sudan Ambassadors to deliver similar protest and demands as above.



'High Commissioner for Human Rights concerned over arrest of MSF head in Sudan,' MSF Holland/OCA **Project Update**, 31 May 2005 (in English).

Extract:

"This is a very disturbing development," the High Commissioner said. "Rape and sexual violence are very real features of the life of the women of Darfur. This is the conclusion of our monitors, of the International Commission of Inquiry on Darfur and of all serious investigations into the unfolding human rights crisis in the region. MSF has done nothing more than record these horrendous crimes and try to focus critically needed attention on them," she added. The High Commissioner said targeting the humanitarian community for doing its work "will not only do a disservice to the people of Darfur, but it will also draw attention away from the real criminals, those who continue to rape, kill and pillage with impunity."

The High Commissioner called on the Government of Sudan to ensure that human rights and humanitarian workers are permitted to work freely and without fear of retaliation.



That was very quick out in the media again. Internationally it really shed more light on the report than the initial release did. The people went online and searched for it. The number of logins to read the report after then, was more than three times higher than the initial release. They resurrected it after it started to go down in the media lines. But I think the national authority knew exactly what they were doing, and they wanted to go that line regardless of what happens at the international level also.

Dr Khalid Abdelsalam, MSF Holland/OCA, Deputy Coordinator in Sudan 2005-2007 (in English).



Jan Egeland, the UN Humanitarian Coordinator, was incensed very much by the fact that MSF had brought something important on a humanitarian level to light and MSF was being punished for it. And the 'humanitarian community' couldn't stand by and watch their people being persecuted for shining a light on the truth. I think Egeland was decent in that respect.

The British ambassador had a certain amount of influence with the government. MSF UK tried to pull the British Embassy strings and there was just a big political storm.

As for the USA, they were trying to use Darfur as a bit of a distraction from the mess they'd made in Iraq the previous year.

Everybody in the States was keen to do anything that stopped people from saying that weap-

ons of mass destruction never existed, etc. So, we had Colin Powell on our side, not for the first time in MSF, and still unappreciated. It was an interesting balancing act for people in Amsterdam. But it wasn't something that I had to negotiate in Khartoum.

MSF used publicity, they used the media and, of course, whatever Sudan published. Nobody particularly believed Sudan claiming that they were defending their sovereignty and so on and so forth.

Everybody tended to side with MSF and the fact that we were two ordinary guys being blamed for something that was a long-standing embarrassment to the whole world in terms of Darfur being just an open sore. It was important in the PR terms.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*

On 1 June 2005, the Sudanese authorities issued a “memorandum of the charges” against Paul Foreman and Vincent Hoedt, explaining they were charging the individuals and not, “MSF itself or its charitable work being rendered for the interest of humanity and the Sudanese community.”

Theoretically, the two coordinators were facing a sentence for espionage that could range from ten years in prison to the death penalty.

The Sudanese authorities stated they had “no choice other than taking these actions to prove to the world the inaccuracy of these annoying reports.”

They gave the suspects one week to provide evidence refuting the charges.



‘Memorandum of the Charge,’ 1 June 2005 (in English, translated from Arabic).

Extract:

Sudan welcomes the international cooperation and voluntary work, respects foreign organisations, and appreciates the work they are doing. We, as a state, form with the international community one family. However, the work should be performed in harmony between the ruling authority and the working organisation. The work should be performed with credibility and transparency in the manner that serves the issues for which these organisations are working and entail aid to the humanity. For the state not to be disgraced by being accused in its honour, the honour of its women and the morals of its forces, these actions are taken against individuals of MSF, not MSF itself or its charitable work being rendered for the interest of humanity and the Sudanese community. We still care for the legal and constitutional rights of the suspects, and the ethics of the profession, and we give them all chances to defend themselves and provide what will serve their case and convince us that they were right in what they published. At that time, we can drop the legal violation, with exception of the issue of failing to take the needed permission from HAC for the release and pursue that committed crime. However, under all this concrete data, and under this weak defence and hesitation in answering the questions and circulating around them, we have no choice other than taking these actions to prove to the world the inaccuracy of these annoying reports. It is sufficient to refer to the monthly report of UN Secretary General in which he referred to

what has been released by MSF Holland reporting 500 rape cases in Western Sudan during the period from October to March (see the monthly report of UN Secretary General, paragraph 14 dated April 7, 2005).



'Letter from MSF Holland/OCA to the Prosecutor General – Ministry of Justice – Khartoum,' 5 June 2005 (in English).

Extract:

Suspect: 1- Paul Foreman 2. Vincent Hoedt

Case No. 355/2005

(Attorney for Crimes Against the State)

Mr. Prosecutor General

Ministry of Justice

With all respect and on behalf of the above suspects, this is to appeal the decision of the attorney for crimes against the state charging the above (personally and not professionally) under articles 53/66/69 of the criminal law for year 1991 and articles 13/14 of HAC law for violation of the law and the error in its application and interpretation as follows:

1. There is not any initial evidence whatsoever indicating that any of the suspects has spied against the country by contacting a foreign state or talking to its agents or to it or conveyed to it secrets with the intention of helping its military operations against the country or undermining the military position of the country or the possibility of politically or economically undermining the country in the manner that stated in article (53) of the criminal law for year 1991.

2. Therefore, the issued decision has violated the rule of law and erred in its application and interpretation when decided to charge them under the above – mentioned article (53) requesting them to provide the evidence which disprove the charge.

3. Also, there is not any evidence against the suspects indicating that any of them has published or broadcasted any news or report that they were aware of its inaccuracy for the purpose of scaring and intimidating the public or threatening the general peace or undermining the prestige of the state.

4. The core of the news conveyed in the report is in conformity with what has been arrived at by the committees and both official Sudanese and non-Sudanese authorities ... It has been reported in the investigation committee formed by the concerned government authorities for investigations on allegations on human right violations in Darfur ...

- The report of that committee stated: "there was indeed serious violations of human rights which involved all belligerent parties..."

- The report of the above-mentioned committee also stated: "crimes of rape and sexual abuse had been committed..."

5. Not only that... the official Sudanese authorities have admitted – officially – in their response to UN report – the accuracy of the core of the news stated in the subject report... where the official Sudanese authorities admitted existence of 60 rape cases in the region of Darfur alone... and that the pattern of abuses has been repeated throughout Darfur: " This pattern of abuses... has been repeated throughout Darfur" That the mentioned 60 rape cases "...were reported in one area alone..." The Government of Sudan believes that the mentioned violations "believes them to be representative of a pattern of sexual violence by rebels across Darfur..."

6. The subject report does not accuse the Government of Sudan or any other of the warring parties in Darfur region or other areas of conflict.
7. The report that has been issued by MSF Holland Head Office in Netherlands – referring to cases which have been treated by its members in Sudan – does not, in any way, form the elements provided for in article (66).
8. On the other hand, demanding the suspects to reveal names of infected or patients who were provided with medical care by the organization, contradicts and is not in line with principle of the secrecy of relation and information between a doctor and his patients ... which is a principle admitted and stated by the Sudanese laws.
9. MSF insists on this principle in dealing with all the countries it works in and all international organizations and institutions.
10. There is not any initial evidence indicating that any of the suspects has disturbed the general peace or committed an action with intention or possibility of leading to disturbance of the general peace or tranquillity in a public place as in the manner stated in article 69 of the criminal law for year 1991.
11. Regarding the statement of the suspect published in the French paper, the comments and opinions of the French journalist are related to the journalist who is the writer of the article ... and the statement of the second suspect was (quotation) and does not form, in any way, an element for the articles of charge.
12. In the data submitted against the suspects, there is nothing referring to violation of provisions of HAC law (articles 13/14) by any of the suspects ...Also none of the two articles has to do with “Crimes Against the State”.
13. Finally, there is nothing in the provided evidence that justifies, in the first place, charging the two suspects in their persons in the manner stated in the decision that formed the subject of appeal and “the memo of the charge”.
14. The subject report has not been issued or published by any of the suspects... This issue has been carried out by the concerned section at MSF Head Office in Amsterdam, the Netherlands. A representative from the said section has previously come to Sudan and has explicitly informed HAC about that.
15. For the above, with all respect, we kindly request for cancelling the decision charging the two suspects and dropping the case against them and immediately release them.



I was formally told that the penalty for the crimes me and Paul had done was death. That was the moment I thought: maybe this is not so funny after all. I remember that I tried to be a bit nice when I said, can I take notes here? And I asked the guy if I could borrow his pen, kind of like seeking interaction.

*Vincent Hoedt, MSF Holland/OCA Coordinator in Darfur, October 2004 to June 2005
(in English).*



And eventually somebody started speaking to our lawyer on legal terms. They produced a charge sheet, and it was both of us charged with three things. One was publishing a false report or some such thing. One was provoking discontent in public or doing things that were likely to disturb the peace of the Sudanese population. And the third charge, which was one that we were both worried about, was espionage. The punishment for the first two was two years in prison or three years in prison and public flogging. And the punishment for the third one, the espionage, was ten years to death. They were essentially capital charges. And I have to say that caused a certain amount of stress because at that

point, you started to realise that this could become a little more serious than we really need. The first charge was publishing a false report and that's the one that MSF vigorously defended because it was 100 per cent accurate. We stand by all of it. And it's important in conflict that people understand and realise that conflict is very ugly and an unpleasant reality ... and the world needs to know about it so that the survivors can be adequately treated in a humanitarian way. So, MSF maintained, and I think continues to maintain, that the report itself was not false. It was real. It was a huge political storm.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*

Despite a request from the Government of Sudan for MSF Holland/OCA to limit the MSF advocacy campaign, which could allow for an easy resolution of the situation, MSF executives decided to continue an extensive lobbying campaign to convince and pressure the Government of Sudan to drop the charges.

MSF Holland/OCA was supported by the MSF movement, and particularly by all MSF teams in Sudan.

A communications campaign to give a public face to Vincent and Paul was meant to support this strategy.

Knowing that this was a political case, MSF Holland/OCA decided to comply with all the legal steps imposed by Sudanese justice.

MSF operations continued with strengthened security measures.



'Comms line court case Sudan against MSF Holland/OCA HOM & Coordinator Darfur,' MSF OCA **Memo**, 2 June 2005 (in English).

Extract:

- MSF is incensed by the charges brought against the MSF Holland HoM and Darfur coordinator. This severely undermines our ability to provide humanitarian assistance to the people of Darfur. They should not be allowed to suffer even more as a result of these actions. We provided almost a million patient consultations and provided nutritional support to over 50,000 children, and it is important to continue life-saving services in the months and years to come.
- Claims from the Sudanese authorities that the report on sexual violence is somehow false are completely baseless. Sadly, many patients who have been treated in our clinics or nutritional centers show signs of violent abuse. Their tales of the abuse that they have suffered, including rape, have shocked the conscience of our medical teams. MSF has made public the reports of these abuses so that the Sudanese government and other authorities can more effectively stop these abuses against civilians. MSF is very careful in collecting all medical data, including data regarding abuse and we have no doubts about the data and conclusions in the report on sexual violence in Darfur.
- MSF has not been alone in reporting widespread sexual violence in Darfur. The Sudanese government investigation commission, the UN, other NGO's and

numerous international journalists have been reporting many incidences of sexual violence in Darfur as well.

- MSF feels it's our duty to speak out about the suffering of the victims of sexual violence and other abuses that we treat in our clinics and feeding centres and will continue to do so. We want to emphasize we do so in their interest, so that the Sudanese government and other authorities can more effectively stop these abuses against civilians in Darfur.
- Our patients have informed MSF of the abuse they have suffered on the basis of confidentiality existing between patients and their doctors. This means MSF is not able to release the medical details nor the names of the victims. Moreover, women in Sudan who step forward as victims of rape run a serious risk of maltreatment by the authorities.



'Non-official **Minutes** from MSF ExCom **Teleconference**,' 3 June 2005 (in English).

Extract:

Sudan [...]

The Sudanese government promised that the charges on the 2 expatriates would drop. They are asking MSF to diminish its publicity and advocacy campaign to allow for an easy resolution of the situation. However, MSF Holland is sceptical of such a request and believes that it is an attempt to win time. MSF Holland plans to continue its campaign for support.

The strategy and plan of action have not changed. Sections are to inform the media that the charges on the 2 expatriates have not been dropped and that mobilisation continues. Additionally, sections should continue contacting their home government and embassies to add to the diplomatic pressure.

Decision and further steps:

All sections are to keep pushing the communication and diplomatic campaign to maintain the pressure on the Sudanese government.

Sections are to inform the media that the charges of the 2 expatriates have not been dropped.

The next ExCom teleconference is planned for early next week – to be confirmed.



'Strategy II – the coming week,' **Memo** MSF Holland/OCA, Vince [nt Hoedt], Paul [Foreman], Marc [DuBois], Kenny [Gluck], 4 June 2005 (in English).

Extract:

Comms strategy:

Generally, no public statements pending the hoped-for resolution of the legal situation this week.

If nothing by end of Thursday, use the weekend for intensive lobbying and the 'threat' of massive publicity.

If no result from this, go public on Monday 13th.

HoMs line (locally & internationally) if approached is that the legal process needs some time to come to a satisfactory conclusion and we are therefore trying to get back to our

work. All further international enquiries referred back to Amsterdam (local enquiries to Marc [DuBois])

Assuming it is all settled soon, there must be no “triumphalism” – celebrating a victory would be a bad move.

Longer-term response strategy:

MSF will protest as strongly as possible if PNG [Persona Non Grata] ing of HoMs occurs.

We are willing to discuss end of contract dates of HoMs as part of the deal.

Assuming the charges are dropped, a further negotiation process may happen; Pete / Kenny / Geoff will come to Khartoum for this.



We had a good group in Khartoum at the time. Everybody, all five sections, came together. They were supportive. We had intersectional heads of mission meetings to identify lines of communication responses, what we'd say in NGO forum, what we'd say to the UN, etc. We worked very closely together to counter the issue that HAC and the Sudanese government were trying to silence MSF. Everybody was of the same opinion. This was in the days when everybody agreed that if MSF is attacked, MSF should stand together and defend itself. It was good in that respect.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*

MSF Holland/OCA conducted a review of the report, 'The Crushing Burden of Rape' to assist negotiations and offer clarifications to the Government of Sudan on the requested details in their “memo on charges.”



Q&A MSF Holland/OCA to Aurélie Lamazière, MSF Holland/OCA HAD, author of 'The Crushing Burden of Rape' report, 7 June 2005 (in English).

Extract:

1. To what extent does Aurelie remember that the quote on the front page reflects the stories of the other women. Half? Quarter? A few?

A quarter (or less) of the victims. However, the quote reflects a strong belief from the relatives of the victims, MSF local staff (translators, midwives, CHWs (community health workers) ...) and people from the community. A LOT of people (but not only the victims) mentioned “to change genetics” as a reason for rape.

2. The stuff about the victims who were pregnant being put in prison or mistreated by the police. Directly witnessed by MSF.

Yes. The first time it came to our attention, the expat midwife talked to a policeman who came to the clinic to ask for a medical certificate (stating the pregnancy) for a list of women. He clearly explained that he was making this list to “protect” the women who were pregnant outside marriage.

Then the expat midwife and expat nurse saw the women in jail. Not being mistreated of course. But they visited the jail (once, I think) to provide medical care. It was at the time of Ton's visit (around February 2005). The team even paid the fine of a woman to be out of jail.

3. Did we raise the issue of rape with the local authorities, MOH (ministry of Health), or any other GOS (Government of Sudan) authorities prior to releasing the public report?

The team in West Darfur tried to raise the issue with ALL the local authorities (security, police, commissioners, the “judge”/prosecutor in Garsila, etc.): either they did not recognise the pb at all or asked us to hand over all women who had been raped so that they could “take care” of them.

In the other locations, in South Darfur, the protection and SGBV (sexually based gender violence) working groups (gathering NGOs (including us) and UN agencies) raised the issue at several occasions. I think Vince mentioned the pb at a relatively high-level meeting in Nyala with some reps of the Government of Sudan (including a rep of the MOFA (ministry of Foreign Affairs))

However, I don't think we lobbied the MoH very much...

4. What was the final word on the regulations surrounding Form 8? Was it repealed?

The last thing I heard before I left was that women were allowed to go first to a health facility to seek treatment (without the Form 8). They could choose later if they wanted to complain. But MSF Belgium assistant HoM in Khartoum, with whom I'm still in contact, told me that there have been a lot of changes recently. We were going to the SGBV and protection meetings together so she must have followed up all the developments. You could contact her if you need to and if she's still in the country.

5. Why low numbers from non-MSF Holland areas? Any theories?

Some sections did not make it a priority; some recognised that they had difficulties to reach raped women; MSF Holland was the only section in rural areas as such. The other sections were mainly in big camps where security and visibility were more controlled. Just like we record low numbers in Kalma or Kass (large urban IDPs concentrations), the other MSF sections have low numbers.

However, I heard indirectly that an MSF-Spain's experienced midwife was shocked by the numbers of rapes she was treating every week. She said that in Darfur she did not count the number of raped women but the number of women who had not been raped. So probably a lack of willingness to get proper data on this sensitive issue and to communicate on it...

6. Did any women state that perpetrators were from the AU forces, or NGO workers, etc? (Not warring parties).

No.

7. Statistics on page 3 (90% rapes occurred outside village, 28% multiple rapes). Is that of the 500 or of the 297?

All the statistics mentioned in the report are made on the basis of the 297.



'Clarifications regarding rape report, MSF Holland/OCA **Memo**,' 7 June 2005 (in English).

Extract:

I realize the danger in appearing to backtrack from the statements of our report, but at the same time some clarifications might reduce the tensions and might help the MoFA (ministry of Foreign Affairs) defend itself if they are pushing for a dropping of the charges. I believe we could do this in public, perhaps in response to increasing media reports on the ground that question the 500 figure or diplomatically, in a letter to Pronk or somebody at MoFA. It is my feeling that this stuff will come up during negotiations anyway.

In an effort to diffuse some of the tensions surrounding the report, MSF would like to clarify:

- MSF believes that far more than 500 rapes took place in Darfur during the time period stated in the report. In the first place, the report refers to the number of women who

sought treatment at MSF for rape, not the number of actual rapes that occurred. And of the women who did seek treatment, a full 28% of the women reported being raped more than one time. In the second place, MSF expects that many victims do not have access to health care, fear seeking treatment for sexual violence, or decide for other reasons not to seek treatment.

- The time period in the report refers to the period during which women sought treatment from MSF for rape or sexual violence, not the period during which the rapes took place.
- It is not the job of MSF to investigate rape cases or make a legal determination of whether a crime took place but to respond medically to the physical and mental trauma of the victims, and to call attention to the situation with those actors able to take action to halt the rapes.
- The rape report is purposely vague about the identity of the perpetrators, although it is clear from the reports of the victims that in the overwhelming majority of cases that the perpetrators were men with guns and uniforms.

MSF is not in possession of information with regard to the identity of the perpetrators. However, it is clear from the reports of the victims that in the overwhelming majority of cases that the perpetrators were men with guns and uniforms.

The UN Special Representative on Sudan to the Secretary General, Jan Pronk, positioned himself as the facilitator in negotiations between MSF Holland/OCA and the Government of Sudan.

He quickly managed to obtain an agreement for the charges to be dropped, on the condition that MSF and the Sudanese government exchange certain letters.

Upon Pronk's request in the following days, MSF Holland/OCA decided to keep quiet about the potential progress but prepared a communication strategy in case the agreement failed.

On 14 June 2005, at a press conference, Jan Pronk stated that he expected the charges to be dropped within hours, but they were not.



'Minutes of MSF Holland/OCA Task Force meetings,' 8 June 2005 (in English).

Extract:

OPS

Meeting between Ministry of Justice and Pronk: Agreement that charges will be dropped with an exchange of letters between MSF and Government of Sudan will take place via/ with Pronk. [...]

Comms

We should be ready to go public next week if this process does not move. Given Geoff's availability and the fact that the next concrete indication re progress in Khartoum might not come before Sudan (Pronk back from Abuja), let's move the potential date for comms to June 15th (Wednesday).



'Letter from Jan Pronk Special Representative of the Secretary General, United Nations Mission in Sudan (UNMIS) to Sudan Minister of Foreign Affairs, Sudan State Minister for Justice, Mr Kenny Gluck, MSF Holland/OCA Director of Operations,' 13 June 2005 (in English).

Extract:

Your Excellencies, Dear Mr Gluck

Following a series of discussions regarding the publication of the report by MSF on sexual violence in Darfur, the Government of Sudan and MSF have stated their positions. As agreed, I have facilitated the exchange of these positions.

In my discussions with the Government and with MSF, following this exchange, the central position of the Government has been made quite clear. According to the Government of Sudan the MSF report is 'unrealistic, lacks credibility and aims at distorting the image of the country and undermining the social fabric. Moreover, it complicates the situation and fuels the conflict instead of rallying the efforts to help solving the problem and containing its effects.'

MSF has made clear that 'the statements and figures in the report have not been fabricated', but that it 'understands the Government's concerns. It was not intended to harm the state in any way. It was a humanitarian report with no political intentions. We have neither accused the Government nor any other authority -----'. MSF had acted solely for humanitarian reasons and in good faith'. MSF has reconfirmed, in its letter to the Government, 'its commitment to Sudanese law and recognition of the sovereignty of Sudan.'

The Government of Sudan has informed me that the exchange of positions, as agreed, would imply the dismissal of charges against MSF and its staff. During my discussions the Government has confirmed the immediate dropping of all charges upon the receipt of this letter. Both the Government of Sudan and MSF have informed me that they look forward to a good dialogue and a fruitful collaboration.

I expect that the humanitarian work of MSF can continue and expand in Darfur as well as Sudan as a whole. It has proved to be crucial to relieve the suffering of many people in this country as well as elsewhere.



'Minutes General Directors 19 Meeting,' Montreal, 14-15 June 2005 (in English).

Extract:

This attack on the part of the Sudanese government can be analysed in different ways, among which:

- Systematic and continuous attacks to intimidate humanitarian aid agency (other NGOs have also been threatened).
- A reaction to the rape report released by MSF in March 2005, which is based on medical evidence.
- A fear from the Sudanese government that MSF is collaborating with the International Criminal Court (ICC).
- The result of tensions and divergence of opinions within the Sudanese government.
- The knowledge of the upcoming international MSF report on Darfur.

Throughout this crisis, the objectives of MSF Holland/OCA are:

- The safety and the life of the 2 MSF workers and the other staff members while operations are continuing.
- The ability to continue provision of humanitarian aid.

The plan of action for MSF Holland/OCA is:

1. To continue protesting publicly against the charges. The Government of Sudan fears bad publicity and the message has already impacted the Ministry of Foreign Affairs. MSF is using different forms of media to pursue this campaign, including Arabic media.
2. To ask home governments to put pressure on Sudanese embassies.
3. To give a face and a voice to the two workers in an effort to increase public's sensitivity to the issue.
4. To continue the negotiations with the Government of Sudan. The negotiations require following a strict protocol and gradually going up the hierarchic system of the country. MSF Holland has already met with several departments and, at the request of the Sudanese government, is using Jan Pronk, OCHA representative in Khartoum, as an intermediary.

The Government of Sudan is requesting details about the way the information presented in the report was collected. They are asking for names of victims, health care professionals, and locations. MSF has provided general demographic information but is refusing to divulge specific information to ensure the safety of the victims and the workers. MSF claims that this information is protected by the patient/doctor relationship.

There has been an exchange of letters between MSF and the Ministry of Justice and consistent rumours circulate that the charges will be dropped. In the meantime, MSF Holland is standing by its report and is not planning to retract any information. MSF is requesting for the charges to be officially dropped and is claiming that the arrests are a form of harassment. MSF Holland has diminished, though not stopped, media campaign and pressure while negotiations are underway. However, if the Sudanese authorities do not make concrete progress, MSF will renew its campaign.

Re. International Criminal Court (ICC) – MSF Belgium/OCB explained that the ICC only intervenes if governments are not prosecuting crimes. Because Sudan has a legal system in place, the ICC has no reasons to get involve. MSF Holland/OCA publicly clarified that MSF is not providing information to the ICC.



'Daily **update** Sudan arrest MSF Holland/OCA Staff,' 16 June 2005 (in English).

Extract:

On Tuesday June 14th, Pronk stated during a press conference that he expected the charges against Paul and Vince to be dropped within hours (and Hilary Benn, UK Development Minister, stated the same). That didn't happen.

Despite the lack of real progress over the past 2 days, we are still hopeful that charges will be dropped soon. The ongoing discussions taking place between various ministries within the Government of Sudan need time before the case can be resolved, and the diplomatic process is ongoing in which letters of position between MSF and Government of Sudan are being exchanged.

We initially planned to put the deadline for public comms for Friday June 17th. However, given that things seem to be moving (if slowly) in the right direction we have decided against any public communications for this week. Early next week this will be reviewed in the light of progress or (no progress) being made.

Vince [nt Hoedt] has been able to return to Nyala to carry on his work, Paul [Foreman] remains in Khartoum busy with his work, and currently, Kenny Gluck is in Khartoum, taking the lead in this case.

On 18 June 2005, the MSF Holland/OCA Director of Operations, Kenny Gluck, was officially informed by the Minister of Foreign Affairs of Sudan that the charges against Paul Foreman and Vincent Hoedt were dropped. The prosecutor said he would “put the charges on file.” On 19 June, a letter confirmed the dropped charges.

Paul Foreman and Vincent Hoedt were authorised to leave the country. Paul came back after a short break to end his mission, verifying he was not persona non grata in Sudan.



'Daily **update** Sudan arrest MSF Holland/OCA Staff,' Monday 20 June 2005' (in English).

Extract:

This is to let you know that all charges against Paul and Vince have been dropped.

This was confirmed yesterday in writing by the Ministry of Justice, in a fax, sent to the Attorney General instructing him to drop all charges against MSF. In the order he explains that he is dropping the charges as: “the suspects work for MSF which aims at providing humanitarian aid; as MSF is discharging its work in Darfur states which are badly in need for humanitarian support and aid; and in order to strengthen the relationship between governmental institutions and the humanitarian organizations which provide humanitarian aid and assistance; and due to the great role they play, and considering MSF’s commitment to confine itself to the humanitarian work and get its information from the concerned authorities. ”

The dropping of charges was also confirmed in a meeting Kenny Gluck had yesterday with the Minister of Foreign Affairs.

Paul and Vince will not be PNG’ed (persona non grata) and are in principle able to continue their work. They will both however leave north Sudan this evening; Paul for a short break to be with his family before returning to North Sudan to complete his mission, Vince is end of mission anyway (although may return late summer if necessary). A modest press release of MSF was released this morning, welcoming the news, and stressing the importance of getting back to our core task of providing assistance to the people of Darfur.

No conditions have been put on MSF by the Government of Sudan for charges to be dropped.

The longer-term ramifications of the drama will be discussed in the coming days.



Kenny Gluck [Operational Director] had lots of forthcoming discussions with different senior officials in Sudan. He was the one who finally received the official notification that they were dropping the charges from the Minister of Foreign Affairs. At that time,

this minister was a medical doctor as well himself. The fact that MSF had treated the issues of communication and addressed the medical part and described why and how their teams did it was insignificant for him. He gave Kenny Gluck the letter and told him, 'Look, we don't want to hear these problems again. Here you go.' And it was like the end of the legal case.

*Dr Khalid Abdelsalam, MSF Holland/OCA, Deputy Coordinator in Sudan 2005-2007
(in English).*



As far as publicity was concerned, they said the charges are dropped. We went back to the prosecutor's office the last time and we signed some documents and he said, 'I will put these charges on file.' When the charges were no longer relevant, we left the country, Vince and I with Kenny, who had been in and out and come back at the time. On the day that we left, they stopped us from leaving because the information had not reached the Immigration Department of Khartoum International Airport. When we had finally got through the whole process, and we got tickets, and we got a Lufthansa flight out of there. We had checked in, we checked our baggage in, and then we were going through the final passport checks, and they arrested me and Vince again, stuck us back in a room and said, 'You can't leave because you're on a "don't leave list" and the fact that you're trying to leave means that you're obviously guilty.' So, you're in trouble now. To be quite honest, that was the worst threat that we went through in the whole time. When the thing had happened and when they'd said the charges were dropped, Vince had picked up the morning paper, which is the Sudanese newspaper in Arabic and cheerfully put it in his bag, thinking I'll keep that as a souvenir. Neither of us was an Arabic reader but it had a picture of me, I think, or a picture of both of us on the front cover. And it said in Arabic, the charges had been dropped. He pulled that newspaper out of the bag and put it on the table in front of the immigration officer who had rearrested us and said, we have been released! And they let us on the aeroplane based on the newspaper report. And it was close, because they'd done the final call, and the stewardess was at the door to shut the door when we ran up the gangplank of the aeroplane. And it was clearly obvious that the rest of the passengers in the aeroplane were really upset with us because they delayed the plane for 20 minutes, waiting to try and find the final three passengers who checked in but not got on. We came home. I had five days. Then the discussion with Amsterdam was: will they let you back in? Have they banned you? This isn't over. And if they prevent you from getting back into the country, then they're still sanctioning you and the charges aren't dropped. So, I flew back to Khartoum five days after I left, and they let me back in and there was no problem.

*Paul Foreman, MSF Holland/OCA, Sudan Coordinator, October 2004 to August 2005
(in English).*

On 29 July 2005, the United Nations High Commissioner for Human Rights issued a report on access to justice for victims of sexual violence in Darfur. This report was a follow up to promised improvements from the Government of Sudan, given during UNSG Kofi Annan's visit in early June. That visit was to investigate rape cases committed in Darfur. The report concluded that steps taken so far, by the Government of Sudan, failed to investigate allegations of sexual violence and "to end impunity for these crimes and thus contribute to their prevention."



'Access to Justice for Victims of Sexual Violence,' **Report** of the United Nations High Commissioner for Human Rights, 29 July 2005 (in English).

Extract:

Summary

On 3 July 2004, a joint communiqué was issued by the Government of the Sudan and the United Nations on the occasion of Secretary-General Kofi Annan's visit to the Sudan. In the joint communiqué, the Government of the Sudan committed itself, inter alia, to undertake immediate investigations of all cases of violations occurring in Darfur and to ensure that all individuals and groups accused of human rights violations are brought to justice without delay. The Government of the Sudan further committed itself to establish a fair system, respectful of local traditions, that will allow abused women to bring charges against alleged perpetrators. [...]

The Government has taken some action in response to the sexual violence in Darfur, in particular since May 2005, by forming a State Committee on Combating Gender- Based Violence in Southern Darfur and providing technical assistance to improve the investigative capacity of the law enforcement agencies. It is too early to evaluate the impact these measures will have on reducing sexual violence in Darfur, but they indicate that the Government is starting to address the issue.

[...] Major obstacles continue to prevent most victims from seeking accountability. Many women do not report incidents, out of fear of reprisals, and are discouraged from reporting by the lack of redress for sexual violence. Some police stations refuse to register and investigate complaints of sexual violence. When cases are registered, police officials often do not vigorously investigate them. Immunity for members of the security forces and the interference of military and security officials in cases involving members of the security forces often cause indefinite delays in the examination of cases or lead to their outright dismissal.

A major obstacle to establishing accountability for sexual violence is the insensitive and often intimidating treatment of victims of sexual violence by the authorities. [...]

The findings suggest that while the Government has taken some steps to respond to some allegations of sexual violence, to date, it has failed to act with due diligence to effectively investigate allegations of sexual violence and to end impunity for these crimes, and thus contribute to their prevention. The formation of a Government of National Unity is an opportunity to push ahead and make the reforms that are needed to comprehensively address sexual violence and allow women to access justice in accordance with the Government's commitments under international law.

Chapter 2

MSF, EVENTUAL INTERNATIONAL ARMED INTERVENTION, AND INTERNATIONAL JUSTICE IN DARFUR (July 2005-2009)

On 19 November 2004, the UN Security Council issued resolution 1574 supporting “the decisions of the African Union to increase its mission in Darfur to 3,320 personnel and to enhance its mandate.”

The UNSC called on all parties to “cooperate fully with the International Commission of Enquiry established in early October by the UNSG.”



'Resolution 1574 (2004) Adopted by the Security Council' at its 5082nd meeting,' 19 November 2004 in Nairobi (in English, in French).

Extract:

The Security Council, [...]

13. Strongly supports the decisions of the African Union to increase its mission in Darfur to 3,320 personnel and to enhance its mandate to include the tasks listed in paragraph 6 of the African Union Peace and Security Council's Communiqué of 20 October 2004, urges Member States to provide the required equipment, logistical, financial, material, and other necessary resources, and urges the Government of Sudan and all rebel groups in Darfur to cooperate fully with the African Union; [...]

15. Calls on all parties to cooperate fully with the International Commission of Inquiry established by the Secretary-General, as described in his letter of 4 October 2004 to the President of the Security Council (S/2004/812), the outcome of which will be communicated to the Security Council.

16. Reiterates the importance of deploying more human rights monitors to Darfur.

In November 2004, the MSF Holland/OCA Darfur coordinator in Nyala, and the humanitarian affairs officer in Darfur shared information about the ongoing violence with the investigators of the UN Commission of Enquiry. The MSF coordinators mentioned the possibility to speak to MSF national staff as witnesses.

On 21 November 2004, the MSF Holland/OCA coordinator in Khartoum met with UN representatives in Khartoum to raise awareness on protection and security issues in Darfur.



'MSF Holland/OCA Advocacy/Comms **Timeline** 2004-2005,' MSF Holland 2005 (in English).

Extract:

Nov. 2004: Information sharing with members of the UN Genocide Commission of Inquiry in Nyala - Darfur coordinator, Nyala + HAO - Information shared regarding ongoing violence (killing, rape, torture, intimidation, mass graves, emphasis on WDFR [Worst Damaged First Repair]); mention possibility of talking to witnesses (national staff).

21/11/2004: Meetings with OHCHR, UNHCR and OCHA - HoM Khartoum - First attempts to raise great concerns regarding the failure to address protection/security issues in Darfur.



Along with Vincent Hoedt, I remember attending a meeting with this commission of inquiry, and we shared information, confidentially of course. We shared a lot through this kind of procedure.

Aurélié Lamazière, MSF Holland/OCA, Humanitarian Affairs Officer in Chad, October 2003 to April 2004, in Sudan April 2004 to April 2005 (in French).



We never worked with the ICC, but we worked with a pre-investigation commission. We had a discussion on whether we should share information with them. That was quite early on and that's when we realised then already: 'We carry a responsibility. We are neutral. Neutrality is not something you read in an MSF booklet. This is something you must really put in practice in a place like Darfur.'

Vincent Hoedt, MSF Holland/OCA, Coordinator in Darfur, October 2004 to June 2005 (in English).



I'm not categorical 100% but probably 98% certain that at the level of policy and at the level of contact with ICC in Holland there wasn't any contact or there wasn't any additional information that was being passed to the ICC. What I remember though is that there was a sort of field fact-finding mission on Darfur that wasn't necessarily directly ICC, but it was related to the ICC. I don't have that clear in my mind. These fact-finding missions were going on into Darfur to collect information. And I think there was some discussion to what extent we ought to be able to meet people in the field to relay the information that we had available.

Arjan Hehenkamp, MSF Holland/OCA, Operational Director [Programme Manager], 2004-2006, Director of Operations, 2006-2010, General Director, 2010-2017 (in English).

On 25 January 2005, the International Commission of Inquiry on Darfur submitted a report to the United Nations Secretary-General recommending that the Security Council "immediately refers the situation of Darfur to the International Criminal Court (ICC)."



'Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General,' **Executive Summary** 25 January 2005 (in English).

Extract:

Accountability mechanisms

The Commission strongly recommends that the Security Council immediately refer the situation of Darfur to the International Criminal Court, pursuant to article 13(b) of the ICC Statute. As repeatedly stated by the Security Council, the situation constitutes a threat to international peace and security. Moreover, as the Commission has confirmed, serious violations of international human rights law and humanitarian law by all parties are continuing. The prosecution by the ICC of persons allegedly responsible for the most serious crimes in Darfur would contribute to the restoration of peace in the region.

I. MSF & THE INTERNATIONAL CRIMINAL COURT (ICC)

A. MSF AND INTERNATIONAL LEGAL PROCEEDINGS (1994-2004)

In the 1990s, MSF teams on the ground witnessed situations where mass crimes were committed, particularly in Rwanda and in the Former Yugoslavia.

MSF welcomed the *ad hoc* international tribunals to judge these crimes. However, this created a risk of potential obligation for humanitarian actors, including MSF, to participate in judicial procedures. This obligation would put humanitarian action at risk.

MSF Legal Advisor, Françoise Bouchet-Saulnier, analysed these risks and elaborated on the rules regarding MSF's relationship with these tribunals. The fundamental principle for MSF was that neither MSF sources nor MSF staff should be exposed. A judge should not be able to convict someone based on testimony given by MSF.

Therefore, she negotiated that MSF and MSF staff would not be obliged to testify against the accused.



In the late '90s, most of the MSF movement agreed that setting up ad hoc international tribunals for the crimes committed in former Yugoslavia and Rwanda was better than the previous situation, where nothing at all existed and total impunity was enjoyed by the perpetrators of the mass crimes we witnessed in conflicts.

As a legal advisor to the organisation and the presidents and chairs of associations, I set precautionary recommendations as to the relations we should have with these tribunals. We must support their set-up and emphasise the fact that they fill a perilous void: the impunity that shrouds mass crimes. However, we must keep our distance from the trials themselves to avoid being weaponised or jeopardised by the political stakes underpinning these processes. Indeed, evidence and proof from NGOs are useful in indicating that violence and victims exist. But to establish that an accused party is guilty, evidence and powers of investigation are

needed, and these belong to the state. It is naive and presumptuous for NGOs to think, or to allow others to believe, that they have the evidence and means needed for this type of criminal procedure. NGOs cannot and should not step in to compensate for states' inaction or unwillingness to cooperate with international tribunals. But this distinction isn't always easy to hear in a context where, for instance, gathering and publishing victim accounts is widely used by NGOs.

Thus, MSF's reports on violence in former Yugoslavia or genocide in Rwanda set out to raise awareness of the victims, but not to establish any individual criminal responsibility borne by the perpetrators.

Within MSF, these arguments are accepted in the sense that you're directly involved in managing operations, and so you have control over collecting and using these frontline accounts. There is no opposition, because everybody understands very well why we must support ad hoc tribunals being set up but not get involved in how they function. This was strikingly obvious with the fall of Srebrenica and its massacres, which MSF witnessed first-hand. The ICTY's [International Criminal Tribunal for the former Yugoslavia] investigators were prevented from investigating, and the international community sought to deny or minimise the crimes. Our job is not to expose ourselves by demanding justice before an international tribunal. Our job is to stop it averting its gaze and pretending nothing is going on.

By analysing the tribunal's rules of procedure, I identify the rules that govern and shape MSF's expectations, aims and duty of cooperation through a simple policy framework: flag, describe and condemn the mass crimes we witness, such as those in Srebrenica, but remain outside the legal proceedings themselves. To use the example of Srebrenica again, if the international investigators don't investigate, if the Americans don't wish to share their satellite imagery, if the French don't want to share their information because they don't want us to know that Srebrenica fell due to dealings surrounding the Dayton Accords and the liberation of French peacekeepers, then putting MSF witnesses before the tribunal would be leading them straight into the lion's den. They would be neutralised through a contradictory procedure. Volunteers who experienced the events in Srebrenica witnessed the diplomatic power struggles that were at play and understand all too well how a tribunal based solely on NGO accounts would be unable to sentence, and the process would destroy the NGOs.

Members of the Srebrenica team told me that one of the Serbian soldiers who let them through the enclave a little before the siege had told them: 'If I find myself before a tribunal one day, don't forget to testify on my behalf.'

Along with the ad hoc international tribunals, we set and explained this rule under which MSF exposes neither its sources, nor its staff. Judges must not be able to sentence a person based on an MSF account. If that were to happen, the MSF witness would be ripped to shreds at the hearing and might even be risking their neck outside the courtroom.

At this time, mixed and special tribunals for the situations in which we are involved are on the rise. Our argument remains the same: we do not wish to find ourselves between a rock and a hard place, we do not wish to become a source of information for the prosecutor, because this would be of no legal benefit, it would jeopardise our witnesses' safety, and it would mean our teams lose frontline access.

So, our policy of ensuring that: 'MSF shall not contribute to providing evidence and shall not position itself at the centre of legal proceedings as to do so would cause its extinction and loss of frontline access' is clearly stated. However, the policy allows for MSF to provide public or non-public information to alert or guide investigators in some situations.

If anyone expresses surprise, saying: 'Well I thought MSF was about testifying,' simply explain: 'but humanitarian testimony and legal testimony are not the same thing.' This makes sense to everybody, and there's no issue.

As an institution, MSF refuses to testify, and alerts its staff to the risks that come with doing so. However, everyone is free to share their experience from a personal perspective

Françoise Bouchet-Saulnier, MSF France/OCP, Legal Advisor, 1991-2005, MSF International Legal Director, 2005-2022 (in French).

After the International Criminal Court (ICC) began in March 2003 (ratified in 2002), investigators approached MSF teams in the DRC and Sierra Leone to ask for information and testimony on the crimes under investigation.

Just as with the international ad hoc tribunals, MSF was confronted with the following dilemma: how to reconcile the obligation to cooperate with international justice against the risk of perception of whistle blower by the various protagonists to the conflicts for the possible prosecution of crimes committed?

A general policy regarding the modalities of cooperation between MSF and the ICC was drafted by a group of MSF Legal Advisors for the MSF movement. The policy was based on the rules applied for ad hoc international tribunals set up by Françoise Bouchet-Saulnier and was submitted for endorsement by the ExCom in December 2003.

While most of the operational sections quickly endorsed this policy, the MSF France Board of Directors discussed the proposal a few months later, on 26 March 2004. Most MSF France board members, including the president, argued that because MSF supported the creation of the ICC, some even said “campaigned” for the creation, MSF should be prudent with any policy which could be perceived as too cautious towards the court.

Meanwhile, teams in Uganda were approached by ICC investigators and urgently needed guidance.

The MSF France board offered no alternative to Françoise Bouchet-Saulnier’s solution. She informed the MSF France general director that she could no longer be responsible for managing cases from the operational countries concerned with the ICC investigations.



‘Minutes of MSF France Board of Directors Meeting,’ 26 March 2004 (in French).

Extract:

International Criminal Court/Uganda (Françoise Saulnier)

The MSF teams for DRC, Sierra Leone, and very recently Uganda, need MSF to draw up a policy to respond to developments in international justice. The document sent to the directors is a working document written in response to an urgent request made by personnel currently in Uganda.

Françoise Saulnier: I would like to draw your attention to the recent changes which, from 1998 and particularly 2000 onward, have been turning potential developments into generalities that remain consistent over time.

In this shifting legal context, it is important for us to grasp how we adapt to this, as in short, we must serve as auxiliaries to the ICC – this is required of us (we have a duty of cooperation).

A series of questions might be posed:

- Going forward, is our mission to act incompatible with the duty to support the justice system?
- Will this impact on our frontline teams going forward in gaining access to conflict zones and heightening the risk to our volunteers?
- What protective measures might we take to limit our duty of cooperation and safeguard our guiding mission, which is to provide aid (technical solutions may exist)?

We ought to distinguish between two facets in our relations with the courts and tribunals: investigation and adjudication. For the prosecutor, the most important aspect is access to information to give a ruling, and there can therefore be communication that only serves to generate new evidence and initiate proceedings (thus not leading to us taking part in trials, as was the case for us for Yugoslavia). Finally, it must be noted that case law on the matter exists, as a member of ICRC [International Committee of the Red Cross] staff was summoned (and was willing), but the ICRC ultimately refused. The same occurred for a war correspondent (who was not willing), and the ICC then recognised that it would jeopardise the individual's ability to exercise their profession.

1) Do we wish to draw on this case law?

2) Do we put assistance and testimony (in this case legal) on equal footing?

Debate

Jean-Hervé Bradol: There was a general tendency to see welcoming the ICC as a positive, and so I am surprised upon reading the working document that was shared to discover that everything seems to be moving forward as if we now consider it to pose nothing more than a threat to our activities.

Christian Losson: Do you want us to set ourselves overarching questions beforehand, or continue operating on a case-by-case basis?

Françoise Saulnier: As the situation applies generally and is permanent, we need to establish what we think of it overall to set out a cohesive, stable long-term policy.

Philippe Houdart: You mention ICRC case law, but we can always draw on medical confidentiality?

Françoise Saulnier: Medical confidentiality is highly restricted and does not cover everything (especially since many members of MSF staff are not medics).

Bénédicte Jeannerod: We would first need to distinguish between institutional and individual positioning.

Françoise Saulnier: Yes, we have always held to the principle of not forbidding individuals from testifying, but this needs to be defined at an institutional level. This would then allow us to set the framework giving individuals room for manoeuvre within the movement (exposing the association or not, etc.): we need to figure out how these two areas of responsibility interact.

Jean-Hervé Bradol: I don't agree with how this is outlined in the note, because our starting position is a single perspective: the effects of the ICC's work will impact negatively on our work. The way the note is written is too imbalanced and clashes with the campaign for an international court, which we took part in. As it is currently written, changes to our thoughts on the matter of international justice, which do indeed exist, feel like incomprehensible flip-flopping.

Françoise Saulnier: The note was written in a hurry upon request from personnel currently working in Uganda, a very specific context that stands out in how the abuses started just when the ICC's work began.

Sylvie Lemmet: We really need to think about writing along the lines of 'how to reconcile' our cooperation, rather than 'limiting' it. Other than this issue with the phrasing, the questions raised are good ones: how does it endanger our ability to be operational, and how does it endanger individuals? From my perspective, other than tangible examples, it is difficult to weigh up, particularly as responses undoubtedly vary between national and expat personnel.

Christian Losson: Having just read the recommendations, I agree with Jean-Hervé.

Thierry Durand: I agree, I think 'cooperation' with the legal system isn't negative in and of itself, as we have always paired care with testifying (we even conduct our own investigations to denounce and qualify crimes). Furthermore, we regularly attend Security Council and Council of Europe hearings.

Pierre Salignon: Let's not forget that this note is a response to concrete concerns raised by frontline teams. Françoise Saulnier is currently conducting a review of situations that have previously cropped up. I'd like to add too that we must not forget that international law is an expression of power struggles, and that we will need to face up to the disparities in treatment that this generates, as well as reasserting our position on this.

Sylvie Lemmet: Thierry Durand is correct with regards to the overarching philosophy but allow me to emphasise the fact that we have always been willing here. The issue raised is different, as it involves an obligation that will be imposed on us. How do we react when personnel, on an individual level, don't want to testify or cooperate? And more broadly, how will MSF respond when we believe that individual testimonies might put us in danger?

Françoise Saulnier: We cannot argue from the perspective of opportunity. The only argument is that it risks compromising aid work and we will therefore need to hold true to this consistently, as we will not be able to draw on it in one case, and not in another. Case law only works one way.

As an argument, the risk to individuals does not land on the same level as the risk to the mission, particularly as these facets will overlap (aid action and testimonies occurring simultaneously).

Jean-Hervé Bradol: Can witnesses be described as 'auxiliaries of justice'?

Françoise Saulnier: No, I didn't mean it in terms of status; I intended to highlight the fact that they are deprived of their autonomy.

Christian Losson: We must also take the time to debate this with the desk-based and frontline teams.

Françoise Saulnier: The challenge lies in determining whether we need to protect ourselves or not?

Philippe Houdart: We will need to take care not to find ourselves blocking the ICC's work when we have always publicly supported the common notion of international justice.

Françoise Saulnier: A few years ago, we were bogged down by the UN's frameworks, now the ICC is engaged in all types of situations, and that is very tangible.

Christian Losson: We need to tweak the note's tone, particularly as you fought for the parliamentary commission in France and producing it so swiftly could be seen as a shift in perspective.

Françoise Saulnier: I think MSF is strongest when it is free to act, and I think our independence alone will allow us to denounce dysfunction.

We can share information, if it is used in indictments the prosecutor will need to return to the sources, and we will then be able to choose not to appear (let us not forget that we can also be fragile in some situations).

I think we need to raise the issue and choose a coherent stance to take.

Philippe Houdart: How is the movement positioning itself?

Françoise Saulnier: It has set up a working group.

Jean-Hervé Bradol: We will need to revisit this issue. [...]

Conclusion

The Board of Directors wishes to continue this discussion and have the issue tackled again at a board meeting prior to taking a more solid position.



'Follow up Board of Director's meeting,' **Email** exchange between Pierre Salignon, MSF France General Director and Françoise Bouchet-Saulnier, MSF France Legal Advisor, 29 and 30 March 2004 (in French).

Extract:

Pierre,

Following the Board of Director's debate on the International Criminal Court on Friday 26, I'd like to let you know that I no longer feel capable of fulfilling my role in advising MSF's management and operations teams on its relations with the international courts. This decision stems from Jean-Hervé's position in rejecting what I had written in the note on the relations between MSF and the ICC on Uganda and is also linked to our differences in opinion regarding the stakes involved in E [...] D [...] 's decision to testify before the ICTY. Speaking before the management committee, I have already presented the legal arguments underpinning my proposed position for MSF, in step with the cooperation policies MSF has been rolling out for over 10 years under my technical responsibility. I wish to thank you for your support and will leave you to reflect on the consequences for the management committee.

In the meantime:

I take note of the fact that the President of the association's Board of Directors prefers a different policy. Consequently, over the coming months I shall channel my efforts into the research I have been entrusted with conducting into this issue, and will leave you to take on responsibility for managing the practical cases we will find ourselves coming up against (I effectively find myself in a professional impasse, as faced with new cases I would be making the same recommendations as those now rejected).

Yours sincerely,

Françoise

Françoise, [...]

Before I consider taking note of your decision, I would like to speak with you. It is true that there was some confusion at the board meeting, and that clashing opinions were exchanged. But the board meeting's role is to platform all opinions. In terms of your note, let me respond to both the form and substance. Regarding the form, the directors shared their opinions, and I agree on some aspects in part. But that was a reflective note. What I'm more interested in are the recommendations you made in response to frontline requests in Uganda in particular. In these, you described the action that might be taken today. The board meeting did not cover this, but rather focused on MSF's position in terms of international law, tribunals, and courts. The directors called for a certain amount of prudence in formulating a position that might be perceived as being anti-international justice. That measures be taken to avoid any potentially harmful effects brought about by MSF's involvement (or its volunteers) in terms of our on-the-ground operations is one thing. The directors also reminded us that depending on the case and situation at hand, MSF might consider either active or passive cooperation with the courts and tribunals. This, I believe, is already the case, and so to my mind, the discussion is more political than it is technical.

All this to say, think carefully. We will discuss it together whenever you like.

Pierre,

Thank you for your reply. I understand your moderation, but I believe that in this case, the form conceals the substance of the matter. My issue is that I don't know what the substance is, and this needs to be clarified, because in the meantime, we are behaving dangerously, and this has been going on for some time now with no sign of improvement on the horizon. My professional conscience is what is pushing me to see that this issue be clarified. Naturally, it would be best for us to discuss it together [...].

Françoise



As mass crimes do not only take place in the former Yugoslavia and Rwanda, in 1998 the international community decided to set up a permanent international criminal court that would go on to try mass crimes such as genocide, war crimes and crimes against humanity. The ICC's work would be carried out with the agreement of the States in question, with no ad hoc decision needed from the Security Council. The UN Security Council would continue to retain the capacity to block the ICC or impose the ICC's jurisdiction on states that had not ratified the statute.

In several contexts, MSF finds itself coming up against the dilemma of taking humanitarian action in the face of mass crimes. Considering most international military interventions fail, setting up an international legal apparatus equipped to handle violence against civilians was welcomed by NGOs as a piece of good news. But MSF's support for creating the ICC was coloured by the working experiences it previously had with the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda. Thus, the policy developed in the 1990s in close collaboration with the on-the-ground operational teams concerned by the ad hoc tribunals had to be reinstated and adapted in the 2000s in step with setting up the International Criminal Court.

We know that proceedings before the ICC can pose a threat to MSF witnesses' safety, our front-line access, and our ability to negotiate with armed parties. We know that these proceedings are political and legal in nature due to the ICC's inherent status, as well as the role played by States and the Security Council on which judges and the prosecutor's means of investigation all rely. Indeed, unlike the ad hoc tribunals, the ICC is a permanent international court with subsidiary jurisdiction over national courts. Consequently, it impacts on all our future operations across all countries and forces us to apply the same standards of cooperation with national courts. We therefore do not have the freedom to share testimonies with the ICC while withholding them from the Sudanese courts, for example.

The debate has grown more abstract in a more complex internal political context. Supporting it being set up yet restricting the duty to cooperate are two aspects that have sometimes been seen as contradictory or inconsistent, even though they had proved their worth over close to 10 years. I find it hard to grasp whether this reappraisal is genuinely political, or merely opportunistic.

Personally, I found it very puzzling to see that MSF France's Board of Directors did not distinguish between the concept of international justice and the tangible reality of a criminal trial. It is also highly paradoxical that in the name of some so-called cohesiveness in our position on justice, the Board refuses to have us set limits on relations between MSF and the ICC. They said they did not agree with my proposal, yet they did not take a stance, nor did they say what they wanted, which would have been much clearer.

Françoise Bouchet-Saulnier, MSF France/OCP, Legal Advisor 1991-2005, MSF International Legal Director 2005-2022 (in French).



Maybe people understood that Françoise wanted to be more proactive, meaning deliberately sharing information, even in secret, with the ICC.

At any rate, there was this fear that by officially structuring relations with the ICC we would be perceived as its secret collaborators, etc. Nor did we want to officially state the fact that we couldn't prevent people from testifying if they were asked to do so. At any rate, we didn't want MSF to be seen as an auxiliary to the international justice system.

*Thierry Durand, MSF France Interim General Director 2007-2008, MSF France/OCP
Director of Operations 2008-2014 (in French).*



For me, the ideal position was that we should not be perceived as part of the ICC and as potential witnesses for the ICC. But from a legal position, that's very difficult, because if a court summons you, what are you going to do? Or even if not the court, but someone who is prosecuted, if their lawyers call you to make a testimony? What happens if al-Bashir gets to The Hague and calls on Jean-Hervé to witness whether there was genocide or not? That's a tricky one. You cannot refuse legally.

It's very complex. On the one hand, you think the existence of the ICC is useful for NGOs because it takes away part of the guilt burden or the feeling that we need to do something about it. We can say, no, this is not our role. This is someone else's role. We're not the ICC. For me, that was the advantage. But we needed to take some distance and we needed the ICC to respect that and to understand that for the sake of humanitarian aid to continue, they would not use witnesses. And then there was a discussion. Okay, do we make this a blank rule or not? First, you must look for other witnesses and only if nobody else saw it, then you can call humanitarians. But on the position that we needed a way to distance and to make sure that we were not perceived as future witnesses in The Hague, I think there was an agreement. MSF had a difficulty and perhaps I would say a lack of humility to clarify its position within the context of other NGOs and other institutions like the ICC and the UN and say: 'This is our role, and these are the boundaries of our role. And whatever happens outside of those boundaries is not for us to comment on.'

Gorik Oms, MSF Belgium, General Director, 2004-2007 (in English).

On 26 April 2004, the MSF ExCom gave ten days for the MSF France General Director to decide about the ICC policy. The policy was endorsed by the ExCom in July 2004. Meanwhile, MSF legal advisors continued to negotiate an exemption for MSF from testifying at the ICC.



'Minutes of MSF Movement ExCom Meeting,' Amsterdam, 26 April 2004 (in English).

Extract:

MSF and ICC (International Criminal Court):

Background [Tine [Dusauchoit, MSF Belgium General Director]: a document called "modalities of cooperation between MSF and the ICC" was prepared and sent to the ExCom in December last year for comments. MSF Switzerland and MSF Spain have mandated MSF France to provide input as well. But since December, MSF France did not send any feedback and won't apparently be in a position to do so before May (time

issue?). This is a problem as things are moving forward with regards to investigations (Uganda, DRC, potentially also Central African Republic and Afghanistan) and as there is no ExCom before July.

Do we want to wait for a joint position to be finalised or do we agree that the position proposed in the paper is good enough to start with?

Pierre [Salignon MSF France General Director] mentioned that a discussion has recently been organised on that issue in an MSF France board meeting. On the position as such, there is no disagreement.

Some comments were made on the fact that MSF France has been supportive of the idea of an international criminal court and our participation should be framed. We should therefore be more positive about ICC.

Decision:

Pierre will read the document again. If there is no objection within the 10 coming days, the document will be considered as approved.



'Modalities of cooperation between MSF and the ICC,' **Policy Paper**, adopted by MSF ExCom in July 2004, amended, version 2006 (in English). [link to full document](#)

Extract:

General principles:

MSF will cooperate with the court on the basis of a principle of subsidiarity (only when the information we possess is relevant, significant and cannot be obtained or distributed via other channels). Cooperation in each case will be the result of a case-by-case decision on the basis of this principle and taking into account other factors such as the impact on the neutral image of the organisation, the present and future security of teams in the field, and the personal motivation of individual volunteers. Where an individual feels strongly that they wish to testify on their own behalf, MSF will try to ensure that their decision to testify is in line with these factors.

Any MSF evidence will be based on our own first-hand experience. We are happier testifying about facts based on our medical work than about the acts of individual perpetrators or groups.

MSF will apply the same principles in deciding whether to cooperate with requests from either the Prosecution or the Defence. NB: The ICC is different to other international criminal courts in that there is provision for victims to be represented and to participate in the proceedings. If MSF participates in proceedings before the ICC, it may be more appropriate for this to be on behalf of the victims rather than either the Prosecution or the Defence.

Different forms of co-operation:

- In exceptional circumstances, lead material could be provided proactively to the Prosecutor under Article 54 of the Statute to encourage the Prosecutor to start an investigation.
- Lead material could be provided under Article 54 on the request of the Prosecutor or possibly the Defence during investigation and pre-trial stage
- Documentary evidence could be provided on the request of victims, the Prosecutor, the Defence or the Judges.
- MSF staff could act as witnesses on the request of victims, the Prosecutor, the Defence or the Judges.

Types of material

a) Documentary material (lead or evidence)

- A distinction will be made between public/semi-public/internal documents (e.g. sitreps). Internal documents would only ever be submitted under Article 54 for lead purposes. This is probably also true for semi-public documents. Public documents might be handed over to be used in evidence.
- Medical certificates will never be handed over, unless at the request of the victim him/herself.
- 1. The ICC is different to other international criminal courts in that there is provision for victims to be represented and to participate in the proceedings. If MSF participates in proceedings before the ICC, it may be more appropriate for this to be on behalf of the victims rather than either the Prosecution or the Defence.
 - Written or other recorded accounts of victims would only be handed over with names and other identifying information removed.
 - Protective measures (possible use of pseudonym, restriction on media coverage, protection equivalent to that provided under Rule 82 should be negotiated with the requesting party, although the final decision on protective measures lies with the judges. When we request for protective measures, our cooperation should be conditional: our material will not be used if our request for protective measures is turned down. NB: We can ask the judges for equivalent protection to that afforded by Rule 82 even when our material was not strictly provided under Article 54. ICTY has done this in several cases.

b) Witnesses

- No section will send lists of names of possible witnesses to the court (victims, expatriate staff or national staff).
- On receiving a request for an MSF staff witness from either victims, Prosecution, Defence or Judges, possible witnesses will be personally contacted by MSF (within our capacity) and informed of MSF's policy on the case as well as the ICC procedures and the rights and duties of witnesses.
- MSF will neither request nor encourage MSF staff from providing evidence. It is a personal decision.
- MSF will generally not pass on requests to victims to testify. In certain limited circumstances we could inform victims that an investigation is under way at the ICC so that they can decide whether to come forwards.

MSF Holland/OCA officially endorsed the policy and participated in the exemption negotiations. However, OCA's Humanitarian Affairs Department (HAD) was willing to share information with human rights NGOs and to collaborate with UN investigation commissions.

This created some suspicion from other MSF operational sections about the way they shared information and with whom.



'ICC, **Message**' from Fabien Dubuet, MSF France Legal Department to Kate Mackintosh MSF Holland Humanitarian Advisor, 12 August 2004 (in English).

Extract:

Hi Kate,

Thank you very much for sending your note published in the ICRC review. [...] It is a very clear and good document.

To be very honest with you, I doubt whether it was the right moment to publish it while we are negotiating our relations with the ICC. My personal opinion is also that we should try to maintain this issue as confidential as possible and that we should avoid any initiative that leads to the idea that MSF cooperates with international tribunals. [...]

As Françoise told you, we would like to elaborate a clearer document concerning our relations with the ICC from the letter sent last May to Ocampo [ICC prosecutor]. Our current document adopted recently by the International Council is not understandable by non-lawyers, which will be a problem if we want to disseminate our policy within our respective sections.



'Re: ICC, **Message**' from Kate Mackintosh MSF Holland Humanitarian Advisor to Fabien Dubuet, MSF France Legal Department, 12 August 2004 (in English).

Extract:

Dear Fabien, [...]

Sorry that you think it was a bad moment to publish the note for humanitarian orgs. I think we probably have different ideas about how 'secret' this issue/dilemma should be. I have just recently joined MSF, as you know, but to me it is strange that an organisation which explicitly commits itself in one of its core policy documents to "act as a witness to events surrounding a population in danger" should be so squeamish about admitting that cooperation with an international court set up to try atrocities that we have witnessed is something we could consider.



'**Minutes** of MSF France Executive Committee Meeting,' 5 January 2006 (in French).

Extract:

Briefing papers MSF H[olland]

Stephan [Oberreit, MSF France Director of Communications] and Bénédicte [Jeannerod, MSF France Deputy Director of Communications] are concerned by MSF Holland sharing a number of briefing papers. The first concerned Chechnya, the second covered Katanga in DRC, and a third concerned Colombia. These documents are not reports and are very standardised. They are shared with no real strategy in place and seem to be gradually replacing the policy of having the Humanitarian Affairs Department (HAD) produce reports, which has been a source of tension between the sections lately.

General Management recommends that prior to engaging in producing this type of document (particularly via supplying data from the French section), the PMs [Programme Managers] discuss the matter with the Operations management team to determine the extent of our collaboration, based on the content of said briefing papers, as well as the set goals and strategies in place. The Operations management team will discuss this with the Operations directors in the other operational centres, as well as the Communication directors. The issue shall be raised among the general directors, too.



There were suspicions within MSF, partially because of the reputation of HAD at the time. They were very human rights oriented, and people felt they were disconnected from the operations, and they had their own life and their own autonomy. So, within the MSF sections, some of the discussions and some of the suspicions about contact with the ICC were probably there.

Now, I was in Darfur myself and I talked with military intelligence people who would make the argument: listen, you are from the same country where the ICC sits, so therefore, ergo, you must be in contact with the ICC somehow.

Arjan Hehenkamp, MSF Holland/ OCA, Operational Director [Programme Manager], 2004-2006, Director of Operations, 2006-2010, General Director, 2010-2017 (in English).

B. MSF POSITION ON DARFUR: THE ICC FACTOR

The International Criminal Court (ICC) began inquiring about war crimes in Darfur.

Despite agreements negotiated by MSF legal advisors that MSF would not be obliged to testify before the ICC, these inquiries were perceived as a shadow hovering over MSF's effort to speak out publicly about the violence.

On 6 June 2005, the ICC announced the official opening of investigations on alleged war crimes in Darfur.

The Sudanese Deputy Minister of Foreign Affairs stated that “the announcement could hamper progress in the negotiations resuming [...] on the crisis in civil war-torn Darfur (west) and would encourage the rebels to become intransigent.”

On 11 June 2005, the government of Sudan announced that 162 suspects for war crimes in Darfur were to appear in front of a Sudanese Special Criminal Tribunal, a local “substitute” for the ICC.



‘The ICC launches an investigation into crimes in Darfur’ by Emma Thomasson, Reuters (UK), Amsterdam, 6 June 2005 (in French).

Extract:

Upon referral by the UN's Security Council, on Monday the International Criminal Court launched a formal investigation into suspected war crimes in Sudan's Darfur region, where tens of thousands of people have died since a rebel uprising began in early 2003. [...] At the end of March, the UN Security Council voted to refer the situation in Darfur to the ICC. In April, UN Secretary-General Kofi Annan gave the ICC a sealed list of 51 people suspected of involvement in slaughter, rape, and pillage, believed to include top Sudanese government and army officials, militia leaders and rebel and foreign commanders.



'Minutes of MSF OCA Task Force meetings' Monday 6 June 2005 (in English).

Extract:

ICC line: no cooperation of MSF as organization. Can be individual decision of people who have worked/work for MSF.



'Darfur: 162 suspects at the first hearing of the Sudan special court,' AFP (France), Khartoum, 13 June 2005 (in French).

Extract:

According to an announcement made by Minister of Justice Ali Mohammed Osman Yassin on Monday, on Tuesday a group of 162 suspects is due to appear before a Sudanese special court set up to try suspected war criminals in Darfur, a civil war-torn region in western Sudan. The prosecution shall "be formed of four members of the general prosecutor's office headed up by Nimr Ibrahim Mahmoud" said Mr Yassin at a press conference in Khartoum. "This shall serve as a substitute court to the International Criminal Court (ICC)," he went on to explain, adding that his country had prepared a letter for UN Secretary-General Kofi Annan concerning this court's proceedings. On Saturday, the Sudanese government announced that this special court was being set up following the government speaking out against the international drive to investigate the atrocities here in a region ravaged by bloody conflict between the regular army and rebels since 2003. [...] President of Sudan Omar al-Bashir stated that he would hand no Sudanese national over to foreign jurisdiction. In a press release, Amnesty International said it believed the special court was "doomed to fail" unless the government in Khartoum was prepared to roll out serious reforms of its legal system guaranteeing independence for the justice system and putting an end to intimidation.

Fearing perception as auxiliaries of international criminal justice, MSF examined its every interaction with UN officials, every public stance, especially regarding reports and briefing papers. This examination was to ensure that the organisation showed no signs of collaboration with the ICC. This approach increased suspicion between sections.

During the MSF General Directors meeting in Montreal on 14 and 15 June 2005 and again with the MSF International Council meeting on 25 and 26 June, MSF questioned the role of Jan Pronk, the UNSG Representative to Sudan, in negotiations between MSF and the Government of Sudan. Some feared that this relationship could weaken the perception of MSF as an independent actor, given that the UNSC already referred the Darfur crisis to the ICC Prosecutor for investigation.



'Minutes of General Directors 19 Meeting' Montreal, 14-15 June 2005 (in English).

Extract:

Several sections questioned the use of an intermediary, such as Jan Pronk, to deal with the Government of Sudan. For example, they are uncomfortable with the fact that during

a conference, he talked about his actions and claimed solutions in resolving the MSF case. Using Jan Pronk, a UN representative, is not a sign of independence from the UN system and weakens the perception of MSF as an independent actor. MSF Holland explained that Jan Pronk is not negotiating on behalf of MSF but rather exchanging letters and information. Additionally, MSF Holland did not want an intermediary, but the Sudanese authorities insisted on it and indeed said it would be Jan Pronk. [...]

The movement is experiencing frustration about the situation in Darfur. There has been no significant progress over the last months and MSF is caught in a battle between the government of Sudan and outside governments. Since 11 September 2001, MSF's approach and independence has been challenged; MSF is being used and manipulated in the war against terror. Some sections expressed the possibility of withdrawing from Sudan as a way to protest. Other sections, however, do not believe that this strategy would be justified in view of the actual impact we have on the ground in Darfur. The directors wish to pursue this discussion about MSF's independence and potential manipulation.



'Minutes of MSF International Council Meeting,' Berlin, 24-26 June 2005 (in English).

Extract:

Update on the Khartoum arrest – Albertien: [...]

On the role played by Jan Pronk (special representative of the UN secretary general in Sudan), perception by outsiders is that the UN not only reacted but also mediated on our behalf (they actually claimed to have done so). This was said by Rowan to be a concern for MSF as this gives the impression that MSF is on the side of the ICC. Albertien responded that reacting to such events is also the role of a UN special representative and that it would be naïve to believe that they don't have a hidden political agenda along with this and that can be the price to pay for our high-profile and prominent advocacy.



Pronk was the UN Representative of the Secretary General and he had good communication lines with the government. And obviously he was also Dutch and knew some of the guys in MSF personally ... so he threw his weight behind it.

Paul Foreman, MSF Holland/OCA, Sudan General Coordinator, October 2004 to August 2005 (in English).

On 17 June 2005, the *Sudan Tribune* published an article entitled, "Groups to meet war crimes prosecutor on Darfur" which included a photograph of an MSF nurse in a refugee camp in Darfur. Fearing this would create the misconception that MSF was collaborating with the International Criminal Court, MSF Holland/OCA immediately sent a letter to the editor, asking for a rectification.



'Re: ICC and Darfur,' **Message** from Kate Mackintosh, MSF Holland/OCA Humanitarian Affairs Department, to Emmanuel Tronc, MSF International Policy and Advocacy Officer, 20 June 2005 (in English).

Extract.

To the editor: The Sudan Tribune article "Aid groups to meet war crimes prosecutor on Darfur" includes a photograph of an MSF nurse in a refugee camp in Darfur. The article and the associated photograph unfortunately create the misimpression that MSF is involved in collaboration with the International Criminal Court. We would like to take this opportunity to clarify our position. MSF would like to reiterate in the clearest terms that MSF is not in contact with the International Criminal Court with regard to their investigations in Darfur or other crises. MSF provides no information or advice to the court or its prosecutors. MSF does report publicly about our medical activities and about the situation of the populations we serve. All information which is made public is based on our involvement with people in our project activities. The information made public always protects the privacy and anonymity of the beneficiaries as is required by medical ethics. MSF has not been invited to the New York (Washington???) meeting and will not be attending. As collaboration with international courts, including the ICC, is against MSF policy, we see no reason to discuss forms of collaboration with the court.

On 11 August 2005, MSF France/OCP asked for the withdrawal of a story posted on the MSF international website. The story was about the experience of an MSF humanitarian affairs officer in Darfur who compiled testimonies to write the MSF Holland/OCA report entitled, "The crushing burden of rapes." MSF France/OCP worried that the story would be used by the ICC investigating Darfur, or by another interested entity.



'Darfur is on the international website,' **Email exchange** between Pete Buth, Marine Buissonnière, Pauline Horrill, cc Aurélie Lamazière, Cathy Howard, Martyn Broughton, 11 August 2005 (in English).

Extract.

Hi Pete

[...] Some worries have been expressed by the French Darfur desk about the story posted on the international website relating Aurélie's experience in Darfur (in which she recalls her work there and how raped women were approached and their stories heard), worries related to use which could be made of this interview, by instances such as the UN panel of experts for Darfur for resolution 1591 (and to whom MSF sections said that any publicly available documents were at their disposition referring among other things to the internet site) or worries related to the ICC.

Thanks to let me know what the thinking was/is on this piece and the assessment of the risks, including that to be perceived as story collectors rather than caretakers and of being used in the wake of the recent UN visits.

best

marine

ps: I cc Pauline who expressed concerns.

Hi Marine and Pauline,

I cleared the piece sometime in May I think (and then again in June or July when we slightly edited it). To be truthful, I didn't consider implications for ICC and the UN panel. Considering it now:

UN panel:

Only came up last week - long after the interview was taken and cleared. But in any case, as far as I understand:

- they're only mandated to investigate people/incidents after March 29th, 2005, long after Aurelie's time in Darfur
- they have no subpoena authority and are not a legal entity as such - they are bound to confidentiality in their final report and need consent of sources.

ICC:

I can imagine that they might be interested to talk to Aurelie when reading this article, but I think:

- they will be interested in the victims (rather than Aurelie), and we have (legal?) protection under doctor-patient confidentiality
- the ICC is after willing witnesses and forcing NGOs (whom they want to be 'nice' to them for cooperation and information) to testify is not in their interest [...].

I do think it is an interesting point though: to what extent does the 'threat' of use of our information by justice institutions influence our public comms? Should it?

Being perceived as story collectors:

I'm sure there are people in Sudan - in particular in Khtm - who think we spy and have hidden agendas. But I doubt this article will make that perception worse. To the contrary, maybe by being transparent about what we talk to communities and patients about, we counter this perception a bit (probably wishful thinking on my part, I admit.).

OK, let me know your thoughts.

greet

Pete

hi Pete and all!

Thanks, Pete, for your reply about the posting on the web of Aurelie's témoignage re: rape in Darfur.

My opinion is to request the posting be removed for 2 reasons and I would like to have the opinion of all because maybe I am over-reacting but anyway it is important I state my opinion:

1. I don't see the communications interest of this considering your point (MSFH) was made loud and clear in the rape report which as you know created a number of problems afterwards for your HOM's regarding accusations of 'false' reports, role of medical organisations as opposed to advocacy/human rights organisations AND in view of the fact that regarding violence in general MSF all sections released a press statement last week to reinforce the message that this kind of violence was continuing. As did UN etc, it is not an unknown issue for Darfur.

2. In addition the NATURE of the article is only témoignage and can create confusion and criticism by all whom refer to our site regarding in retrospect, the rape report itself and our role at present on the field which can have security implications at a time and place where maximum transparency is necessary even if not sufficient at all in itself to ensure security guarantees! I agree!

Also - this role as medical actor, independent of the UN/international community is important to be a bit careful about at this time when the ICC is in the air and the UN expert committee is meeting us 'informally' and will be on the field soon too. The fact that an individual expat who collected 'témoignage' on the field and is cited publicly ready to explain how she did this and what she experienced sets an impression that our expats are ready to state this kind of info in public and this exposes our teams. the context being as volatile as it is at present, and the pressure under which the GoS is at present, we do not need to add to this especially if the posting adds nothing to what we have already said. [...]

Hi Pauline, [...]

I disagree somewhat with your view re the other points you mention, but the bottom line is that if you think that the article poses a security threat for your teams on the ground, then we will have to take it off.

greetings

Pete

Meanwhile, a former MSF coordinator in former-Yugoslavia decided to testify for the defence in a trial and provided the defendant's attorney with MSF documents and names of MSF volunteers present in Srebrenica from 1993 to 1995 during the siege and the fall.

The MSF volunteers asked MSF Legal Department for clarification on the organisation's position and legal advice.

This triggered further discussions and requests for clarifications in the sections and a common agreement to increase MSF communication on its position regarding international judicial proceedings.

In mid-July 2005, the MSF policy regarding ICC set up by the MSF legal advisors and negotiators with the ICC was circulated again to the field.

The MSF Directors of operations sent a letter explaining the policy to the Ministry of Foreign Affairs and the Ministry of Justice of Sudan.

Members of the ExCom also expressed concerns that MSF's reports could be 'perceived as focusing on human rights instead of medical concerns.'



'Minutes of MSF ExCom Meeting,' Amsterdam, 13 July 2005 (in English).

Extract:

Relation to International Criminal Court (ICC).

The movement needs to describe its relation to the ICC better publicly. There are articles in the press that imply a possible collaboration between NGOs and the ICC, implicitly connecting MSF to the rumours. To address this issue, the DirOps have written a letter explaining that MSF does not collaborate with the ICC. They distributed this letter to the Ministry of Foreign Affairs and the Ministry of Justice in Sudan. Additionally, the DirOps wants to develop a generic communication campaign for host countries explaining MSF's

position. Finally, the teams in the field need to be well informed that they are not to collaborate, speak, or attend meetings that are related to the ICC on the field. They should also report to their headquarters if the ICC is attempting to contact them directly. MSF's written policy regarding its relation to the ICC is broad and leaves room for interpretation. It should not be distributed to field staff or to outsiders. MSF's strategy will be defined according to specific country situation.

Some confusion around MSF's collaboration with the ICC could be heightened by the fact that a former employee is testifying in front of the International Tribunal for the former Yugoslavia. However, the situation should not be too damaging for MSF because the former employee will be a witness for the defence side and is no longer a member of MSF. Contrary to other NGOs, MSF's staff do not sign a no disclosure agreement upon hiring.

Additionally, some felt that the movement should reflect on its témoignage methods. At times, MSF's reports can be perceived as focusing on human rights instead of medical concerns. The movement should ground its reports mostly on medical data. Indeed, these reports have a big impact on national and international communities. Once a report is published, MSF is unable to control the way it is utilized and quoted. Therefore, the documents are often used and misused outside of their original purpose. This fact should not prevent MSF from communicating. However, it should emphasize the importance of basing the report on medical data to avoid interpretation.

Finally, the movement should anticipate the security consequences after a report has been published.



'Legal or humanitarian testimony? History of MSF's interactions with investigations and judicial proceedings,' Françoise Bouchet-Saulnier, Fabien Dubuet, 27 April 2007 (in English, in French). [Link to the full document](#)

Extract:

The question of MSF's testimony before the ICTY took a new turn in 2004. At that time, a former MSF official decided to testify for the defence in a trial. He gave the defendant's attorney the names of former MSF volunteers who had been present in Srebrenica from 1993 to 1995, along with a number of internal MSF documents. Several of these volunteers, contacted directly by the defendant's attorney, asked MSF's legal department for clarification of the organisation's position.

After a number of internal discussions, MSF concluded that it did not wish to be associated with or to support the former employee's decision.

Had MSF acceded to the attorney's request, it would have created a precedent difficult to reverse in the future. In this specific case, MSF could not justify testifying on the grounds that the organisation or its members were in possession of crucial and conclusive information about a crime. By agreeing to testify under these circumstances, MSF would have acknowledged that this type of testimony was not conflicting with its mission of providing emergency relief in a conflict situation.

However, MSF's decision not to participate gave rise to a controversy over the confusion between the organisation's policy decisions and personal decisions taken by individuals.

In the event that the organisation and a volunteer disagree on whether legal testimony involving the organisation is necessary and appropriate, it is always possible for the

volunteer to testify on his/her own account, without mentioning the name of the organisation or its members and without using its internal documents.

The statutes of international tribunals provide for such protective measures, but in order to benefit from them the witness must request this of the court. In the case at hand, the witness preferred not to request protection, considering that it was legitimate to reveal the name of MSF. In addition, the controversy within the organisation had temporarily put a halt to all requests for protection made directly by MSF to the judges.

Curiously, it was the international judge who, of his own motion, expressed concern during the hearing that the witness was placing MSF and its members at risk by naming names, apparently without taking any precautions and without consulting MSF.

The publication of this hearing on the Tribunal's website in July 2005 brought MSF to a realisation of what was happening. Its requests made to the attorney were initially refused, then finally granted after MSF applied directly to the judge. As a result, on 10 October 2005, the names of MSF and its members were officially stricken from the record of the 11 July 2005 hearing.



A volunteer from the MSF Belgium team in the former Yugoslavia has decided to testify before the ICTY as a witness for the defence in support of a defendant, a member of the Bosnian forces in Srebrenica. He does so against MSF Belgium's advice, and despite MSF's recommendations. He has the support of some at MSF France who feel it is unacceptable that he be asked not to testify to support the defence of a defendant. On the day of the hearing, the judge himself asked him: 'Do you really not think that by testifying you are endangering your comrades on the ground?' Subsequently, I obtained from the court that all references to MSF made during the hearing should not be included in the minutes.

Françoise Bouchet-Saulnier, MSF France/OCP, Legal Advisor 1991-2005, MSF International Legal Director 2005-2022 (in French).

II. CONTINUED VIOLENCE AND PRECARITY FOR DARFUR POPULATION AND GROWING INSECURITY FOR HUMANITARIANS (2005-2007)

A. MSF INTER-SECTIONAL MEDICAL REPORT AND ARRIA FORMULA (2005)

In mid-April 2005, the MSF Sudan programme managers agreed to compile a report using medical data from various MSF projects in Darfur. The report would provide a comprehensive picture of health conditions of the population MSF assisted.

Several drafts were proposed, but the quality of the data was challenged, as was the relevance of issuing such a report.

In early June 2005, while two MSF Holland/OCA coordinators were under arrest, OCA asked to freeze the report process, to not add fuel to the fire with MSF's relationship with the Government of Sudan.

On 27 June 2005, the directors of operations decided to improve the report before any release.



'Minutes of Director of Communications Meeting,' 14 & 15 April 2005, Geneva (in English).

Extract:

Darfur: [...] Desks agreed to put medical data together in report which is being compiled by Brigg Reilly (MSF USA). Martyn asked to help with final editing.



'Minutes of MSF OCA Task Force Meetings,' 1-2 June 2005 (in English).

Extract:

Intersectional report

MSF Holland didn't look at last two versions. There is a delay. We want a veto. Keep in mind we might lose support of diplomats if we now come out again with a new report putting oil on the fire.

MSF France gets serious doubts whether we should go ahead anyway. We need to be very sure on data. (Not trusting anyone else data)

MSF Belgium Jerome pushed very hard for the report (his baby)

Decision: Agreed to bring it to higher level. By next Wednesday we will talk again. They will work on next draft.

So there is for sure a delay and see where it goes. Objective of the report to get attention for Darfur is reached any way.



'Minutes of MSF International Council Meeting,' Berlin, 24-26 June 2005 (in English).

Extract:

An overwhelming majority of the GD19 in their reflection considered that our presence is more than relevant and is not convinced of the added value of the report (in terms of timing, it could not only hamper our ability to work there but impact on the security of the team).

Update since the meeting: the directors of operations have agreed to go ahead with the report and agreed on an outline. Desks are now working on a new version.



'Minutes of MSF International Directors of Communication Meeting,' 24 June 2005, Minutes completed with new information in July 2005, (in English).

Extract:

(1) Joint Communications?

Darfur

Report or no report? Since the arrests of our two staff members in Darfur, the question was whether or not to release the intersectional update.

A teleconference between the DirOps on 27 June decided [...]:

- Good news: to go ahead with the release of the report.
- Bad news: before doing so it requires work, i.e. to clarify the core message, to make it more adapted for external use by exploiting the medical data better, cutting out non-essential data and changing the structure.
- Expected to have a final version in the second half of July.
- Core message: despite the aid effort the people of Darfur continue to suffer and continue to be subject to violence.

On 13 July 2005, the MSF general and operations directors debated how MSF should share information on Darfur: accept an invitation to report to the United Nations Security Council on Darfur through an Arria Formula meeting, or hold a press conference on the same day of the meeting to report directly to the media.

On 15 July 2005, the MSF directors of operations decided to accept the invitation to the Arria Formula meeting with the MSF Belgium/OCB Coordinator in Darfur as presenter. They agreed on the following message: violence continues to plague displaced populations in Darfur; ongoing displacement; unacceptable malnutrition levels and other unmet needs; no plan for the displaced to resume daily life; and that these problems endured for over a year, despite full awareness of the UN Secretary General and others.



'Minutes of ExCom Meeting,' Amsterdam, 13 July 2005 (in English).

Extract:

Despite the international attention on Darfur in the last few months, the situation is still worrying with massive displacement, 20% of malnutrition, and continuing violence. MSF sections are in the process of writing an international report about the situation in an effort to communicate what it is witnessing. The DirOps have agreed on an outline for the report.

The DirOps estimate that the report should be released despite the recent arrests of field staff in Darfur. Indeed, the report is necessary because the country is still at war and the number of people in distress is growing. Additionally, the movement does not want to be manipulated by the arrests, while at the same time taking the potential threats very seriously and making security a priority. If the report is published, the Government of Sudan will realise that the arrests were useless and that they cannot mute NGOs and block information.

On July 27, MSF is invited to an Arria formula meeting to report to the United Nations Security Council on Darfur. MSF is debating whether to accept the invitation, or to use this opportunity to decline the invitation and make one's point with a press conference on the same day. Also, some estimate that the Security Council already has ample information on the topic and does not need additional information from MSF.

* Following the meeting, the DirOps talked to Nicolas (GD MSF-USA) and re-addressed the issue. Nicolas felt strongly that refusing the invitation and doing one's own press conference on the same day was not a wise option. Indeed, it could be seen as a media stunt rather than a serious critique. If MSF has information regarding Darfur, it should present it to the Security Council. It would be sending the wrong message to challenge the Security Council on Darfur, the one crisis to which it has given extensive attention rather than challenge it on all the other crisis that it has ignored. The DirOps finally decided to send a representative to present at the Security Council (Head of Mission MSF-Belgium) and will not release the report through a press conference the same day.

On 26 July 2005, MSF was informed that most INGOs presenting at the Arria Formula Meeting planned to express their support of the ICC on Darfur and to ask for an expansion of the international peace monitoring and security forces in Darfur.

MSF general directors decided that MSF would not express similar positions at the Arria Formula session. Instead, MSF would focus on humanitarian issues only.



'Arria meeting on Darfur // new NGO action plan // PLEASE READ,' **Message** from Marine Buissonnière, MSF International Secretary General to MSF Directors of Operations, Nicolas de Torrente, MSF USA Executive Director, 26 July 2005, 10:39 (in English).

Extract:

Dear all,

Just a quick note of worry on the Arria formula meeting that will take place on Wednesday. Other NGO presenters will be invited, and the line they will follow is that [...], they explicitly ask for expansion of the size and mandate of peace monitoring and security forces (even going as far as mentioning 12,300 troops are needed), as well as, among other things, strongly support the ICC. The list of signatories to this NGO action plan will not be made public, raising the concern that MSF could unwillingly be associated with such statements.

We may need/want to distance ourselves explicitly and publicly from this statement.



'Re: Arria meeting on Darfur // new NGO action plan // PLEASE READ,' **Message** from Eric Thomas, MSF Spain/OCBA Director of Operations to Marine Buissonnière, MSF International Secretary General, Nicolas de Torrente, MSF USA Executive Director, 26 July 2005, 13:56 (in English).

Extract:

[...] the text and message are things I would not want MSF to be associated with and agree that we should distance ourselves. How? What is the best way to transmit that these points are not the business of NGOs (at least not ours) and that it is also dangerous for us (and others)? Pre-emptively to the authors? in the ARRIA session? after the session? all of the above?



'Re: Arria meeting on Darfur // new NGO action plan // PLEASE READ,' **Message** from Guillermo Bertoletti, MSF France/OCF Director of Operations to MSF directors of operations, Marine Buissonnière, MSF International Secretary General, Nicolas de Torrente, MSF USA Executive Director, 26 July 2005, 16:27 (in English).

Extract:

I think as well that we should take distance from this initiative. Unfortunately, I don't see other solution than to DECLINE the invitation for tomorrow and NOT to be present at the session. On top of it I believe that whether or not we decide to be there tomorrow, we'd need to send a letter to the GoS explaining our position.



'Re: Arria meeting on Darfur // new NGO action plan // PLEASE READ,' **Message** from Christopher Stokes, MSF Belgium/OCB Director of Operations to MSF directors of operations, Marine Buissonnière, MSF International Secretary General, Nicolas de Torrente, MSF USA Executive Director, 26 July 2005, 17:09 (in English).

Extract:

This statement is something I don't want to be associated with, so we need to make our difference heard, that's the most important.

I'm trying to see whether we can have a quick teleconf [with] DirOps with DG with NY today to discuss it, Nicolas is supposed to call back when he gets out of the train:

Because:

1/ I'm not pleased that the misguided statements of others should silence us, and
2/ we need to decide what is best to attend and make our difference heard during the Arria and afterwards or boycott and make our differences clear separately? With the information I have now I'm in favour of the first option: say what we have to say AND say that we are not part of this joint letter. So, we need the space to make this distinction clear. If it isn't there, I agree, we don't participate.



'Re: Arria meeting on Darfur // new NGO action plan // PLEASE READ,' **Message** from Marilyn McHarg, MSF Switzerland/OCG Director of Operations to MSF directors of operations, Marine Buissonnière, MSF International Secretary General, Nicolas de Torrente, MSF USA Executive Director, 26 July 2005, 1:36 pm (in English).

Extract:

I totally agree. We need to distance ourselves from this. If that doesn't look possible in the meeting, we really need to reconsider our presence and abandon the meeting.

Perhaps we can reactivate plan A?... Disengage and be public about it. Having said that, the problem would be getting the message across about the population as well as our disengagement... a difficult message to construct I imagine.

At the very least we need to separate ourselves from the messages in the letter and be clear to the SC [Security Council], UN etc and other NGOs about why. As well, as discussed before we need to be clear about how we see the situation on the ground for the population.



'Re: Arria meeting on Darfur // new NGO action plan // PLEASE READ,' **Message** from Nicolas de Torrente, MSF USA Executive Director to MSF directors of operations, Marine Buissonnière, MSF International Secretary General, 26 July 2005, 00:24 (in English).

Extract:

Hi everyone!

I spoke with ICG [International Crisis Group] who is behind this initiative and expressed MSF's strong objections to an action plan being circulated among member states at the Arria meeting and said that we would most likely not participate if it was done. Oxfam, who was among the original signatories, told ICG that they would not sign this plan and also raised objections. As a result, ICG said they will drop the idea: there will be no NGO action plan circulated tomorrow at the Arria meeting. They are now thinking of providing an updated action plan confidentially to Kofi Annan, copied to the USG (see below for history) well after the meeting, but this is still under discussion.

I also spoke with Michael N[euman, MSF USA Advocacy & representation Officer] who is with Nathalie Civet, [MSF Belgium Coordinator in Darfur] and Jerome [Oberreit, MSF Belgium, Program Manager] in Washington – they met with C [...] S [...] of the US State Dept who made it clear that the Arria was on the humanitarian situation and that MSF would have the time/space to speak and have a Q+A. Participants include Oxfam, Samaritan's Purse, CARE and, as the only non-operational agency, ICG. It is clear that ICG will make the points in the action plan, but they are explicitly a policy-making group, not an aid NGO as the others. I'm trying to find out [what] Oxfam and the others will say, in addition to the aid issues, they will probably refer to the AU troops (not enough, not doing their job etc) in connection to the ongoing violence.

The key question is whether we have the space to make our independent assessment of the situation clear, and to minimize the risk of manipulation/association/distortion – my view is that, given the withdrawal of the 'action plan' from the meeting, Nathalie should participate – stressing her direct experience and limiting her remarks to humanitarian issues (see attached draft – still to be finalize).

Let me know if this is OK for you.

Nicolas

PS: Just to fill you in briefly on the history of this action plan: following a meeting of 19 aid agencies, HR groups and journalists with Annan on March 28 (which Rowan attended), an 'action plan' was submitted to Annan on May 4 with 11 signatories. Because some of the aid groups (Oxfam, CARE etc) were worried about the security risks for their programs, the names of the signatories were not listed, but a separate confidential sheet was provided to Annan.

On 27 July 2005, Dr Nathalie Civet, MSF Belgium/OCB Coordinator in Darfur, presented at the Arria Formula. She described the perpetuation of violence, and the precariousness of the humanitarian response, based on evidence drawn from various MSF programmes in Darfur. She also addressed the Government of Sudan's constant pressure on the displaced to relocate and the increasing insecurity due to the changing nature of the conflict.

To complete the advocacy tour in the USA, MSF conducted a series of briefings on the Darfur crisis for US-based stakeholders and observers.



'Lives dangle by a thread in Darfur,' **MSF Speech** to UNSC Arria Formula Meeting, delivered by Dr Nathalie Civet, MSF Belgium/OCB, 27 July 2005 (in English). [Link to the full document](#)

Extract.

In May 2004, my colleague Ton Koene was here to speak to you about the then escalating humanitarian emergency in Darfur [...]. Unfortunately, although more than a year has passed, I am not here to provide good news about improvements in the lives of the people of Darfur. With 180 international and 3,000 Sudanese staff operating in 32 locations across the region, Darfur continues to be one of MSF's largest operations worldwide. [...]

The perpetuation of Violence

The situation is not stabilizing in Darfur and the need for humanitarian assistance grows as the conflict continues. [...]

An Increased but Unbalanced and Precarious Humanitarian Response

Humanitarian assistance to Darfur, although late to arrive, has increased significantly over the past year. Since the government of Sudan finally eased the restrictions on access to Darfur early last summer, the number of international non-governmental organizations (INGOs) present has increased from a handful to approximately 80. [...]

Fighting for their survival

The two million people in Darfur who are currently in what I would call a humanitarian limbo more than a humanitarian equilibrium are subject to violence, communicable disease in crowded camps and food insecurity for the foreseeable future. As a doctor having worked in Darfur for over a year and a half and talking to my patients, I have often thought about what the life choices of the victims of this war are. Two years after having fled their homes because of violence and fear, they remain living in humiliating conditions with no end in sight. [...]

Conclusion

In terms of crude assistance to Darfur, the situation has improved compared with a year ago. But the underlying causes of this crisis remain, and with them widespread insecurity. In many areas, the situation is deteriorating, both in terms of humanitarian and security conditions.

Violence resurges in places that have been reported stabilized, while some areas are still beyond sufficient reach. In Darfur today, while the nature of the conflict has changed, the fighting continues. People are stuck in camps or in remote areas, subject to violence and to recurring displacement. They are still waiting. Their lives are hanging in the balance, not at equilibrium.



'Visit of Nathalie Civet and Jerome Oberreit, MSF Belgium/OCB, to New York and Washington DC on Darfur,' 26-27 July 2005, **Notes** by Michael Neuman, MSF USA Program Officer, 29 July 2005 (in English).

Extract:

Summary of the meetings with Senator B [...], MG [...], from Senator F [...], office, Congressman W [...], and H [...] from Congressman L [...] office

We did not expect too much out of these meetings, but it felt necessary to update some of our contacts in Congress on the situation, and to help maintaining Darfur on Congress radar screen. Their view that things are good enough because the overall mortality rate is slightly dropping needs to be challenged. Most questions asked were on the security (is AU effective in protecting the population?), and access (are you real sure that the GoS has lifted access restrictions?). The Democrats also asked if Rice [US Secretary of State] and Zoellick's [US Deputy Secretary of State] visits make a difference. We responded that while we could not comment on the specific visit, we hoped that Darfur would remain the priority of the international community, and acknowledged the importance of USAID funding to Darfur...

Arria formula meeting

There were five presenters: Care, ICG, MSF, Oxfam, Samaritan Purse. Amb. Patterson, from US mission, made the introductory remarks. [...] From Care and Oxfam, as well as Samaritan's Purse, more or less the same comments were made: The face of the conflict has changed, the insecurity is everywhere. Prospects for food security going down, tensions between the "have" and the "have not" intensifying. There were mentions of the land disputes. The situation is somewhat improved, but a solution is not close, and Darfur is slipping out of the agenda. All of them concluded their statement with a call to the UNSC to strengthen AU, its mandate, to add troops, improve their equipment.... ICG of course stressed the same, but this was expected. [...]

Q&A from the Security Council Members was brief. Most questions dealt with security and protection issues, and how to solve the conflict and enhance the security of the civilian population, a couple were asked on coordination. Nathalie stressed the importance of working independently from the African Union, and not depending on them for our security; while Oxfam welcomed the work of very committed AU commanders to protect the civilian population of Darfur. The last comment came from the French delegate who said that "the presentations contrasted with the rosy picture described by Jan Pronk last week". [...] We could say what we had to say, while the other NGOs took ICG as their spiritual chief.

On 3 August 2005, MSF International issued a press release entitled, "Médecins sans Frontières alarmed about ongoing violence in Darfur, Sudan," summarising the Arria Formula presentation using the same data extracted from the draft international report.



'Médecins Sans Frontières alarmed about ongoing violence in Darfur, Sudan,' MSF International **Press release**, Geneva, 3 August 2005 (in English, in French).

Extract:

The international humanitarian aid organization Médecins Sans Frontières (MSF) continues to treat victims of violence in all locations where it is present in Darfur.

"Our teams are still witnessing repeated violence against the population," says Rowan Gillies, president of MSF international. "We are deeply concerned about this and its consequences for our patients and their families." [...]

In the last 3 weeks, 52 victims had to be treated by MSF teams for violence related injuries. From January to May 2005, MSF teams treated over 500 persons for violence-related injuries and 278 women for rape. MSF has been working in Darfur since December 2003. With 180 international and 3,000 Sudanese staff operating in 32 locations across the region, Darfur continues to be one of MSF's largest operations worldwide.

In November 2005, the MSF intersectional report, launched the past April, was still incomplete. The MSF programme managers thought that using a case study from a single location in Darfur would be more representative of the situation than trying to give a global overview.



'**Minutes** of MSF Sudan Desks [programme managers] Meeting,' Brussels 4 November 2005 (in English).

Extract:

Darfur Communication

General agreement that little has been said about the situation in Darfur. Are we missing out on an opportunity?

MSF Holland: Could be a nervousness to speak out. Is it related to the rape report? Now cautious approach sometimes by the field. Maybe we missed out with Shaeriya attack, MSF Holland did not agree internally with the communication. What is happening in Kalma camp, attacks and women leaving. New coordination team's priority has been to focus on ops but we need to look to see how we can communicate more on Darfur.

Darfur report – if no go then it has to be assumed by the dirops. Needs to be documented as to why. MSF France no [don't] believe in this document anymore.

[...] using the case study of a single location is better as there was a much better analysis. It was difficult to draw conclusions for the [i]ntersection report on the whole of Darfur ... MSF France will try same exercise by using Morney to tell the story linking to data and people with the experience of the context.

MSF Spain would not trust the data coming out of the field.

MSF Switzerland – did not believe in the immediate need for communicating as UN vocal, more than MSF. Now thinking to be on level of monitoring the impact of the situation on the civilian populations. Not much change observed yet, but situation could worsen and need to be ready to communicate.

Overall agreed that use one project without global overview of Darfur to highlight broader picture, [similar to the] approach of MSF Holland in Upper Nile and MSF France Akuem. Any communication done on Darfur should still highlight overall MSF implication.

B. MSF AND THE POSSIBILITY OF INTERNATIONAL ARMED INTERVENTION (2005-2007)

From 2005-2007, pressure mounted for 'military-humanitarian' interventions to protect populations in Darfur. It was fed by the trendy Right to Protect (R2P) doctrine and by Western public opinion through organisations like, "Save Darfur."

Growing insecurity in Darfur increased pressure. However, international force deployment was slow to be authorised.

MSF tried to maintain a 'no comment' position on the armed intervention based on a, 'we describe what we see' communication approach.

However, MSF France/OCP leaders broke the no comment approach, describing the armed intervention as harmful to the ongoing relief operations in Darfur.

Calling for more protection for populations in Darfur, was seen by some within MSF, as one of MSF's responsibilities to protect populations and contrarily by others, as support for the armed intervention.

Within the MSF movement, there was a great deal of discussions about MSF's responsibilities regarding the protection of assisted populations. This issue was one of the core topics of the "La Mancha" collective reflection process for the movement in 2005 and 2006.

1. Increasing Insecurity

In mid-2005, splintering non-state armed groups and accumulating attacks fuelled further insecurity in Darfur.

On 28 September 2005, Jan Egeland, Head of OCHA, threatened to suspend humanitarian aid in the region because of insecurity.

INGOs asked for increased security for humanitarian, increased resources for the African Union forces, and deployment of UN helicopters to ensure movement. MSF did not support this request.

To distance MSF from the INGO position and to ensure the safety of MSF's transport, MSF France/OCP and MSF Switzerland/OCG decided to share a helicopter, clearly identified with MSF stickers.

There were discussions on how to inform local and national actors on the use of this helicopter to distinguish MSF from other actors, including through public communication.

In early November 2005, MSF abandoned the helicopter idea because they could not obtain authorisation.



'Communication Darfur – MSF France,' **Note** from MSF France/OCP Department of Communications, October 2005 (in French).

Extract:

MSF France operational decision

- Deteriorating safety over the past few months on the roads in western Darfur (bandits, regular attacks on cars, etc.) has prompted MSF to pause its movements on the roads, preventing teams from transporting patients requiring emergency surgery in a hospital and restricting provisions of supplies to establishments.
- MSF France has decided to equip itself with a helicopter based in El Geneina to dispatch patients in emergency situations. This shall be shared with MSF Switzerland which is operating in the same zone.
- The helicopter shall be clearly identified with MSF stickers.

Security issues in other regions across Darfur

MSF Spain and MSF Holland evacuated several sites (four for MSF Spain, one for MSF Holland) following clashes in northern Darfur and/or as a preventative measure due to fears that the government may retaliate with bombings (northern and southern Darfur on 20 and 21 September). Neither section has shared details of these evacuations or of the injured people taken in on the sites where they are active (MSF Spain).

Statements by other active parties

- On Wednesday 28, Jan Egeland (UN Humanitarian Affairs and Emergency Relief Coordinator) threatened to stop humanitarian aid in Darfur following fresh outbreaks of violence in the region.
- NGOs (with the exception of MSF) plan on sending a letter to the UN (Da Silva, Pronk) testifying to the aggravated state of violence in Darfur and how this aggravation impacts on their ability to pursue their operations. They are also asking for heightened security for humanitarian workers, extra means allocated to the AU, etc., as well as UN helicopters in which to get around.

Issue:

How do we inform all local and national stakeholders that MSF is using these helicopters while distinguishing ourselves from the other stakeholders involved (UN, AU, army, other NGOs)?



'**Point Info** MSF France/OCP,' 4 November 2005 (in English, in French).

Extract:

Darfur: no helicopter for MSF [...]

But we have not received official authorizations for helicopter use, and our onsite contacts have advised us not to use this means of transportation. So, we've given up on the use of a helicopter.



'The chronic insecurity has led us to redefine and step up our activities,' MSF France/OCP **Web Update**, 16 February 2006 (in English).

Extract:

The people living in these open-air jails still cannot – and do not want to – return home because of the continuing insecurity outside these sites. Few of the displaced persons venture outside the camps to find firewood, forage, or thatch for their personal needs or to sell to earn some income and improve their situation. [...]

Pauline Horrill [MSF France/OCP Program Manager]: [...] certain areas of Western Darfur province, where we are working, are experiencing periodic resurgence of violence. These events are linked to the current situation near the border with Chad [...], to recurrent fighting among the militias, the government army and rebel groups, and to tensions among nomad clans that have degenerated into bloody confrontations. This chronic instability, punctuated by violent episodes, has direct impacts on the population and has led us to redefine and step up our activities.



'Increased Insecurity Hampers MSF Medical Assistance to the Population of Darfur,' MSF **Press Release**, 3 August 2006 (in English, in French).

Extract:

Médecins Sans Frontières demands that provision of medical care be allowed and respected in the conflict in Darfur. Many MSF activities are currently suspended, leaving thousands of patients untreated every day.

MSF has been attacked in the past weeks in several locations in all regions of Darfur. Among the latest incidents: July 14, armed men robbed our compound and stole a car in Serif Umra; July 16, an ambulance was shot at on the road between el Geneina and Morney, the driver was beaten; July 18 another MSF vehicle was taken out of a medical facility in Shangil Tobaya; and on July 20, a team was robbed and beaten on the road between Golo and Nertiti.

Security incidents have led to the evacuation of our teams in Serif Umra and two projects in the Jebel Marra, as well as the interruption of mobile clinics, and the limitation in the referral of emergency cases to surgical facilities in other areas. This reduction of activity has immediate and serious consequences for the population.

On 11 September 2006, an MSF France/OCP team was violently attacked on the road between Zalingei and Nertiti, an area under the Government of Sudan's armed force control.



'Minutes of MSF France/OCP Programme Managers' Meeting,' 12 September 2006 (in French).

Extract:

Our team fell prey to an extremely violent attack on the road between Zalingei and Nertiti punctuated by statements against the presence of foreigners in this area. This undermines our ability to use this road that had until now been employed in exceptional cases to transfer patients for surgery. It should be noted that an assessment involving a meeting with all official and traditional stakeholders had been conducted a few days prior to this along the road's dangerous section. This assessment had been repeated on the return stretch on the day of the attack itself. This road was the last one available for us to use.



'Minutes of MSF ExCom meeting,' Barcelona, 13 September 2006 (in English).

Extract:

Darfur [...]

The General Directors reflected on the situation in the field and the constraint it has on the work of the teams. They are questioning if staying in Darfur makes MSF an accomplice of the situation by the mere fact of accepting the working conditions and the inability to access population. Some sections believe that as a condition to stay involved in the country, MSF should insist on travelling to villages to deliver health care and not solely remaining in refugee camps. However, this condition could be difficult to maintain when the flexibility of movement is diminishing as the tension is rising. Because of the inability to maintain meaningful operations, MSF could have to contemplate leaving Darfur. MSF should attempt pressuring the authorities and advocating for greater access. Gorik introduced the possibility of lobbying with the Chinese government on Darfur.

Other NGOs are sharing these concerns, and some are sending a message for a global reaction. On 17 September 2006, a Darfur Day has been organised by some actors to highlight that the situation in the country is dramatic and no progress has been made. They want to demand peace for Darfur. MSF is not taking part in these events.



'Minutes of MSF France/OCP Programme Manager meeting,' 10 October 2006 (in French).

Extract:

A series of meetings took place in Khartoum and Darfur following the attack we were subjected to on the road between Nertiti and Zalingei on 11 September. The head of mission met with the authorities in Darfur, Executive Director Pierre Salignon travelled to the capital to undertake the meetings. Our aim was to question the political authorities and police forces and discuss their responsibility. The attack had taken place in a government area. Taken together, the meetings demonstrated that MSF in and of itself was not targeted, that the attacks had not been planned, but had indeed occurred in a context in which armed individuals took advantage of current deteriorating circumstances and the calls for attacks on Westerners. Meeting the Executive Director of the HAC [Humanitarian Affairs Commission of Sudan] followed by a Secretary of State for

Humanitarian Affairs were the most significant appointments and led to them promising to intervene.

From early October 2006, MSF Holland/OCA teams treated victims from a wave of extreme violence that swept the population in Muhajariya. The will to issue a strong press release was tempered by the authorities, who warned there would be legal consequences for MSF in doing so.

MSF Holland/OCA analysed the warning as “a structural attempt by the Government of Sudan to intimidate MSF Holland to stop witnessing.” Thus, MSF decided not to risk potential arrests of senior staff which could result from the press release. Instead, an update was posted on MSF Holland’s website, a few weeks after the violence.



‘South Sudan: MSF provides assistance to 50,000 newly displaced in south Darfur,’ **Project Update**, MSF Holland Website, 12 November 2006 (in English).
[Written because MSF Holland decided not to issue a press release]

Extract:

After a period of relative calm in Muhajariya, two months of open combat and tense in-fighting between a shifting panoply of armed groups broke out on October 2. Ordinary civilians often found themselves as primary targets. In the following weeks violence enveloped the area to the south and east of the town, forcing more and more people to flee.

When MSF’s mobile teams were able to move around, they found civilians shot and beaten, villages largely burned to the ground, water points damaged beyond repair, food stocks destroyed, and despair over suddenly shattered lives and communities. [...]

The violence has been continuing intermittently since the beginning of October. On some occasions, people who fled were attacked once again, forcing them to wander the area in a desperate search for security. The MSF-supported clinic in Muhajariya includes surgical services and is receiving a steady flow of victims who require specialised medical care.

Since the start of the clashes, 131 people were treated for war trauma. Of these 107 had gunshot wounds. One quarter were civilians. At times, even patients in the Muhajariya clinic feel unsafe. During a bout of fighting and reprisals on October 23, when MSF staff were forced to seek shelter, 15 patients fled from its hospital wards.

Perhaps most worrisome is the way in which this armed conflict has, at times, split populations along local ethnic lines, enflaming tensions in the region. The ethnic dimension has prompted attacks on villages or displaced camps, meaning that civilians without any relation to the military have been made direct targets.

This complicates the already disastrous humanitarian situation, for example making displaced people afraid to return home even though the situation may calm, or for MSF to worry that its work may jeopardize the safety of its national staff by bringing them across community divides.

[...] Even counting the efforts of other aid organisations, the United Nations and the Sudanese government, tens of thousands of people still remain in critical need of humanitarian assistance, particularly for basic shelter items, food and water.

Over the past few days, renewed attacks have intensified the fighting between rival movements, leading to more civilian deaths and threatening the delivery of MSF assistance to areas outside of Muhajariya. Some of the displaced have been forced to return to the town. Assessing the gravity of the fighting is beyond MSF's scope, but the surgical team in Muhajariya treated 59 gunshot wounds alone in the three days after November 29.



'Minutes of MSF Holland Board Meeting,' 15 December 2006 (in English).

Extract:

Update Darfur by Arjan [Hehenkamp, Director of Operations]

We've [...] decided not to pro-actively participate in the public debate but only speak out on what we see in the field i.e. we witness and so confront the public and decision-makers with the reality of the situation. We drafted a press release. To support Rowan Gillies, who visited this project, we postponed our public communication about Muhajariya to create more public attention. The Humanitarian Affairs Commission of Sudan (HAC) has threatened us several times, but we decided to proceed with our last Muhajariya press release anyway, despite the risk of being expelled and/or that one of our MSF employees will be arrested. However, due to the fact that we lacked the capacity to manage such a possible crisis in time we decided on a web-based communication and briefings instead of a press release. This was a significant decision as normally, security permitting, we would be likely to go ahead with the press release. We raised some public attention, but the impact was not as high as we wanted.



'Minutes of MSF ExCom Meeting,' 9 January 2007 (in English).

Extract:

This episode shows a structural attempt by the Government of Sudan to intimidate MSF-Holland to stop witnessing. The plan for the future is to restructure the mission to enable to continue doing strong advocacy as needs arise.

On 16 November 2006, MSF Switzerland/OCG issued a press release noting increased attacks in the Jebel Moons region and an attack on 29 October in Seleah, which emptied the town and killed several dozen men, women, and children.



'Civilians in West Darfur deprived of assistance as attacks intensify,' MSF Switzerland/OCG Press release, Khartoum/Geneva, 16 November 2006 (in English, in French).

Extract:

Against the backdrop of a peace agreement that has resulted in mounting confrontations, the situation for people throughout Darfur, Sudan continues to worsen. Acts of violence committed by all armed groups against civilians and aid workers are increasing, and many people have been forced to flee their homes. Intensifying violence is preventing

aid from reaching people who are enduring increasing attacks in the Jebel Moon region, north of West Darfur's capital El Geneina. Although on a smaller scale than the violence directed against civilians here in 2003, recent attacks have caused thousands of civilians to flee their homes.

In early November, a team from Doctors Without Borders/Médecins Sans Frontières (MSF) went to Seleah, in the Jebel Moon region, to prepare to set up an emergency medical aid program. The team found a town in a state of siege, indeed on October 29th, 21 villages in the Seleah region, including Haijelihah camp (estimated population 9,934), were attacked and emptied of inhabitants. There is no concrete information today about the whereabouts and the medical situation of these people. The few families who managed to return to Seleah reported that several dozen men, women and children had been killed. As access to the town was impossible, the 51 injured people who were able to reach the Seleah health center had to wait several days to be transported to the MSF-supported hospital in El Geneina, the only surgical facility in the area. Four patients died because of the lack of adequate care. Some vehicles transporting the wounded were attacked en route, sometimes more than once. Today, Seleah is under siege and the MSF team has not been able to return to set up emergency medical operations. Two severely wounded patients are still waiting for a referral.

On November 11, the town of Sirba, located just 25 miles from El Geneina, was also attacked. Nine people arrived at El Geneina hospital with gunshot wounds. There are reports of other victims, but mounting insecurity prevents any medical assistance from reaching them.

Because of the lack of access to these areas, MSF teams cannot even evaluate the needs, and its medical teams are unable to help those directly affected by the violence.

[...] MSF urgently calls on the government of Sudan, and other parties to the conflict to allow independent humanitarian aid workers free access to these populations.

In November 2006, an opinion piece from the MSF International Council President, Rowan Gillies, was published on the MSF International website, upon his return from Darfur. The pan-Arab daily *Al-Sharq Al-Awsat*, published his comments, previously.

Rowan explained that MSF drastically reduced its programmes in Darfur due to insecurity and that the consequence was decreased assistance for those in need. He described people stuck in camps as unable to go and "collect the basic necessities of life for fear of rape or death," and that they were "under attack and threat from Sudanese government forces and rebel militias."

He publicly criticised the international pressure favouring troop deployment to protect the population, while recognising privately, that an effective intervention was unlikely, as it would increase the suffering.



'Who is really feeling the pressure over Darfur?' Dr Rowan Gillies, MSF International Council President, **Opinion piece**, MSF Website, 16 November 2006, first published, in Arabic, in *Al-Sharq Al-Awsat* (in English)

Extract:

Médecins Sans Frontières (MSF), one of the main health service providers in the Darfur region of Sudan over the past thirty months, has now drastically reduced its medical-humanitarian activities because it has become too dangerous for our own staff to work

in some areas. We have completely withdrawn from a number, including Korma, North Darfur and Kutrum in the Djebel Mara – a particularly difficult departure given an outbreak of cholera, a disease that demands urgent treatment to prevent death. We have reduced activities in many other parts of Darfur because of a number of targeted security incidents against aid workers. In the last three months, 12 aid workers have been killed and dozens more have been assaulted, beaten and harassed. MSF alone has had over forty serious security incidents since the beginning of the year.

The number of people receiving assistance is falling and there is a dramatic curtailment of our ability to assess people outside the established camps. This is a worrying fact. At a time when MSF is responding to the displacement of 35,000 people forced out of Muhajariya in South Darfur recently by fighting, we cannot reach those who have been displaced by fighting in the Jebel Moon area purely for security reasons.

The medical indicators from MSF programmes in the 'islands of assistance' we are still able to work in, do not describe the 'medical crisis' that we faced in 2004.

Mortality rates and nutritional parameters are in fact within 'acceptable' limits.

Aid has done its basic, life-saving job. When it comes to the condition of people in the camps, the crisis is not one displayed by measurable data, but of human suffering.

People are stuck in these camps in an environment that is becoming increasingly politicised and violent. They have no idea if or when they will have a future; are unable to move outside the camps to collect the basic necessities of life for fear of rape or death and are under attack and threat from Sudanese government forces and rebel militias. This is the fate of those who have the dubious luck of being confined in the 'open prisons' that are the displaced camps of Darfur.

Whatever the precise cause and effect, there is no doubt the current political climate has produced this particular 'pressure cooker' that is squeezing out humanitarian assistance through violence and closing in a large population under a lid of endless intimidation.

The deteriorating security situation, for which the Sudanese government and militias on all sides have ultimate responsibility, is only intensified by the continued interventionist posturing of the UN Security Council. Many countries of the West: the United States, Great Britain, France, the European Union, along with the African Union, the leadership of the United Nations and many Western advocacy groups demand the deployment of UN 'peacekeeping' troops, as the best way to assist the suffering population, whilst recognising privately that an effective intervention is unlikely.

For political leaders to engage in such duplicitous discourse is one thing, it is another that humanitarian actors such as Jan Egeland, the UN Deputy Secretary General for Humanitarian Affairs, publicly support such a campaign. Maintaining neutrality is critical for humanitarian workers to be able to assist in such a war zone. Taking sides in this way can have dangerous effects on all aid actors.

More importantly, the current international strategy has failed to stem the resumption of violence against civilians. Instead, it has assisted Khartoum and its militias in their anti-Western rhetoric and attacks, escalating a dangerous situation into a near impossible one and contributing to the reduction of vital aid operations.

This observation in no way exonerates Khartoum from its ultimate responsibility for attacks that occur in government areas, nor the other warring parties from their primary responsibilities – to ensure that the lives of non-combatants are respected and that humanitarian agencies can provide impartial assistance to the victims of the conflict.

MSF has not expressed an opinion on the benefits or otherwise of military or political actions, and their contribution towards a 'lasting solution'. What we can see, though, is the effect they are having on our ability to keep people alive.

At this, we cannot remain silent, and demand that those responsible for the violence, and those applying pressure, externally make it possible for humanitarian assistance to

continue. As it is, the way that pressure is being applied risks sacrificing the very civilians it is ostensibly designed to protect.

On 28 January 2007, a group of six Western INGOs, which did not include MSF, took the opportunity of an African Union meeting in Addis Ababa to publicly warn of the approaching humanitarian crisis in Darfur. During the prior month, these same INGOs' Gereida compounds were attacked, looted, and partly destroyed while staff were heavily beaten, raped, and subsequently evacuated.



'Six aid groups warn of worsening Darfur crisis,' **AFP** (France), Khartoum, 28 January 2007 (in English).

Extract:

"Enormous humanitarian response in Darfur will soon be paralysed unless African and global leaders at the AU Summit take urgent action to end rising violence against civilians and aid workers," said the joint communique.

The statement was signed by Action Against Hunger, CARE International, Oxfam International, Norwegian Refugee Council, World Vision and Save the Children.

It said African heads of state and UN Secretary General Ban Ki-Moon will fail the people of Darfur if they do not take concrete steps to herald the start of a new chapter in the region and ensure that an immediate ceasefire is both agreed and enforced.

The agencies said aid workers are facing violence on a scale not seen before in Darfur, leaving access to people in need "at the conflict's lowest point at a time when the humanitarian need is greater than ever."

Attacks on civilians are again rising and forcing even more people to flee their homes, and a breakdown of the aid response will leave civilians in greater danger, the communique said.

If the situation is not addressed immediately, "hundreds of thousands of lives will be put in danger along with a total breakdown of the entire humanitarian response."

They reported that fresh fighting in January has left more than 350 people dead and forced tens of thousands from their homes.

The Darfur region has become "increasingly lawless" due to the numerous rebel movements and lack of accountability, it said, noting that the aid workers have become a target of this widespread violence.

It said aid "staff were raped, beaten and subjected to mock executions" during an attack one month ago on the world's largest camp for internally displaced people in Gereida, South Darfur, which hosts about 130,000 IDPs.

The statement added that it is still far too dangerous for agencies to return to the Gereida camp.

The aid agencies blamed the international community for not providing AU troops with the funds, equipment and support they need, noting, however, that the AU "can — and must — do more with the resources already at its disposal."

The same week, the MSF France/OCP Coordinator in Darfur, Jean-Guy Vataux, was quoted in *Newsweek* saying that during the 11 September 2006 attack on the Zalingei-Nertiti road, two MSF France/OCP staff were “subjected to a serious sexual assault.” This information was not previously divulged.

The author of the article, Rod Nordland, detailed increasing administrative harassment of INGOs, specifically denying visas and travel permits.

He reiterated that speaking out triggers sanctions, noting that the Norwegian Rescue Committee was expelled in November 2006, with “hardly a murmur from the United Nations.” Adding, that the UN Secretary-General’s representative to Sudan, Jan Pronk, was expelled by the Government of Sudan “after he complained publicly about continued Janjaweed attacks.”



‘Africa: War on the rescuers,’ Rod Nordland, *Newsweek* (USA), 28 January 2007 (in English).

Extract:

Last Sept. 11 was a momentous day in Darfur, too. After unidentified militiamen attacked aid workers from the Nobel Prize-winning Médecins sans Frontières at a roadblock on that date, most of the international aid groups ministering to Darfur’s 6 million people stopped using the roads. On Dec. 18, in the southern town of Gereida, unrelated gunmen attacked the compounds of Oxfam and Action Contre la Faim. More than 70 aid workers subsequently pulled out of the refugee camp there—Darfur’s largest, with 130,000 people—leaving only 10 Red Cross employees behind. Yet at the time no one revealed what had really sparked the dramatic pullbacks. In both cases, international staff, including three French aid workers, were either raped or sexually assaulted in territory controlled by the Sudanese government and its allies.

Rape as a weapon has become depressingly commonplace in Darfur, where 200,000 Africans have been killed and a third of the population have been sent fleeing into camps in three years of war. But the attacks on international aid workers herald a dramatic and dangerous new trend—the deliberate targeting of those helping to keep Darfur’s millions of refugees alive. A dozen staffers from foreign NGOs have been killed in just the past six months, more than in the previous two years. There are an estimated 14,000 aid workers in Darfur now, the majority of them Sudanese, working for foreign NGOs and U.N. agencies and delivering \$1 billion a year in aid. Just a few more horrific attacks could throw that massive operation into jeopardy. Last week 14 U.N. agencies working in Darfur issued a stark warning that “the humanitarian community cannot indefinitely assure the survival of the population in Darfur if insecurity continues.”

Médecins sans Frontières country director Jean Vataux confirms that two MSF staffers, [...], were subjected to a serious sexual assault on Sept. 11 after being forced out of their vehicle near Zalingei, in an area under government control. While the women were not raped, Vataux says, “there was a clear desire to hurt and humiliate.” The women were badly beaten as well. Vataux says MSF reported the incident to Sudanese authorities, who promised to investigate but so far have not reported any outcome. [...]

Those who speak out have paid a price. The Norwegian Refugee Council, serving 250,000 displaced Darfurians, was expelled in November to hardly a murmur from the United Nations. Late last year the U.N. secretary-general’s representative to Sudan, Jan Pronk, the highest U.N. mission official there, was thrown out by Khartoum after he complained publicly about continued Janjaweed attacks



There were pockets of safe zones where there were displaced persons and access to aid, and in between them, it was the Wild West.

There were two rapes during an attack on the road. Both victims told their managers about it but asked that the information not be shared.

This was respected within MSF, but it created some difficulties.

When I arrived on the scene, I realised that the information was doing the rounds among the NGOs present on site. The only ones who weren't aware were MSF France's expats, because it was kept from them. This was no mistake, but a real drive to maintain confidentiality. We had been unable to maintain it outside of MSF, but within it, it worked.

As soon as I arrived, I said: 'We have to talk about it.' And again, I was denied this. Over and above the silence requested by the victims, the other argument for keeping quiet was that the rapes had not been mentioned in the complaint that was lodged with the authorities following the attack. So were we to publicly decry these rapes, saying, 'The government isn't keeping aid workers on its soil safe, etc.,' the government would inevitably have turned around and said, 'I'm sorry, but you never filed a complaint for rape.' These two arguments weighed heavily on our communication.

A few weeks later, I was meant to be interviewed by a Newsweek journalist on the general situation in Darfur. I warned the Head of Operations who threatened to fire me if I talked. I ended up using the hazy turn of phrase 'serious sexual violence'. And nothing happened. After that, we had a very frank conversation.

In truth, we should explain to people that if they fall prey to a serious security incident, we need to be able to talk about it, potentially even publicly, and that that's one of the hazards of the job.

*Jean-Guy Vataux, MSF France/OCP, Coordinator in Sudan, September 2006 to June 2007
(in French).*

A few months later, in March 2007, the MSF France/OCP Medical Coordinator in Darfur, Mathilde Berthelot, was introduced to an acquaintance of the regional governor. Mathilde recognised this acquaintance as the purported sponsor of the 11 September 2006 road attack between Zalingei and Nertiti.

Beyond this act of intimidation, the governor made it clear that MSF team security was 99% dependent on his services and that he could decide to protect MSF from attacks or not.



In 2007, the former Governor of North Darfur, who had a reputation for having a lot of blood on his hands, was appointed in Zalingei. He came to tour the hospital. At the end of the visit, he invited the MSF Sudanese head nurse and me to tea on the following Friday. Given his background, he wasn't the kind of person you would want to be having tea with every day, but we thought, 'We'll go, we can't refuse.' Once we had parked the car, the nurse called his wife and said, 'If we're not out in an hour, come and get us!'

We were courteously received. We talked him through our work. He asked us, 'But don't you have security problems?' 'Listen, we're careful,' we said. 'But you don't take the roads?' 'No, no, we get around by helicopter.' I knew exactly where he was going with this, and so I said: 'Listen, you might know that we had a serious security incident in 2006?' 'Yes, I heard about it,' he said. 'And by the way, if I may, you filed a complaint with the Nertiti police, didn't you?' 'Yes, yes, we logged a complaint.' 'Because I believe there were thefts, some of your things were

stolen, computers, things like that?' 'Yes,' we said. 'There were assaults on people, too.' 'Oh really?' And that's when I realised that he was aware of it all, he had planned out this conversation. He said: 'But in the police report, I didn't see the names of the foreigners in the car. You had computers and money stolen, but nothing else is recorded. You know, it's dangerous on the roads.' Indeed, the police report had only covered the attack on the car, the stolen equipment and money.

I doubled down, 'Listen, there were assaults on people.' 'Ah yes, but as that wasn't specified... I can't protect you if you don't speak up if you hide things... The helicopters aren't practical, I can protect you if you want to get back on the roads. I can cover 99% of your security, but there's 1% that comes down to you.'

99%. That meant: 'I control your protection, but I can attack you, so you have very little room for manoeuvre. If you criticise us or do anything that displeases us, you'll know about it, and I will say that I couldn't protect you and that I had told you to be careful.' What he was implying had just made us realise that he was aware of everything that had happened. And sitting there with a cup of tea and little cakes, I felt the pressure of a guy who was telling us, 'I control everything, if I want to attack you or have someone else attack you, I can hold back the dogs or release them.' That was the message.

Then he turned to the guy who had come to clear off the table and said, 'Bring us more tea for my friend who is arriving.' He brought his friend in, a huge two-metre-tall guy, 'Allow me to introduce my friend B, who knows the Zalingei and Nertiti area very well.' Basically, he had put us face to face with the guy who had organised the attack on the team in 2006. We tried to hold it together and found a way to say goodbye politely. It was pointless continuing to talk with these two potential killers, to tell them, 'You know, it would be great if you could respect the aid workers.'

*Dr Mathilde Berthelot, MSF France/OCP, Medical Coordinator, January to October 2007
(in French).*

From August to October 2007, Muhajariya was again submitted to a series of heavy attacks. An attack on 8 and 9 October affected 35,000 people and forced MSF Holland/OCA to evacuate international staff. On 18 October, another MSF Holland/OCA team temporarily evacuated from Kalma camp, after an attack.

MSF Spain/OCBA evacuated their staff from Tamila, in North Darfur, after an attack on a nearby displaced camp.

In mid-November, an MSF Switzerland/OCG mobile clinic was attacked and looted 20 km away from Habila, on the way back.

During the same period, 10 soldiers were killed during an attack on an African Union military base.



'Attacks on Muhajariya: MSF national staff continue to treat 100 patients every day,' MSF Holland/OCA **Press release**, Amsterdam, 16 October 2007 (in English, in French).

Extract:

The town of Muhajariya in Darfur, Sudan, was attacked by armed groups on Oct. 8 and 9, forcing the evacuation of medical aid organization Médecins Sans Frontières (MSF).

More than 35,000 people living in Muhajariya and its immediate vicinity have been directly affected by these attacks and are in urgent need of humanitarian assistance. There have been unconfirmed reports that two of our national staff members have been killed. The whereabouts of a number of staff members is still uncertain. At this stage there is no further information. MSF is very concerned about its staff members and the humanitarian situation of the population of Muhajariya.

Sudanese MSF staff remaining in Muhajariya have set up a mobile clinic for the thousands of people who have moved to the northern outskirts of the town to escape the violence. They also reopened the local hospital on Oct. 12. Medical care is being provided to an average of 100 people a day. This includes the treatment of 23 gunshot wounds.

Teams are setting up water and sanitation facilities to limit the risks of faecal contamination and epidemic outbreaks where people have congregated. A water bladder has been installed and 15 emergency latrines have been constructed. [...]

Since the onset of the fighting in 2004, a series of raids around Muhajariya have pushed people to flee to the bush repeatedly. In late 2006, almost half the population of Muhajariya fled violence and intimidation, seeking refuge in the bush or making their way to Seleah and Yassin. Villages were burned, civilians killed, and water points, livestock and food resources destroyed or looted. After a recent period of relative calm, new attacks were launched in August 2007, mainly targeting civilians trying to work in their fields and forcing them to abandon the lands they had just planted.



'Transmissions,' MSF France/OCP internal newsletter, 18 October 2007 (in French).

Extract:

Sudan – Tensions also mounting in Darfur.

In the space of just a few days, there has been an attack on the African Union base (10 soldiers killed), bombing and combat in southern Darfur, in Muhajariya (over 20 dead and 40 wounded), and an attack on a camp in Tawila, in northern Darfur. The Dutch section evacuated Muhajariya, while the Spanish section had evacuated Tawila a few days earlier. Rumours of attacks in southern Darfur and recommendations that NGOs evacuate without delay are increasing. The United Nations have reduced their presence.



'Tous Terrains,' MSF Switzerland/OCG, 16 November 2007 (in English).

Extract:

Sudan – Darfur

The MSF mobile clinic truck was attacked on its way back from a mobile clinic coming from Sala, the ambush took place 20 km from Habila. Everything carried on board was stolen including some amount of money. 1 national staff was physically attacked and beaten. All movement has been cancelled until the incident shall be fully analysed. It is the first incident since we started our mobile clinics program in the areas around Foro Baranga and Habila. So far, the first analysis is that the attack can be either "simple bandits' action" or linked to a former group of Janjaweed called "forgotten soldiers" being upset with MSF CH as we did not want to employ them.

2. MSF and the Save Darfur Coalition's International Campaign

In the USA, the Save Darfur Coalition, supported by intellectuals and celebrities, continued to expand influence in various arenas of domestic and international public opinion. V3  V4 

On 14 September 2006, Nobel Peace Prize winner, Elie Wiesel, and actor Georges Clooney, were invited to informally address the UN Security Council on Darfur.

The day before, the UNSG Kofi Annan begged the Sudanese authorities to accept the deployment of a UN force in the region.



'Darfur: Elie Wiesel and George Clooney to attend tomorrow's Security Council,' AFP (France), New York, 13 September 2006 (in French).

Extract:

Elie Wiesel and George Clooney will be speaking to members of the Security Council at an informal briefing called by United States Ambassador to the United Nations John Bolton, according to a UN press release issued today in New York.

"The Security Council allows for such informal discussions on issues before the Council to take place with civil society groups and concerned citizens," says the UN.

During a Security Council session on the situation in Darfur held on Monday, the Secretary-General had asked the Security Council to send a "clear, strong and uniform message" to the Sudanese government. He also appealed to the Sudanese authorities to allow a UN force to be deployed in the region (despatch and speech given on 11/09/06). During a press conference today in New York, he warned that disaster would break out should the international community fail to deploy a UN force in the region, drawing parallels with the situation in Rwanda [...]

The press release also noted that Elie Wiesel, who is fighting to defend communities in the Darfur region, had previously expressed his deep concern before the Security Council, and had implored it to protect the people.

According to Elie Wiesel, we must not hesitate to take action to protect defenceless people, and the perpetrators of genocide must not be able to hide behind national borders nor invoke the principle of sovereignty [...]

Speaking in the UN press release, George Clooney stated that "the situation in Darfur is not getting better, it's getting worse. We need the international community to commit all its resources to bring an end to this extraordinary suffering. The critical hour for Darfur is now." The actor travelled to Sudan and Chad last April.

MSF USA was faced with a dilemma of positioning: to communicate on Darfur to collect funds for operations and at the same time, avoid association with the Save Darfur activists, who were pro-armed intervention.

In May 2007, the MSF USA General Director, Nicolas de Torrente, was approached by George Clooney's representative. Clooney and his actor friends wanted to publicly call for an international military intervention in Darfur during an awareness and fund-raising media event called, "Save Darfur." This event would be a benefit for

MSF and held in Cannes, in the south of France, on the Croisette (main beach road) and on a yacht in the Cannes harbour, during the famed annual Film Festival.

Nicolas declined, explaining that MSF could not be associated with a call for an armed intervention in Darfur, which MSF considered to be risky for relief operations.



'Not on our watch – how Hollywood made America care about Darfur: Cannes premiere is latest event to be used to draw attention to African crisis,' Dan Glaister in Los Angeles, **The Guardian** (UK), 19 May 2007 (in English).

Extract:

"Celebrities have been crucial in building awareness on a wide range of things that would otherwise be just a distant concern," says the human rights activist John Prendergast, co-author with Cheadle of *Not on Our Watch: The Mission to End Genocide in Darfur and Beyond*. "Clooney is smarter than any politician I've dealt with on this issue. Angelina [Jolie] is as clued in on the policy issues as any politician." [...]

Tuesday's party will be a benefit to aid the fledgling Not on our Watch Foundation, a fundraising and advocacy group that aims "to focus global attention and resources to stop and prevent mass atrocities". But unlike most non-profit start-ups, this one boasts a stellar list of board members on its letterhead: Cheadle, Clooney, Damon, Brad Pitt and the Ocean's 13 producer, Jerry Weintraub.

"All the guys have been to the Sudan this year," Weintraub told reporters last week. "They saw this huge genocide and nobody doing anything about it."

Darfur has mobilised activists and generated support like no other conflict or humanitarian crisis, particularly in the US. Even poker has got in on the action: an online poker site will announce a \$1m (£500,000) donation at Tuesday's party: Ocean's 13 is, after all, a gambling movie. [...]

Much of the groundwork was laid three years ago after the Bush administration used the term "genocide" to describe the situation in Darfur. That spurred two communities to action: students and Jews.

"The communal memory of the Holocaust continues to push the Jewish community to never let a holocaust occur again," says the American Jewish Committee's Eli Lipman.

Mr Prendergast sees the surge of interest in Darfur as the result of three years of classic grassroots activism, of hard work mobilising support in church groups, synagogues, and universities. Others, less charitably, point to the US's imperial misadventures as one of the causes of the swell of sympathy for Darfur and the Bush administration's forthright comments. What better way to forget the disaster in Iraq than to seize the moral high ground in Darfur? [...]

Spielberg, in a letter sent last month to the Chinese president, Hu Jintao, used his influence as one of the artistic advisers to the 2008 Beijing Olympics to suggest that the Chinese government change its policy in the Sudan.



I told Clooney's lawyer that we really appreciated how they were standing up for this cause, and that what was happening over there was indeed terrible and we were doing all we could, but that we couldn't go too far because that would impact our operations and potentially even jeopardise our ability to help. And I added that maybe the international intervention would have negative effects, and that we had to consider that. I suggested: 'If you

like, I can meet with Mr Clooney and explain it to him.' He replied, 'No, you will not be meeting Mr Clooney!' He was the gatekeeper!

Clooney is smart. He would have understood our position, but that would have, 'taken the air out of him,' as one says in Quebec!

The United States was the trickiest balancing act to get right. We had to encourage donations, take part in fundraising events for Darfur, and accept their support. But we also had to hold strong and not get co-opted or used to support measures in response to the crisis that wouldn't align with our status and priorities as a humanitarian medical organisation. That was really the problem.

Nicolas de Torrente, MSF USA, Executive Director, 2000-2009 (in French).



We wanted Clooney to know why we were refusing a million dollars when our activities depended in part on donations from people like him. The New York office was very insistent (when they get you on the phone, they don't let go) and hadn't managed to secure a meeting. Clooney didn't want to know why MSF, to whom he was giving a million dollars and therefore all his trust, found his donation inappropriate.

Dr Rony Brauman, MSF France, President of Board of Directors, 1982-1994, MSF France Foundation/CRASH Director of Studies since 2000 (in French).

The activist group, Urgence Darfur, the equivalent of Save Darfur in France, in turn, called for an international armed intervention in Sudan. Urgence Darfur managed to convince five French presidential candidates as well as President Chirac, to support their cause.

Urgence Darfur was supported by French politician Bernard Kouchner, one of the MSF founders, who left the organisation in 1979. Kouchner continued to publicly refer to MSF, suggesting that he still had links with the organisation.

On 23 March 2007, in an Op-ed published in the French daily *Libération*, MSF France President, Jean-Hervé Bradol, and the Director of Studies for the CRASH, Fabrice Weisman, strongly criticised the "bellicose rhetoric" of Urgence Darfur.

The same day, Jean-Hervé Bradol stated to AFP that none of the relief organisations in Darfur supported Save Darfur's appeal for armed intervention.

Bradol described Save Darfur as, "a political movement supported by radical North American Christian groups, Jewish groups, and supporters of the current Kigali regime." He added that the situation in Darfur was not worse than in Congo, Sri Lanka, or Iraq.

According to Bradol, after the US military interventions in Iraq and Afghanistan, another military intervention in Sudan would be dangerous, considering that Islam is the dominant religion in Sudan, as in the other countries. It would make the US appear anti-Muslim and could trigger another bloodbath.

On 27 March, Bradol explained to the MSF France board that his statement was not a political stance, but a “stereotypical way of showing that the use of force, especially in the name of humanitarian action, is not the only option.”

He said that his declaration was in accordance with the MSF movement agreements to react “when MSF action and name were instrumentalised to call for war.”



‘An appeal for Darfur, killings and demagogy,’ Jean-Hervé Bradol & Fabrice Weissman, Op-Ed, *Libération* (France), 23 March 2007 (in French).

Extract:

The French advocacy group, Urgence Darfur, has just issued an appeal calling on the European nations “to immediately send an international peace force” to Darfur to “protect the population against widespread massacres” and “establish secure humanitarian corridors.” Five French presidential candidates have agreed to similar measures. This is a risky and dangerous initiative.

The large-scale massacres in Darfur have already taken place. Some tens of thousands of civilians accused of supporting the rebellion because of their ethnic origin were killed during the Sudanese government’s counterinsurgency campaign, carried out between March 2003 and December 2004. Based on 58 mortality studies (included 16 conducted by Médecins Sans Frontières), the Centre for Research on the Epidemiology of Disasters reported 131,060 conflict-related deaths in the September 2003-June 2005 period. One-quarter of the victims were murdered (41,000). The others died of hunger and disease while fleeing the killings, the burning of their villages and the destruction of their livelihood.

Although still at unacceptable levels, violence against civilians fell significantly beginning in late 2004, and then began to rise again. Since the second half of 2006, the United Nations mission in Sudan has recorded an average of 200 violent deaths per month among civilians, peaking above 400 in September-November. This renewed outbreak of violence is linked to a resumption of fighting between the government and rebel groups that did not sign the 5 May 2006 peace accord. However, it also results from the splintering of armed groups (rebels and paramilitaries) into rival factions, as well as from increased conflicts among heavily armed neighbouring communities. The reason that the number of violent deaths is below that of 2003-2004 is quite simple: a large part of the territory affected by this new wave of violence had already been emptied of people during the 2003-2004 scorched-earth campaign.

The killings are distributed across a region the size of France that is home to six million people. At least half live in government-held cities and camps, where violence is more contained. According to African Union and United Nations military experts, it would take a lot more than the 20,000 Blue Helmets called for under Security Council Resolution 1706 to re-establish order and prevent new killings, assuming, of course, that the parties to the conflict accept this deployment.

That is not the case, however, as the Sudanese government is opposed. Ignoring its refusal would mean invading western Sudan or, in other words, declaring war on the Sudanese government, without any assurance that such an action would enhance civilian safety. An international intervention in Darfur presents tougher problems than in Kosovo, East Timor and Sierra Leone. Those were small areas, held by well-identified armed groups, and the overwhelming majority of the people living there agreed to foreign intervention. An invasion of western Sudan could end in a bloodbath that would include civilians, like Operation Restore Hope in Somalia (1992) and Operation Iraqi

Freedom. In addition, a non-consensual intervention would inevitably result in the collapse of ongoing aid programmes, as in Kosovo, Sierra Leone, East Timor, Afghanistan and Iraq during the offensive phase.

As we write, more than 13,000 humanitarian aid workers (including 2,000 from MSF), 12 United Nations agencies and 80 non-governmental organisations are deployed in Darfur. Thanks to a vast network of air and road corridors, they are providing lifesaving assistance to approximately two million displaced persons. Although living conditions in the camps remain precarious, mortality and malnutrition rates are well below emergency thresholds (and in many camps, well below pre-war levels). This is a first for anyone who remembers the aid system's paralysis during the large-scale famines in Sudan during the 1980s and 1990s.

On the other hand, attacks against humanitarian workers have intensified over the last six months. This has increased the risks for current aid work and has made it very difficult to reach new victims. Some of the attacks are perpetrated by armed gangs from all sides (including the rebels), who readily kill aid workers to seize their vehicles and other logistical resources. Other cruel and deadly attacks are the result of a deliberate strategy on the part of the Sudanese government, which appears to be pursuing two objectives. First, it seeks to distance aid groups from areas with military operations and, second, to thwart international aid activities by taking humanitarian workers hostage. The dramatic increase in attacks targeting aid workers after the vote on Resolution 1706 makes that quite clear.

The only way to reduce violence in Darfur is to resume negotiations between the government, rebel groups and paramilitary militias. Joint action on the part of the international community addressing civilian needs for aid and protection is thus critical. Unfortunately, and at the risk of undermining one of the most effective aid operations of the last twenty years, a group with the standing to summon the major presidential candidates has chosen to participate in bellicose rhetoric rather than encourage European governments to commit firmly to a policy of mediation. One can worry that our presidential candidates have blindly signed on to the recommendations of a group more concerned with justifying the war against the Sudanese government than with the immediate fate of the people in Darfur.



'MSF and ACF [Action Against Hunger/Action Contre la Faim] condemn Urgence Darfur's "dangerous" proposals,' **AFP** (France) 23 March 2007 (in French).

Extract:

In an interview with the AFP following an explosive column in *Libération*, Médecins Sans Frontières (MSF) President Jean-Hervé Bradol described the American model-based collective as "a political cause to be defended: bringing the current Sudanese regime to heel through warmongering escalation" [...] During a major gala in Paris on Tuesday, Urgence Darfur called for international intervention or, failing that, called on the international community to arm rebels in the Sudan Liberation Movement (SLM).

They had five presidential candidates sign a pledge: [...]

"Urgence Darfour's management are playing on ambiguity, claiming to speak on behalf of humanitarian organisations," when "no aid organisations on the ground support them," said Dr Bradol.

"It is a political movement backed by radical Christian groups in North America, Jewish groups and supporters of the current Kigali regime," he said.

The MSF President emphasised the fact that while the situation in Darfur is 'dramatic', the monthly death toll "is no worse than it currently is in Congo, Sri Lanka or Iraq".

He also believes that military intervention would undermine MSF and ACF's aid action, which supplies over a million people with food, clean drinking water and care. In the aftermath of the military interventions in Iraq and Afghanistan, this scenario would be 'dangerous' and trigger a 'blood bath' considering 'Sudan's geopolitical context: a country in which Islam is the dominant religion', and since Khartoum rejects the intervention.



'Minutes of MSF France Board of Directors meeting,' 30 March 2007 (in French).

Extract:

Jean-Hervé Bradol: I don't believe that asking proponents of war to resume negotiations is a political stance. It is a standard way of showing that using force, what's more under the banner of humanitarian action, is not the only option. I see a lot of exaggeration from those who criticise our paper. Calling for negotiations is painted as a remarkable political stance, when in fact it is a very workaday practice. [...]

Man: Had the other sections been warned?

Jean-Hervé Bradol: Yes, of course. Our joint position of not getting involved in recommending political solutions to crisis situations is a recent development that started in the 1990s. We have two guidelines explored in the La Mancha text, which we draw on to 'structure' our political positions. Firstly, we restrict ourselves to what we know and practise, and secondly, we proactively flag any misuse of humanitarian action. I thought we had agreed to respond in cases where our work or name (Bernard Kouchner uses 'MSF' in every other sentence) is weaponised to call for war. In the States, the Save Darfur publicity campaign is huge, and its funding remains opaque as one of its directors told Nicolas de Torrente [MSF-USA Executive Director] that he could not name his biggest sponsors without running the risk of "being accused of having done a deal with the devil", which speaks volumes as to the risks of political manipulation!

In May 2007, Bernard Kouchner, now minister of Foreign Affairs in the French government, proposed to create a humanitarian corridor using military forces from Chad to assist Darfur populations.

On the MSF France website, the MSF France/OCP Programme Manager explained why this proposal, was a "dangerous military-humanitarian mix-up [...] out of step with the reality of relief efforts on the ground, and even counter-productive in terms of assisting the people of Darfur."

He cautioned the concept of so-called "humanitarian corridors" and "security zones" employed in the war in the former Yugoslavia, as tragic security illusions for the populations.



"'Safe humanitarian corridors' in Darfur: A dangerous military and humanitarian muddle,' **Interview** published on the Médecins Sans Frontières website, Paris, 31 May 2007 (in French).

Extract:

Dr Denis Lemasson, Programme Manager for Médecins Sans Frontières' French section in Sudan, explains why this proposal is out of step with on-the-ground aid realities, and could even be counterproductive in helping the people of Darfur. [...]

Does providing aid with security through armed forces strike you as a pertinent response?

Mr Kouchner's suggestion blurs the boundaries between humanitarian and military action and is dangerous. If humanitarian convoys are given security by a foreign armed force, aid workers run the risk of being dragged into the conflict and becoming targets. We have seen this time and time again: often, combining humanitarian action and armed intervention is ineffective as, to reach local people, aid must remain neutral and independent of any political party – and perceived as such. Mr Kouchner's safe humanitarian corridors would no longer be neutral working spaces. Rather than bolster humanitarian aid, the opposite could occur.

What are your thoughts considering your prior experience in the matter?

Without wishing to claim that history repeats itself, past experiences of 'humanitarian interference' lend weight to our concerns. The 'humanitarian corridors' and 'safe zones' set up in Srebrenica and Goražde in Bosnia are a tragic reminder of how such measures create an illusion of safety. Similarly, the American 'humanitarian-military' operation rolled out in Somalia in 1992 helped create a dangerous blurring of worlds.



'The "humanitarian corridor" to Darfur emerges as difficult to achieve,' Jean-Pierre Tuquoi and Laurent Zecchini, **Le Monde** (France), 2 June 2007 (in French).

Extract:

The NGOs are just as doubtful. 'Mr Kouchner's suggestion blurs the boundaries between humanitarian and military action, and is dangerous,' explains Médecins Sans Frontières (MSF), one of the associations active in Darfur. "If humanitarian convoys are given security by a foreign armed force, aid workers run the risk of being dragged into the conflict and becoming targets.'

In October 2007, members of a French NGO called Zoe's Ark (l'Arche de Zoé) were arrested in Chad for trying to evacuate 103 children to France, whom they presented as orphaned victims of the conflict in Darfur. It turned out that the children were not coming from Darfur, but from Chad, and were not orphans.

Rony Brauman, Former MSF France President and Director of Studies at the MSF France Foundation, stated to the French media that the members of Zoe's Ark were influenced by the prevailing discourse of associations such as Urgence Darfur. According to Brauman, the Zoe's Ark guys sincerely thought that they were saving children from a genocide.

Brauman specifically highlighted the "moral responsibility" of the Minister of Foreign Affairs, Bernard Kouchner, and other French intellectuals who supported the discourse on genocide.V5 



'Arms Pass: the Zoé's Ark affair divides humanitarian figureheads [...],' Jean-Philippe Rémy, **Le Monde** (France), 31 October 2007 (in French).

Extract:

"These people generally thought they would be saving the lives of children under imminent threat of genocidal war," said Rony Brauman, co-founder of Médecins Sans Frontières (MSF). Speaking on RTL [French radio station] on Tuesday, he invoked the 'moral responsibility' of figureheads such as French Minister for Foreign Affairs Bernard Kouchner and philosopher Bernard-Henri Lévy. "Neither I nor practically any humanitarian organisation operating in Darfur have witnessed a genocidal war," Mr Brauman said. "And yet that is the idea that has taken root, through Bernard Kouchner and a certain number of individuals, such as Bernard-Henri Lévy and Urgence Darfur. A handful of figureheads who, powered by their moral status, shaped [...] a kind of framework that gave rise to the idea that people over there were living on borrowed time, and were fated to die."



When the Zoé's Ark guys were arrested in Chad, everyone who had been mentioning genocide in Darfur let rip on them. Along with that were all those who had found it perfectly acceptable that in July 1994 Bernard Kouchner had gone to Rwanda to try and save a hundred-odd children through his foundation, all to the tune of credit granted to Théoneste Bagosora, by the way: the genocide's mastermind. This was filmed, it was shared, it didn't bother a soul. And the Zoé's Ark members, who took all these discussions and accusations against the Khartoum regime seriously and decided to try and save a hundred children from the beast's jaws, suddenly found themselves battered by an avalanche of criticism, sarcasm, and accusations of all kinds.

I have no respect for those who put this operation together, because I think they were very manipulative, very cynical. But a lot of very well-meaning people were involved in this affair. And without meaning at all to wash the Zoe's Ark leaders of their sins, I granted them extenuating circumstances. They had simply believed what Kouchner and Bernard-Henri Lévy, for example, were saying: people who prided themselves on being humanitarians, travellers, experts in the field. They cloaked themselves in legitimacy and credibility and announced that an entire population was being exterminated. And so, I thought this avalanche of accusations was a huge hoax. What I wanted to say at that point was that bandying around a word like genocide for an event like that involves taking responsibility. Similarly in fact, challenging the charge of genocide is a responsibility too: it is inevitably a two-way street. But I felt I was stepping up to my responsibilities, specifically by showing that there were serious knock-on effects and that we couldn't make this blanket accusation after all the noise over genocide we had heard.

I felt utterly inaudible. What jumped out was that they were fools, and that was indeed the case, but it drowned out all the rest.

Dr Rony Brauman, MSF France, President of Board of Directors, 1982-1994, MSF France Foundation/CRASH, Director of Studies since 2000 (in French).

3. Ups and Downs of International Armed Intervention Plans

On 26 May 2005, the EU and NATO decided to bring logistic support to the African Union forces in Darfur.



'Sudan: African force in Darfur given heightened international support,' Jean-Philippe Rémy, **Le Monde** (France), 27 May 2005 (in French).

Extract:

Following a meeting in Addis Ababa in Ethiopia, a donors conference attended by decision-makers from the United Nations, European Union (EU) and NATO agreed on a series of pledges to bolster support for the African force engaged in Darfur to put an end to the conflict that began in 2003 [...]

Among the pledges made at the Addis Ababa meeting was a commitment to provide multiple transportation planes, six combat helicopters and 116 armoured vehicles for transporting troops. In addition to these, African troops (whose number should be increased to over 7,700 soldiers by September and could ultimately reach 12,300) will need to be supplied with helmets, bulletproof vests, and communication equipment.

On 20 September 2006, the African Union announced a mandate extension and reinforcement of forces in Darfur until 31 December. This decision was taken after the Sudanese government refused replacement of AU troops by UN forces.



'Khartoum welcomes the extending of the African Union forces' mandate in Darfur,' **Le Monde/AFP**, (France) 21 September 2006 (in French).

Extract:

The African Union (AU) has decided to extend its force's mandate until 31 December while strengthening it in a decision the international community has been eagerly anticipating, and was welcomed by the Sudanese government on Thursday 21 September [...]

In addition to extending the mandate, the CPS [African Union Council of Peace and Security] decided to strengthen the AU's Mission in Darfur (AUMS) by leaning on "contributions from African countries, logistical and material support from the UN, and funding from the Arab League," said Blaise Compaoré, President of Burkina Faso and Chairman of the CPS, without specifying numbers for this bolstered AUMS [...]

For the time being, the AU's decision should appease tensions between Khartoum and the international community, which had wanted to deploy UN peacekeepers in Darfur to replace the African force – something President of Sudan Omar al-Bashir categorically rejected [...]

On Tuesday, the President of Sudan said he was prepared to accept the AU force's continued presence in Darfur "until peace is restored". He even said he was in favour of bolstering this mission by around 7,200 poorly equipped and underfunded soldiers provided the reinforcements were from Africa and remained under the AU's command.

On 23 December 2006, Sudanese President al-Bashir accepted the principle of an UN-AU force, while remaining unclear about the 20,000 blue helmets' deployment planned by outgoing UNSG Kofi Annan.

On 5 January 2007, the new UN Secretary General, Ban Ki Moon, stated that Darfur was at the top of his agenda.



'A duty to intervene – the new Secretary-General of the United Nations (UN) Ban Ki-Moon puts Darfur at the top of his priority list,' **Le Monde** (France), 5 January 2007 (in French).

Extract:

In diplomatic news, Kofi Annan was forced to leave his post with no major breakthroughs to announce. On 23 December, following an ultimatum set by Washington, he received a letter from Omar al-Bashir accepting the principle of a UN/AU force which he had previously been against. But the President of Sudan remained vague as to the 20,000 Blue Helmets Mr Annan wanted to deploy. The current AU force is powerless, underequipped, and underfunded. And the mission of 183 UN military experts, police officers and civilians that has been present in Darfur since 28 December alongside the African force has noted that the situation is worsening. The UN estimates that Sudan will need 1.26 billion dollars in humanitarian aid in 2007, single-handedly accounting for half of all humanitarian funds needed across the globe.

On 31 July 2007, UN Resolution 1769 authorised the deployment of an international force to Darfur. The United Nations African Mission in Darfur (UNAMID) was a hybrid force composed of AU and UN soldiers and was to be deployed until 31 December 2007.

It was accepted by the Government of Sudan provided it be majority African.**V6**



'The UN green-lights an international force to be despatched to Darfur,' Philippe Boloipon, **Le Monde** (France), 1 August 2007 (in French).

Extract:

On Tuesday 31 July, the United Nations' Security Council unanimously adopted a resolution to authorise the deployment of a force in Darfur. The 19,555 soldiers and 6,432 police officers will be tasked with restoring peace to western Sudan, where over 200,000 people have died since the conflict began in February 2003 according to the UN. Made up of UN and African Union (AU) soldiers, the new 'hybrid' force will take over from the 7,000 soldiers of the African Union Mission in Sudan (AMIS) no later than 31 December, with the latter having been unable to bring an end to the violence due to a lack of means.

With a budget of over 2.5 billion dollars in its first year and close to 26,000 boots on the ground, the African Union – United Nations Hybrid Operation in Darfur (UNAMID) is poised to be one of the biggest forces ever deployed by the UN in a resolution that is "historic and unprecedented", confirmed Secretary-General of the UN Ban Ki-moon. The Sudanese regime has expressed its support for this deployment. After months of

prevarication and pressure, it ultimately accepted the arrival of an international force in June, provided it be majority African.

Tabled by France and the United Kingdom and adopted in exchange for a handful of concessions, Resolution 1769 stipulates that the conflict in Darfur constitutes “a threat to international peace and security”. Under Chapter VII of the UN charter (which permits the use of force), the text authorises UNAMID to take “the necessary action” to “protect its personnel”, ensure the safety of humanitarian workers, and “protect civilians” [...]

Under the resolution, “no later than October 2007, UNAMID shall establish an initial operational capability”, and will assume authority from AMIS no later than 31 December. In the meantime, the Security Council calls on countries to support AMIS in deploying a further two battalions [...]

Upon requests made by China, Indonesia and Qatar, threats of sanctions aimed at Khartoum in the event of non-compliance with the resolution have been erased from the initial draft text. The three countries have also ensured that UNAMID will not be tasked with enforcing the arms embargo in Darfur and will merely supervise it.

MSF communications departments drafted a Q&A in case of media questions on the MSF position on this force. The watchword was “MSF has no opinion on the hybrid force, MSF speaks only about their patients and the population in Darfur.”

Kenny Gluck, former MSF Holland/OCA Director of Operations analysed this hybrid force as, “largely toothless and out of sync with the current situation on the ground.”



‘MSF Q&A Darfur hybrid force,’ Internal, for reactive use only 1 August 2007 (in English).

Extract:

Message:

We don’t have an opinion on the hybrid force,
We do speak out about our patients and the population in Darfur.

Communication don’ts Darfur

- do not give a political or military analysis of the situation.
- do not discuss the UN-force going to Darfur.
- do not give an opinion on the political process.
- do not discuss which party is responsible for what.
- avoid the term ‘janjaweed’ (use ‘militia’ instead)

What does MSF think of the news that the U.N. security council has authorized up to 26,000 troops and police for Darfur and approved the use of force to protect civilians in Sudan’s arid western region?

It is not the role of Médecins Sans Frontières to make political analysis. We can only speak about what we experience on the ground through our medical activities. The situation in the field has not changed for the better in the last months. MSF continues to see patients in our clinics who have suffered from violent attacks and forced displacement from their villages. The humanitarian crisis continues – currently, the people in Darfur are having more and more problems to get access to assistance. Due

to the growing insecurity MSF and many other humanitarian organisations have been forced to reduce their activities, cancelling mobile clinics, evacuating teams and limiting/stopping road movements.

Will there be consequences for the work of MSF in Darfur?

The presence of a UN Peacekeeping Force never determines if Médecins Sans Frontières is present or not. MSF is an independent humanitarian organisation, not a part of the United Nations. MSF has no intention to leave Darfur as long as the people there are in need of urgent humanitarian assistance. We have been providing assistance throughout Darfur uninterruptedly since 2003, and we'll continue to do so as best as we can. Today, Darfur is one of MSF largest missions with 120 international and more than 1800 national staff working throughout the size of France.



'Notes on MSF Belgium in Darfur,' Kenny Gluck, August 22, 2007 (in English).

Extract:

The soon to be deployed hybrid force has mutated into a massive beast, but one which is largely toothless and out of sync with current situation on the ground:

- Due to international public pressure, the force has a Chapter VII mandate with regard to the protection of civilians, even though there is little organized military violence against civilians in recent months. Most of this ended in 2005 with the forced displacement of the rural Fur communities.
- While there is still significant harassment of the civilian population by SLA [...], GOS or Arab militias, there are only low levels of organized military violence. Much of this violence is between Arab tribes, who are partly engaged in militarized competition over the recently vacated lands.
- On the other hand, the force's mandate, calls for the force to support the implementation of the DPA [Darfur Peace Agreement]. If implemented this could lead the force into direct confrontation with the bulk of the rebels and much of the IDP population who regard the failed peace deal with hostility.

On 15 October 2007, the EU approved the deployment of a European force on the borders between Chad, the Central African Republic (CAR), and Sudan. Three thousand soldiers, along with 300 UN police officers were mandated to protect populations affected by the war in Darfur.

On 31 December 2007, when UNAMID took over from the AU, the human and material resources necessary for the mission were far from complete.



'The EU agrees to send a force to Chad and the CAR,' Jean-Philippe Rémy, **Le Monde/AFP** (France), Luxembourg, 16 October 2007 (in French).

Extract:

On 15 October, the EU agreed to send a European force to Chad and the Central African Republic (CAR) on the Sudanese border. Its 3,000 soldiers shall be tasked with working with 300 UN police officers to provide security for peoples affected by the war in Darfur.

Known as “Eufor Chad-CAR”, the one-year mission was approved by the UN Security Council on 25 September and will be funded to the tune of 99.2 million euros.



‘A multinational mission takes over from the African Union forces in Darfur,’ **Le Monde/AFP** (France), 31 December 2007 (in French).

Extract:

Globally speaking, the United Nations are struggling to secure the material and human resources needed for its mission. UNAMID’s primary objective is to be more effective than AMIS, which had been unsuccessful in putting an end to the violence in Darfur due to a lack of means and funding. UNAMID’s 2008 budget of 1.2 billion dollars (820 million euros) was only recently approved by the UN’s General Assembly. But the 24 helicopters (including six strike helicopters) intended to provide response capacity in an area as big as France are still nowhere to be found.

The risk of humiliation

So challenging are these difficulties that on Sunday the United Nations and African Union yet again called on member states to “fill the gap” by supplying these vehicles. Back in November, United Nations Under-Secretary-General for Peacekeeping Operations Jean-Marie Guéhenno had warned against the risk of international forces experiencing “humiliation” in Darfur.

Furthermore, Khartoum continues to refuse that non-African units be incorporated into UNAMID, believing that this force’s African identity was a condition that had been set out in the initial agreement. These units comprise a Thai battalion, two Nepalese companies and a Nordic engineering company, and will account for a quarter of the new force.

[...] UNAMID chief Rodolphe Adada [...] nevertheless put the new mission’s short-term reach into perspective, stating that it “would not transform [the situation in Darfur] overnight”. According to the UN, over 200,000 people have died in the country.

4. MSF & the Protection Issue – La Mancha

In mid-2005, the MSF International Council launched the La Mancha process. Building on written contributions and debates from across the movement, this process aimed to revisit MSF principles in a changing environment.

On 21 October 2005, in a preparatory meeting to the La Mancha conference, there was a consensus in the International Council Board and the ExCom: MSF could refer to human rights in speaking out, but that it was not MSF’s role to promote the related texts or conventions.

However, opinions differed about certain situations linked to protection and defence of human rights, which was the case regarding victims of rape in Darfur. Should MSF ascribe responsibilities, call for justice, call for protection, or not?

On 9 & 10 March 2006, the issue of protection was discussed at length during the La Mancha conference in Luxembourg.

On 25 June 2006, the La Mancha agreement was finalised and endorsed. It stated that MSF could not claim to physically protect those people assisted.



'Minutes of MSF International Council Board and ExCom Meeting, Preparation La Mancha Conference,' Geneva, 21 October 2005 (in English).

Extract:

Issues for the conference: what are the tensions and how to frame the debates at the conference? [...]

1. Protection, justice, defence of human rights

Specifically on the defence of human rights, there is a consensus that it is OK for MSF to refer to human rights or any kind of conventions to make our point but promoting these texts / conventions is not part of MSF's role.

The real controversy comes when the defence of human rights is linked to protection. There is for example a tendency from people coming back from Darfur to push MSF to document the human rights violation: "humanitarian aid is not the solution when IDPs are raped outside the camps" – they need protection. We can't call for intervention so what do we do and what are our limits? Do we ascribe responsibilities, call for justice, call for protection, [...] etc.



'Final – La Mancha agreement' Athens, 25 June 2006 (in English, in French).

Extract:

1.9. In the case of massive and neglected acts of violence against individuals and groups, we should speak out publicly, based on our eyewitness accounts, medical data and experience. However, through these actions we do not profess to ensure the physical protection of people that we assist.

III. BACK TO MILITARY-HUMANITARIANISM

A. DEPLOYMENT OF UNAMID & EUFOR TROOPS

In January 2008, a UN convoy of more than 20 "clearly marked" vehicles, protected by South African peacekeepers, was fired upon while traveling to western Darfur. The UNSG Ban Ki Moon accused Sudanese troops of the attack. The Sudanese government admitted a mistake and apologised.

Meanwhile, France increased its troops and helicopters in Eastern Chad, to 'help' EUFOR, the EU's 3,000 troops deployed on the borders between Sudan, Chad, and CAR. Along with 300 UN police officers, the EUFOR force was to oversee the security of the populations affected by the war in Darfur.

In this context, MSF discussed the need to distance the organisation from the military-humanitarian confusion and to clarify the relevance of requesting EU funds, while EU troops were deployed in the area.



'Sudan admits Darfur attack on UN,' **BBC News** (UK), 10 March 2008 (in English).

Extract:

Sudan has admitted that its forces were involved in an attack on peacekeepers in the troubled Darfur region. The military apologised, saying the attack was the result of a "shared mistake" but adding the UN should have informed it of the convoy's movements.



'**Minutes** of MSF Directors of Communication & Fundraising meeting,' 14 January 2008 (in English).

Extract:

Chad

France has increased its number of military troops and helicopters in Eastern Chad [...], in order to 'help' the EUFOR in the area. For the moment, the work situation is manageable but can worsen as it can improve.

Will be discussed in the RIOD [Platform of Directors of Operations] meeting. No proactive communication but as we will most likely get questions on the deployment of EU forces in the coming weeks, it is essential to get the position of the operations in order to be able to respond in a coherent way.



'Sudan signs an agreement on how the "hybrid" force in Darfur is to operate,' **Le Monde/AFP/Reuters** (France, UK), 10 February 2008 (in French).

Extract:

On Saturday 9 February, Khartoum signed the technical agreement needed to deploy the United Nations and African Union hybrid peacekeeping force in Darfur. The agreement allows movement and communication for the 26,000-strong international force.



'**Final Minutes** of RIOD Meeting Paris,' 15 February 2008, 18 March 2008 (in English)

Extract:

More generally on Chad, OCA wanted to clarify again the issue of having IF (institutional funding) in a context of EU deployment. From a principal point of view, all agree that it is not a very good strategy /idea (EU will be perceived as a warring party) to apply for such funds, including from countries who do not participate in the EUFOR but who are part of the EU, such as Germany or Spain.

Financial feasibility of such a position is however in question for most OCs. The fact is that OCB, which was looking for 2.1 million euros for 2008, has already sent proposals to Denmark and Luxembourg, both members of the EU. The section considers that we have to discuss it among the different sections and that we could take such decisions before the end of 2008, but it means that MSF will be funded this year by EU State members whereas EU is militarily deployed. And, since one OC is in process of receiving EU IF, it will be difficult to prevent other OCs from asking funds to EU countries. If OCs such as OCG will target non-EU IF, the section explained that they can however not

exclude potential requests for EU IF as, for practical operational reasons, the section may need funds.

On 9 January 2008, UNAMID troops demanded access to MSF Holland/OCA's clinic in the Kalma camp to investigate reported rape cases. UNAMID demanded to have the names of the victims treated by MSF.

The MSF Holland/OCA coordinator complained to UNAMID, stating that troops demanding access to an MSF clinic was not acceptable, and that requesting confidential information from health workers was inappropriate.



'Letter from Banu Altunbas, Darfur Coordinator, MSF Holland/OCA Sudan to Abdullah Fadil, Head of Office, UNAMID, Nyala, South Darfur,' Sudan, 25 January 2008 (in English).

Extract:

Subject: UNAMID troops breach of security at MSF Clinic in Kalma Camp

Dear Mr. A [...],

As per our meeting on 15 January, concerning the incident in Kalma IDP Camp with UNAMID troops and MSF staff, I would like to reiterate the concerns we have on this issue, as you and I agreed, that this type of incident should not happen in the future. We would very much appreciate your leadership in raising the issue with the troop commanders, civilian police force and civil affairs sections of your organization.

On 9 January 2008, UNAMID troops arrived at the MSF clinic in Kalma Camp with eight armed vehicles and personnel. The investigation team included staff from the CivPol Unit, SGVB Unit and Military. The team leader informed the guard and then the MSF logistician in the clinic that they were aware of reported rape cases and demanded access to the clinic for their investigation. The UNAMID team demanded to have the names of the victims and to see them, as they knew that the victims were in the MSF clinic. Despite the repeated attempts to point out that this was neither possible nor appropriate, the UNAMID team insisted.

MSF deeply regrets this incident as the basic rules for dealing with the treatment of patients and the investigation of a rape was breached in this incident. The rape victim has the right to receive treatment first and then the patient has the ultimate right to decide about reporting the incident, the patient is the one to come forward, and not the other way around.

Additionally, MSF health facilities are to be respected as neutral locations where patients and victims of attacks can safely seek medical assistance. The entry, intimidation and presence of armed or uniformed personnel are strictly prohibited. An eight-car armed convoy of UNAMID troops in front of an MSF clinic demanding access to the clinic are not acceptable, furthermore, to request confidential information from health workers is inappropriate.

I believe that following our meeting, we are both in agreement on the above points and have agreed that these points need to be communicated and put into practice with your contingent.

B. INCREASED GOVERNMENT PRESSURE TO FORCIBLY RELOCATE DISPLACED PEOPLE

In early February 2008, MSF Holland/OCA circulated a briefing paper on the situation in Kalma camp, describing the impact of the ongoing conflict on the health of the people living there.

At the same time, the Sudanese authorities and their militias increased strategies to dismantle Darfuri displaced camps, including Kalma, and forcibly relocate people.



'Lives enclosed – a look inside Kalma Camp South Darfur, Sudan,' MSF/Holland-OCA **Briefing Paper**, January 2008 (in English). [Link to full doc](#)

Extract:

I. Introduction

Kalma Camp, established in February 2004, has been home to over 100,000 Internally Displaced Persons (IDPs) who fled violent, systematic attacks on their communities across Darfur.

Located 15 km from Nyala (the capital of South Darfur) on a flat and sandy strip of land, the camp is a vast mixture of tribes, clans, sub-clans, influences and agendas. Scores of communities have been merged together by the violent circumstances of those early days of this conflict and forced to leave behind their property, homes, villages and way of life. Thrown into this enclosure we also find the international community, with non-governmental organisations (NGOs), UN agencies, African Union soldiers and the Sudanese government, each struggling to overcome the past, survive the present, and advance to the future.

A large humanitarian effort has been able to stabilize the physical health and nutritional status of the population. The provision of assistance has succeeded in ensuring the biological survival of Kalma's people, offering services that many did not have access to before the war. Yet, the people in Kalma suffer in ways that basic health indicators cannot measure, in part due to the multiple layers of trauma and stress that result in immeasurable anxiety, insecurity and pain.

Four points especially affecting the IDPs:

1. Traumatic events drove them from their homes:
2. Three and a half years of difficult conditions and degraded dignity of life in the camp:
3. Limited staffing, resources and facilities: gLongstanding intense fear and despair over the future:

[...] Mortality and morbidity numbers have been brought down to acceptable levels, but there is a level of mental trauma that is only starting to be measured. MSF identified and began treating people in Kalma Camp for mental health problems in May 2006. Based in large part on this experience, MSF would like to bear witness to the ongoing suffering by showing the largely invisible wounds people carry with them through clinical observation from the MSF medical teams and the direct statements of our patients.



'Khartoum seeks to dismantle the refugee camps in Darfur,' Jean-Philippe Rémy, *Le Monde* (France), 9 February 2008 (in French).

Extract:

Two weeks ago, they lived in Kalma, one of the 'mega-camps' for displaced persons in Darfur. Now here they are 'relocated' by force, to use the Sudanese authorities' euphemism for a programme aimed at dismantling the camps in Darfur.

In just four years of civil war, attacks and waves of ethnic cleansing have resulted in 2.2 million displaced persons living in Darfur's camp. Now for the first time, they have been forced to flee the Kalma camp, and currently find themselves living in state-controlled 'sites' against their will. Al-Salam is one of them, a stone's throw away from a major camp for the Janjaweed — pro-government militia.

Just a fraction of Kalma's occupants, several thousand people, if that, have fled the violence over the past few days. Inside the camp, displaced persons have joined up with political organisations. In Kalma, most of them support the rebel chief Abdel Wahid Al-Nour, who lives in exile in France. These political groups are structured into militias and are now armed. They collect taxes and attempt to control the camps by seeing off rival militias. Across Darfur, these camps at the gateways to the country's major cities have been turned into rebel strongholds that are generally pro-Abdel Wahid, and have become targets for the authorities who have lost their grip on them [...]

On the evening that disorder broke out, the Wali – the city's governor – demanded that international humanitarian organisations assist in emptying Kalma "within 24 hours" with trucks from the UN's World Food Programme. Faced with protests, the Wali is now threatening to 'disarm' Kalma by force and transport its occupants to nine sites scattered across a radius of a few dozen kilometres around Nyala. Dismantling the camp will not mark a 'return', but deportation for reasons of control [...]

Following on from Kalma, other camps will be condemned to the same fate according to many sources, which note that these wide-scale dismantlement plans that risk turning into a cataclysm coincide with the upcoming deployment of a joint United Nations/ African Union international force (UNAMID) in early 2008 [...]

Taken hand in hand with the local authorities' relentless harassment campaign, these attacks have succeeded in intimidating those at the helm of the NGOs. A burned-down clinic here, an expat raped by a police officer there, and silence reigns supreme as humanitarian organisations tremble at the idea of having their activities shut down.

On 13 February 2008, MSF Switzerland/OCG issued a press release denouncing aerial bombing and attacks in northwest Darfur, which prompted the flight of thousands of civilians to Chad. The MSF compound was attacked and looted.



'Aerial bombings and attacks lead thousands of civilians to flee to Chad,' MSF **Press release**, Geneva/Birak-Chad, 13 February 2008 (in English, in French).

Extract:

From February 8 to 10, the Sudanese army, assisted by militias, launched a large offensive in northwest Darfur. This military offensive, one of the most violent over the past few years, resulted in an immediate population displacement and the forced interruption of all medical activities in Seleia where MSF had been running a health centre project since 2006.

Our team present in Chad, the neighbouring country, confirms that at least 7,000 new refugees, including Sudanese staff from MSF, reached the area of Birak after fleeing the towns of Abu Suruj, Sirba and Seleia now emptied of their population. This is only a fraction of the civilians directly affected by the offensive which are estimated to be around 50,000 people.

According to the refugees, the attacks started on February 8, with aerial bombardment by military planes and attack helicopters. Testimonies of refugees tell the horror of the violence they were faced with. [...] The compound of the MSF team was attacked and looted, despite the fact that many women and children had sought refuge in the medical structure.

Furthermore, the displaced population reports being further attacked, threatened, and looted by roaming militias, while en route to Chad during the night. The refugees in Chad have gathered around villages, under trees, and have nothing but the clothes they wore when they fled. The MSF team has taken charge of some of the wounded in need of urgent medical care.

[...] Access to the region north of El Genina has been systematically refused to our international staff in Sudan since mid-December 2007, despite reports of deteriorating humanitarian conditions and the need to carry out a rapid health assessment after the recent attacks.

MSF is deeply concerned by the situation and requests to all belligerents free and unhindered access to the populations in dire need of emergency assistance.

On 29 February 2008, MSF France/OCP announced that due to security deterioration and the nutritional situation, they had to re-open a mother and child healthcare clinic in Zalingei.^{V7}



'Darfur – Zalingei – new activities in an IDP camp,' MSF France/OCP **Web Update**, 29 February 2008 (in English).

Extract:

Numerous NGOs are on the ground at Zalingei, in Western Darfur, each having its own sector of activity and quite precise geographical area(s). On paper, everything is well organised; yet, after two years of absence, MSF needs to return to the region. After transferring its health activities in 2005 to camps run by other bodies, in order to concentrate on critical cases in hospital environments, MSF is preparing to open a clinic

for mother and child health care in an IDP camp at Zalingei. Already in 2007, two ambulatory nutrition centres were opened, one in September at Hamedia camp and another in December at Hassa Hissa camp, each location comprising around 40,000 displaced persons.

Such a return to a camp-based structure was decided following a sharp increase in the number of cases of severe acute malnutrition admitted to hospital, [...]

C. INTERNATIONAL ACTIVISM ON DARFUR

From February to May 2008, with the Olympic Games in China and the commemoration of the 24th anniversary of the genocide in Rwanda, the Save Darfur campaign and their supporters sought to spotlight the Darfur crisis.

Meanwhile, the three remaining candidates for the US presidency issued a joint statement entitled “We Stand United on Sudan,” claiming “after five years of genocide in Darfur” they agreed on a “united resolve to end the Darfur genocide.” [V8](#) 



‘Jacques Rogge, President of the IOC, signs a letter in aid of Darfur,’ **Le Monde/**
AFP (France), Beijing, 14 February 2008 (in French).

Extract:

The president of the International Olympic Committee (IOC), Jacques Rogge, has signed a letter urging China to do more to bring an end to the conflict in Darfur and use its sway over Sudan, according to a letter published by the British daily The Independent, on Thursday, 14 February.

On Thursday, the Chinese government said they “regretted” US film director Steven Spielberg’s decision to end his artistic collaboration with the Beijing Olympics over China’s stance on the Darfur crisis.



‘George Bush calls to “put an end to” the Darfur conflict,’ Corine Lesnes, **Le**
Monde/AFP (France), 20 February 2008 (in French).

Extract:

During his trip to the Rwandan capital and the Kigali Genocide Memorial, the US president paid tribute to the 800,000 people killed in 1994. [...]

Following his visit to the memorial, President Bush called on the international community to act on Darfur, a Sudanese province undergoing civil war since 2003. Backing Rwandan president Paul Kagame’s decision to supply a contingent of troops to the international United Nations–African Union Hybrid Operation in Darfur, Mr Bush called for other countries to take similar action. “My message is: join forces with the president [Kagame] and help us solve this problem.” Rwanda was, in August 2004, the first country to deploy troops to Darfur as part of Africa’s peacekeeping mission.



'Hillary Clinton calls on George Bush to boycott opening ceremony of the Beijing Olympic Games,' Corine Lesnes, **Le Monde** (France), April 2008 (in French).

Extract:

Following on from the speaker of the US House of Representatives (Democrat Nancy Pelosi) several days earlier, on Monday the senator for New York and presidential candidate Hillary Clinton called on President George Bush not to attend the Beijing games unless China made "major changes" to its stance on the situation in Tibet and Darfur.

The US government was wrong to "downplay human rights" in its policy towards China, said Mrs Clinton. She believes, however, that the American athletes, who have "worked hard", have "earned the right to compete in the Olympic Games" [...]

Save Darfur, a coalition of 130 organisations, has planned a protest in San Francisco to time with the Olympic torch relay passing through the Californian city.



'Nobel Peace Prize Laureate Wangari Maathai pulls out of the Olympic torch relay,' **Le Monde/AFP** (France), 11 April 2008 (in French).

Extract:

The Kenyan Wangari Maathai was the first African woman to win the Nobel Peace Prize back in 2004 and she has now refused to participate in the Olympic torch relay when it passes through Dar es-Salaam (Tanzania) on Sunday. "I have decided to show solidarity with other people on the issues of human rights in Sudan's Darfur region, Tibet and Burma," she told AFP on Thursday. "As an African woman, I feel it is important to join the rest of the world in putting pressure on China to persuade it to deal with the human rights issues in these three countries," she added. Tanzania is the only African nation to host the Olympic relay this year.



"" We stand united on Sudan" – Clinton, McCain, Obama Joint Statement,' **Press release**, Save Darfur Coalition, 28 May 2008 (in English).

Extract:

The Save Darfur Coalition today hailed the historic joint statement by the three remaining U.S. presidential candidates stating their united resolve to end the Darfur genocide and bring peace and security to all Sudan. WE STAND UNITED ON SUDAN

As we campaign for President of the United States over the next several months, we expect there to be significant focus on the many differences between us. After all, elections are about choices in a free society.

We have had a spirited contest so far and fully expect a robust debate about issues foreign and domestic right up to Election Day.

As we engage in this process, we are fully aware that friend and foe around the globe are watching and sometimes reacting based on their own analysis of the latest developments in the campaign.

It is with this awareness that we are taking the uncommon step of issuing a joint statement about an issue.

After more than five years of genocide, the Sudanese government and its proxies continue to commit atrocities against civilians in Darfur. This is unacceptable to the American people and to the world community.

We deplore all violence against the people of Darfur. There can be no doubt that the Sudanese government is chiefly responsible for the violence and is able to end it. We condemn the Sudanese government's consistent efforts to undermine peace and security, including its repeated attacks against its own people and the multiple barriers it has put up to the swift and effective deployment of the United Nations-African Union peacekeeping force. We further condemn the Sudanese government's refusal to adhere to the terms of the Comprehensive Peace Agreement (CPA) that ended the conflict in southern Sudan.

Today, we wish to make clear to the Sudanese government that on this moral issue of tremendous importance, there is no divide between us. We stand united and demand that the genocide and violence in Darfur be ended and that the CPA be fully implemented. Even as we campaign for the presidency, we will use our standing as Senators to press for the steps needed to ensure that the United States honors, in practice and in deed, its commitment to the cause of peace and protection of Darfur's innocent citizenry. We will continue to keep a close watch on events in Sudan and speak out for its marginalized peoples. It would be a huge mistake for the Khartoum regime to think that it will benefit by running out the clock on the Bush Administration. If peace and security for the people of Sudan are not in place when one of us is inaugurated as President on January 20, 2009, we pledge that the next Administration will pursue these goals with unstinting resolve.

In May 2008, MSF France/OCP posted a series of stories online entitled, "Surviving in the Chaos, Stories from Darfur." The stories were collected from MSF health facilities in Zalingei, Nertiti, Kutrum, and from the IDP camps of Zalingei (West Darfur) and Bulbul (South Darfur).



'Introduction to "Surviving in the Chaos, **Stories** from Darfur,"' MSF France/OCP, May 2008 (in English – in French).

Extract:

If everybody has heard about Darfur, it is very difficult to imagine what the situation is like today for the populations living in this region. Ten Darfuris have accepted to describe their everyday life and what they have gone through over the past years. From these individual stories emerge both contrasting and common situations, such as the search for safety, the feeling of confinement and the lack of ability to imagine a future.

Several questions and answers come with these portraits, which are in a complex and volatile context. The war continues in Darfur, the four dimensions of the conflict all have consequences on civilians. Darfur is today the biggest humanitarian operation in the world and the health indicators--in the accessible areas--remain below the emergency levels. But the NGOs are decreasing their operations even as needs are increasing.

A third of Darfuris live in displaced camps, which means about 2.5 million people. "The main worry is security. And food," say women who have fled from the same village, four years ago. Since then, they have lived in a camp in Zalingei. Living conditions can be very different from one camp to another. Kaltuma, an elder, waited for two months before getting enough money to go to Zalingei see a doctor, as in the camp she lives in "there's nothing there". Radia, a single mother of three, flees for the second time, arriving in another displaced person's camps with the hope of finding more protection.

Some were farmers, other herders. Umtaso, another elder, belongs to a cattle herder tribe. She lives now in a displaced persons' camp, after a conflict with other nomadic

tribes. “We lived alongside each other. Now they live in our place. They moved into the village, and we are here.” Displaced as well, Kaltam does not live in a camp. The members of her tribe have gathered altogether in the same place to defend themselves better. “There were more and more problems. The camel breeders attacked us. Ten men from one family were killed. So, we had to leave, too,” says the young woman. But the older are categorical: “If we go back, they’ll kill us.”

Some of the Darfur population, although decreasing every day, still live-in villages in rural areas. This is the case of Asha. Her village has been burnt but they stay there. “We are in the same place but living in tents, with nothing,” tells the young woman, who tried several times, without success, to reach a displaced-person’s camp. Awa too lives in her village, in the mountainous, rebel controlled, Djebel Marra. “I’ve heard people talk about the war and I know that it is a bad thing,” says the teenager, war still being a theoretical notion for her even if her village has been attacked twice. “I might have been afraid, but what’s the point? It happens and there’s nothing you can do about it”.

These stories have been heard too in a range of settings, including MSF health facilities (the pediatric department of the Zalingei hospital and clinics in Nertiti and Kutrum) and displaced persons’ camps in Zalingei as well as in Bulbul, in southern Darfur.

D. INCREASING HARASSMENT AND MISINFORMATION AGAINST INGOS

In April 2008, the Sudanese Humanitarian Affairs Commission (HAC) was informed that certain MSF France/OCP projects were funded by the American Jewish World Service via the US section of MSF.

In June 2008, the MSF France/OCP use of AJWS (American Jewish World Service) funds became a pretext for the MSF Holland/OCA coordinator’s expulsion from Sudan. MSF Holland/OCA decided not to publicly communicate about the expulsion because of a lack of clear impact on the fate of the population.

Additionally, MSF’s restraint from communication on this issue was a condition set by the Sudanese authorities to negotiate the coordinator’s return to Sudan, which occurred a few weeks later. Thus, MSF Holland/OCA could only deny allegations made by the pro-government Sudanese Media Centre instead of denouncing the authorities.

MSF Holland/OCA analysed this incident as being part of routine “bureaucratic hurdles.”



‘Minutes of MSF France/OCP Programme Managers Meeting,’ 1 April 2008 (in French).

Extract:

North Sudan: Marie-Pierre [Allié, interim Operations Director]

We’re having a few issues with our funding from American private donors: in 2004, 2005 and 2006, we received private funding from the American Jewish Health Service. In 2007, we didn’t get a penny, and in 2008, we submitted a general proposal to the organisation.

The organisation sent one of its members to carry out an assessment of the IRC's [International Rescue Committee] financial plan in Darfur. This individual was arrested in Khartoum and interrogated by the Humanitarian Aid Commission (HAC) for a dozen hours, then forced to give up private information like his email password, which the HAC accessed and found out that MSF was funded by the organisation, which happens to head up Save Darfur.

As a first step, the HoM [Head of Mission] of MSF Holland went to Khartoum and was questioned by the HAC on the matter. Last Monday, all MSF sections received a letter from the HAC. Given our section is the one that receives donations from this organisation, we decided to handle the dispute with the HAC directly



'Senior aid worker expelled from Darfur,' Opheera McDoom, **Reuters** (UK), Khartoum, 26 June 2008 (in English).

Extract:

Sudan has expelled the head of aid agency Médecins Sans Frontières from the South Darfur region for refusing to cooperate with an investigation into aid agency misconduct, a Sudanese humanitarian official said on Thursday. [...]

"She stopped the work of an investigation committee and refused to cooperate with them," said Sorour Ahmed Abdallah, the head of the Humanitarian Aid Commission in South Darfur. "Anyone working here should respect the sovereignty of the state."

There was no immediate comment from Altunbas, now in Khartoum, or the country director of MSF Holland. Sources in the aid community said talks had begun to try to allow her to return.



'Summary of Analysis and Response to HAC Investigation and Expulsion of HoM [MSF Country Coordinator] from South Darfur,' MSF OCA **Memo**, 30 June 2008 (in English).

Extract:

Background of the investigation and expulsion [...]

MSF did make the mistake of accepting these funds in the past. The receipt of these funds by MSF came to the attention of HAC after the arrest of an AJWS [American Jewish World Service] staff-person in April. At this time, MSF informed HAC (each section separately) of the funding relationship. They were informed that the MSF NY office had received a small amount of funding in 2004-2006 and that these funds were used only in MSF France projects.

Some HAC officials have stated that they believe that MSF Holland was not truthful in this matter, which might have contributed to MSF H being included in the investigation, which has also targeted other NGOs (IRC, IMC) related to the AJWS funding. HAC was requested to conduct investigation into the NGOs' activities and report on findings. [...]

Considering MSF's Response

MSF Holland decided not to launch proactive communications around Banu's expulsion from South Darfur but rather negotiate for her return, if the government agreed not to expel her from the country, allowed her to continue working from Khartoum and did not take additional measures to restrict MSF's activities. [...]

It is necessary to recall that our access to Darfur since May 2004 has been far wider than anything ever achieved in N. Sudan. There remains many bureaucratic hurdles and a lot

of paperwork to produce, but the extent of MSF presence in Darfur makes it impossible to argue that the government is intent on denying access as a general and constant practice. MSF had over 150 expats in Darfur at different times in 2005 and 2006. The reduction in these numbers and in the extent of MSF's operational presence was MSF choice rather than something inflicted on us by government restrictions.

We do face more serious restrictions each time we expose the govt's abuses. This can be seen in the arrests of Paul and Vince following the rape report or the denial of travel permits following other reports. [...]

MSF has a stronger case when we are raising the issue of restrictions when the humanitarian loss is clear and present, enabling the communication to focus on the unnecessary suffering caused directly by the restriction.

It will be a weakness to communicate about a restriction, when it is relatively minor, which has no clear impact on a population. The government's expulsion of the HoM, however obnoxious, is shortening her presence by a relative short period. [...]

I do think the mission will need to be ready, willing, and prepared to communicate regarding the conditions of the population in Darfur and the blockage of humanitarian assistance. We should be strategic in picking the timing and the issue rather than simply responding to each act of HAC harassment.



'MSF Holland/OCA **Draft Letter** to Sudanese Media Centre,' 8 July 2008 (in English).

Extract:

MSF Holland has not received any funding from the Jewish World Service for our work in Darfur or elsewhere in Sudan. In addition, MSF Holland has refused all government financing for our projects in Darfur in 2007 and 2008. MSF Holland's projects in Darfur are funded entirely from private donations in order to ensure the independence of our operations there from outside influence.

MSF Holland never engages in any missionary work in favor of any religion. MSF has staff from many religions, but all MSF staff are expressly forbidden from engaging in any religious propaganda. MSF provides assistance irrespective of race, religion, or political affiliation.

In June 2008, false rumours circulated about the MSF Holland/OCA team evacuation by EUFOR troops from Gozbeida, Chad.



'Chad: clarification on MSF & EUFOR,' **Message** from Stephan Grosserueschkamp, MSF Holland/OCA Communication Officer to List Press (internal comms email group), 11 July 2008 (in English).

Extract:

EUFOR did not evacuate MSF staff members from Gozbeida during the Gozbeida attack in June this year (MSF stayed on the ground and assisted the population) and MSF evacuated Kerfi independently and by their own vehicles during the security incident last Tuesday.

As stated before, MSF is not against EUFOR but does not wish to be associated with any military actor or coordination thereof.

IV. ICC INITIAL ARREST WARRANTS (2005-2008)

On 16 June 2008, ICC Prosecutor, Luis Moreno Ocampo, asked judges to issue arrest warrants for two senior officials responsible for crimes committed in Darfur: Ahmad Muhammad Harun, a former Interior Minister in the Sudanese government, now Minister of Humanitarian Affairs, and Ali Muhammad Ali Abd-Al-Rahman, a Janjaweed commander.

On 8 July 2008, 7 UN/AU peacekeepers were killed during a militia attack in North Darfur. While rumours on the imminent ICC indictment of Sudan President Omar al-Bashir circulated, the UN considered the attack as a warning from Khartoum of what could happen if the international community made "wrong decisions."

A. IMMEDIATE REACTIONS & INITIAL CONSEQUENCES

MSF teams were asked to strengthen security measures, while reemphasising the main MSF policies regarding the relationship with the ICC and generally, with international justice.

MSF prepared arguments to answer media questions or possible ICC requests regarding MSF's recent stances on attacks on civilians, which fell within the definition of war crimes and crimes against humanity, for which the ICC has jurisdiction.

This was despite MSF France president's 2004 statements that Darfur was not a genocide.



'Darfur: The ICC names war criminals,' Stéphanie Maupas, *Le Monde* (France), 20 June 2008 (in French).

Extract:

The Prosecutor of the International Criminal Court (ICC), Luis Moreno Ocampo, called on the judges to summon or issue arrest warrants against two senior figures responsible for crimes committed in Darfur. According to the Prosecutor, Ahmad Muhammad Harun, former Minister of State for the Interior of the Government of Sudan, and Ali Muhammad Ali Abd-Al-Rahman, a commander of the "Janjaweed" militia (armed horseback group), allies of the governmental forces in the four-year-long civil war between Khartoum and the rebel forces, committed crimes against humanity and war crimes in Darfur in 2003 and 2004. In a document submitted to the magistrates on Tuesday morning [...], the prosecutor filed 51 charges against the two men, listing murder, summary executions, looting, rape and forced population displacement.

[...] In addition to eyewitness accounts, evidence collected by the prosecutor's office is corroborated by documents submitted by the Sudanese authorities and by the UN Commission of Inquiry conducted in autumn 2004 which, in January 2005, concluded

that crimes against humanity were committed in Darfur, triggering the ICC's referral procedure by the Security Council.

In its application, the Prosecutor requested that the Court summon the two alleged perpetrators or issue arrest warrants. The decision is now in the hands of the judges who will need to ascertain how reliable the evidence is. Sudan is responsible for sending the two men to The Hague, the first suspects in the ICC's crosshairs. The Prosecutor's investigation into crimes committed in Darfur remains open.



'Fatal attack on Blue Helmets in Darfur,' **Le Monde/AFP/Reuters** (France/UK), 11 July 2008 (in French).

Extract:

Seven soldiers in the United Nations-African Union joint task force (UNAMID) deployed in Darfur since January were killed on Tuesday 8 July, during an attack carried out by militia forces. It is the most severe attack yet to be carried out against this hybrid force [...] The Janjaweed – Sudanese Arab militia – are the suspected perpetrators of this attack. But the Sudanese army have denied responsibility for this ambush on the UNAMID troops.



'Darfur – URGENT- please read,' **Message** from Fabien Dubuet, MSF Liaison with the UN to MSF Sudan Programme Manager, 11 July 2008 (in English).

Extract:

Dear all,

As you all know now, it is highly probable that the ICC Prosecutor will indict the Sudanese President next Monday. I am sure you are all in the process of reviewing/checking security procedures for our teams and based on information and discussions I had at the NYC level with different sources, I strongly encourage you to suspend all teams' movements, to regroup our personnel as much as you can and to be low profile for the next 4 days. [...]

The attack against UNAMID this week is clearly seen by the UN as a warning from Khartoum of what could happen should "wrong decisions" be made by the international community.



'MSF **Internal note** on upcoming arrests warrants by the International Criminal Court in Sudan,' 11 July 2008 (in English).

Extract:

This document is for internal use only. It aims at helping MSF teams in the field answer questions they may face on the ICC upcoming arrests warrants in Sudan.

On Monday 14th July 2008 (at approx 1PM European time), the ICC will release arrest warrants with regard to crimes committed in the whole of Darfur over the last five years. [...]

MSF POLICY ON INTERNATIONAL JUSTICE

Core values: MSF independence impartiality and neutrality.

- Impartiality: Médecins Sans Frontières does not make any nationality, race, religion, social condition, and political belonging distinction. Médecins Sans Frontières helps

individuals according to their suffering and provides in priority for the most urgent distresses.

- Neutrality: Médecins Sans Frontières restrains from taking part to hostilities and, at all times, to political, racial, religious, or ideological controversies.

- Independency: Médecins Sans frontiers remains independent of any power, as well as every political, economic, or religious force.

MSF has no rigid position against or pro the ICC.

- As individuals we all support the idea of justice as an expression of collective condemnation of abuse, for the voice it gives to victims and for the truth it can help to preserve.

- As an organisation, however, we have to restrict our contacts with international courts. We have explained our position to the staff of the Court, who understand MSF concerns. ICC staff should have normally received instruction from their hierarchy not to contact MSF in the field. Any request of the ICC must be addressed to Headquarters level, where our policy will be explained.

It is important to explain to MSF partners in the field why does MSF need to keep its distance from legal mechanism. It is not because we have an opinion on justice rather, MSF mandate requests us to remain neutral and independent. Cooperating with international justice mechanisms may jeopardize the perception of MSF neutrality. Indeed, if we were to provide evidence to tribunals, we may as well close our projects, because fighters will see us as potential witnesses.

If MSF was to be associated with international justice, it could endanger the populations we assist, our national and international staff and the continuity of our operations. If people see us as sources of evidence for an international court our access to people in need may be restricted, and we may even become targets of attack ourselves, to intimidate us or others from cooperating with the courts.

Q&A

What if MSF was asked to provide information to the ICC?

MSF has no legal privilege not to cooperate with courts (national or international). However, our activities are often covered by doctor patient privileged relationship. This means that special procedures would to be respected to lift medical confidentiality.

In addition, MSF works in war and post war zones, and we need to negotiate with all sides in a conflict to access populations in distress. Being seen as potential witnesses directly jeopardizes MSF ability to fulfil its mandate. This argument seems to be understood by ICC representatives.

The position of MSF international movement intends to limit its participation in proceedings before the ICC.

For further information, please refer to Legal or humanitarian testimony. History of MSF's interaction with investigations and judicial proceedings. Françoise Bouchet-Saulnier and Fabien Dubuet, 'Les cahiers du Crash', April 2007.

Has MSF ever cooperated with the ICC?

So far, MSF has not given evidence or cooperated with the ICC.

On the contrary, MSF has explained its position to the ICC, and so far, we have never been formally requested to cooperate with an investigation.

What should I do if an ICC staff member contacts me?

Both national and international staff should avoid contact with representatives of international courts in the field.

You should report any attempts to make contact and channel such requests to headquarters, through the PC and Head of Mission. It is strictly forbidden for individual staff members to pass information to criminal authorities, and please remember that any written material based on MSF work, such as sitreps or other reports, belongs to MSF.

Can we be forced to testify before the ICC?

Although we have no clear legal protection against being forced to testify, we have explained our position to the staff of the ICC, who understand MSF concerns. As things currently stand, it seems unlikely that anyone from MSF would be forced to testify against their will.

[...] What is the relationship between the ICC and NGOs?

The ICC has a specific interest in working with NGOs, because the ICC has limited means and little field presence and experience. There is no general cooperation framework between the ICC and NGOs, but close links and cooperation mechanisms have been established by the Court with some human rights NGOs whose mandate may include the fight against impunity. This often creates a confusion with the role and mandate of humanitarian relief NGOs, which have a different mandate. It also questions the relevance of passing information from humanitarian organisations to human rights ones and the ability to protect confidentiality of sources.

In most cases, humanitarian relief actors would refuse to co-operate with the Court on the grounds of preserving its main role of aiding the victims of conflict and armed violence.



'Ref +++ Urgent Sudan,' **Message** from Françoise Bouchet-Saulnier, MSF France/ OCP Legal Director to Clémentine Olivier, Deputy Legal Director, 12 July 2008 (in French).

Extract:

Ultimately, there are two issues:

1) Frontline teams' safety considering reactions to a potential indictment.
2) Communication in response to the fact that MSF had previously said there was no genocide. Jean-Hervé was the one who had made this statement in a confused way, challenging the conflict's racial aspect and how pertinent the 1948 convention's definition was. I'm summarising but can go into more detail over the phone. Fabrice had passed all this on without it being any clearer, and so I advise Marie-Pierre to talk to them beforehand, but to make her own statement, scaling down the rhetoric.

- Humanitarian operations have always been possible for us, which has coloured our perception of whether genocide took place. However, MSF did indeed note (and denounced?) deliberate violence and attacks on civilians, including women being raped. These deliberate attacks and violence on civilians fall under the definition of war crimes and crimes against humanity, for which the ICC has jurisdiction, and for which arrest warrants had already been issued. (Clémentine, gives the dates and number for these.) The fact that an arrest warrant for the leader of the genocide has now been issued is perhaps a sign that the ICC has acquired new evidence or may be a sign of judicial and diplomatic escalation triggered by the fact that the initial indictments did not impact on how the situation unfolded.

MSF does not venture beyond this starting (context-based) comment and must go on to redefine how effective and efficient its frontline actions are, including in terms of how they are instrumentalised by the various stakeholders, and the current level of violence experienced by peoples (including those we do not have access to).

On 14 July 2008, the International Criminal Court (ICC) Prosecutor, Luis Moreno-Ocampo, presented the ICC judges with alleged evidence of genocide in Darfur by the Sudanese President, Omar Al-Bashir, requesting the issuance of an arrest warrant. The judges had two to three months to decide.

On Sudanese television, Omar Al-Bashir stated that "the court has no jurisdiction in Sudan" and that the prosecutor's accusations were "false."

On 23 July, Khartoum announced it was ready to set up special courts to try those responsible for human rights violations in Darfur. The Arab League announced they would monitor the trials together with the UN and the African Union.



'Khartoum condemns the ICC Prosecutor's "lies,"' Stéphanie Maupas, *Le Monde* (France), 15 July 2008 (in French).

Extract:

On Monday 14 July, the Prosecutor of the International Criminal Court (ICC), Luis Moreno Ocampo, presented the judges with evidence to corroborate the allegations of genocide, crimes against humanity and war crimes in Darfur brought against the president of Sudan, Omar al-Bashir. He has also called for the issue of an arrest warrant as a result. The magistrates are expected to give their decision in the next two to three months. In a televised speech, Omar al-Bashir said that "the Court has no jurisdiction in Sudan" and described the Prosecutor's accusations as "lies." [...]

During a press conference held at the seat of the Court in The Hague (Netherlands), the Prosecutor condemned the "ongoing genocide in Darfur" perpetrated against the Fur, Masalit and Zaghawa ethnic groups, "planned" by Omar al-Bashir and executed "without gas chambers, bullets, or machetes" but by "famine, rape and fear." [...]

The crimes condemned by the Prosecutor are alleged to have begun in March 2003, shortly after the failed negotiations between the government and the rebels in Darfur. President al-Bashir issued orders to attack in line with the usual MO: encircling and bombing towns and villages, followed by land attacks jointly carried out by the armed forces and Janjaweed militia, during which the assailants "kill men, children, elderly, women; they subject women and girls to massive rapes. They burn and loot the villages."

The Prosecutor believes that the victims who were unable to make it to the refugee camps in Chad are falling prey to fresh attacks in the camps in Darfur. For the Sudanese president, "it barely matters whether or not there were rebels or valid military targets", since in the Prosecutor's words, "the rebels aren't the targets". The necessary 'counterinsurgency', which Khartoum opposes, is nothing but an 'alibi': "Omar al-Bashir organised the destitution, insecurity and harassment of the survivors."

With the assistance of Minister of State for Humanitarian Affairs Ahmed Harun, against whom the ICC has issued an arrest warrant for crimes against humanity, in April 2007 humanitarian personnel were expelled, aid stopped being distributed, and the deployment of Blue Helmets was controlled. "The genocide committed by enforcing conditions to bring about physical destruction combined with a sophisticated disinformation strategy makes for an effective strategy to achieve total destruction,"

wrote the Prosecutor, which the Sudanese news services used to manipulate “local and international public opinion.”



‘Sudan ready to establish special courts for Darfur,’ **Le Monde/AFP** (France), 23 July 2008 (in French).

Extract:

Ten days after Luis Moreno-Ocampo, the Prosecutor of the International Criminal Court (ICC), called for an arrest warrant to be issued against the president of Sudan, Omar al-Bashir, for genocide, war crimes and crimes against humanity in Darfur. Khartoum announced it is ready to set up special courts to try those alleged to be perpetrating violations of human rights in this civil war-torn province. The Arab League, acting as mediators, announced on Wednesday 23 July that there had been an agreement in which “the Arab League, the UN and the African Nation would follow [the trials] but also ensure that laws in Sudan cover all the aspects required under international law,” according to the chief of staff for the Arab League Secretary General. If Sudan holds viable trials of those accused of crimes in Darfur, the ICC will automatically drop its charges.

MSF Holland/OCA drafted a Q&A for media requests about MSF’s position regarding the ICC arrest warrants.



‘**Q&A Memo** ICC accusation of Darfur,’ MSF Holland/OCA, Communication Department, 17 July 2008 (in English).

Extract:

Main message

The work of the ICC is very different to ours. In order to preserve our neutrality and capacity to provide assistance to the people who need it on the ground, MSF will not comment on ICC investigations or indictments. MSF has not provided any information to the ICC. MSF is still operational, and our teams keep on working in Darfur and Sudan. MSF is first and foremost a provider of health care to people affected by conflict, epidemics, or natural disasters.

MSF is continuing operations, although has reduced some staff movements due to concerns about demonstrations or a disruption to the flights that get us in and out of many of our project locations.

Be cautious! The Sudanese president is not accused!!!! The prosecutor of the ICC, Luis Moreno-Ocampo has requested (but not received!) an arrest warrant for the Sudanese president Omar Al-Bashir. He has only submitted a case for genocide, war crimes and crimes against humanity in Darfur. Judges from the ICC will give their answer in several weeks after having examined the file. They can accept, reject, or ask for more information.

Comms line

1. Does MSF support the decision taken by the prosecutor for the International Criminal Court (ICC) to accuse Sudanese President Omar al-Bashir of genocide? Has MSF been

approached by the ICC, and did you hand over any information? Were any MSF staff members asked to testify?

We don't have any comment on the investigations of the ICC, our concern is to provide medical care and relief to displaced people and residents in the places where we work in Darfur. We are independent humanitarian actors, as an organization we do not have anything to do with international justice, nor with peacekeeping operations. We have not provided any information to the ICC. MSF has previously explained our position to the ICC, not only about Darfur, but in all the places where we work, and so far, we have never been formally requested to cooperate with any investigation. We must ensure our neutrality and impartiality, in order to have access to the populations with whom we work, especially those in areas of conflict. [...]

3. What do you think can be the implications it can have on the ground? Does MSF fear targeted repercussions because of being foreigners and may be assimilated to ICC?

For the moment we do not see any significant changes on the ground, however we remain cautious and ready to take appropriate measures if needed. The displaced population depends on humanitarian assistance to provide basic services (water, health, food, education, etc)

4. MSF has on several occasions stated that there is no ethnic cleansing and no genocide happening in Darfur. Have you changed your opinion? Has MSF staff seen, through your medical work, any signs of war crimes?

It is a legal definition that the experts continue to debate. MSF teams have been providing health care to people affected by the conflict in Darfur for over 4 years and it is important to remember that the vast majority of deaths, linked directly or indirectly to the violence, occurred prior to 2005. Still, violence continues today. Our medical teams have to get access to the most vulnerable people. We speak out, as we did last February, requesting unhindered access to civilians remaining in targeted areas after a large offensive by the Sudanese army, in West Darfur or when there is a nutritional crisis or a medical emergency.

On 30 July 2008, in a statement posted on the MSF International website, MSF's International Council President, Christophe Fournier, reiterated MSF's position regarding the ICC case against the president of Sudan.

Fournier stated that MSF has a recommended internal policy, which restrains any cooperation with the ICC. This recommendation was based on "the recognition that humanitarian activities must remain independent from risk of political and judicial pressure in order to be able to give medical and relief assistance to populations in situations of troubles and violence."



'MSF's position regarding the International Criminal Court's prosecutor's case presentation against the President of Sudan,' MSF International President Christophe Fournier **Statement**, 30 July 2008 (in English).

Extract:

Once again in this type of situation, there is a lot of confusion introduced whether deliberately or through lack of correct information between the role of the states that have ratified the statute of the ICC, the United Nations, and the activities of independent humanitarian organizations like MSF. Let us clearly state that whilst respecting legal

authorities and international treaties and as such the competency and mandate of the ICC, Médecins Sans Frontières (MSF) remains a field-based organisation of medical professionals delivering health care and life saving relief to victims of conflicts, epidemics, or disasters, independent from all structures or powers, be they political, religious, economic, or judicial.

Since the creation of the ICC, all MSF sections have adopted a binding internal policy refraining from any cooperation with the ICC. This policy is based on the recognition that humanitarian activities must remain independent from risk of political and judicial pressure in order to be able to give medical and relief assistance to populations in situation of troubles and violence.

This policy has been presented and explained to the ICC so as to make sure that MSF will not be compelled or summoned to give information and witnessing to such judicial bodies. To access victims in a country in crisis, we talk to all parties involved in the conflict to make sure they will respect our work and the security of our teams. We do not hesitate to go public about the crisis or the violence inflicted on the people we treat are facing, particularly when their situation is unknown or not addressed and always in full transparency with all stakeholders.

This is what we have done consistently since the beginning of the Darfur crisis. We did not cooperate or send any information to the ICC, and we do not as a rule comment on judicial decisions. We remain independent and impartial, both necessary conditions for the continuation of our medical work in the field.

On 30 July 2008, the UN security Council passed a resolution to extend the mandate of UNAMID (UN-African Union joint forces) deployed in Darfur, by one year.

During the same session, Russia and China requested that the resolution consider a freeze on the ICC's prosecution of Sudanese President Omar al-Bashir, but the request was rejected.

On 4 august, the African Union (AU) president criticised the ICC request for an arrest warrant against Sudanese President Omar Al-Bashir and asked that the UN Security Council discuss a resolution to postpone the procedure, as soon as possible.

In the following weeks, the French and British governments argued that a peace process in Darfur was preferable to moving forward with the justice process. Both governments considered support for the warrants' postponement.



'Mandate of the UN-African Union task force extended,' **Le Monde/Reuters** (France/UK), New York, 31 July 2008 (in French).

Extract:

The members of the UN Security Council adopted a resolution extending the mandate of the international UN-African Union task force (UNAMID) deployed in Darfur (western Sudan), diplomatic sources indicated on Wednesday 30 July. The mandate is to be extended for one year, with a vote on the resolution planned for Thursday. Western members rejected Russia and China's call to drop the International Criminal Court (ICC)'s case against the president of Sudan, Omar al-Bashir.



'The African Union criticises the ICC's ruling on Sudan,' **Le Monde/AFP** (France), Khartoum, 5 August 2008 (in French).

Extract:

On Monday 4 August, Chair of the African Union Commission Jean Ping lambasted calls for the International Criminal Court (ICC) to issue an arrest warrant for the Sudanese president Omar al-Bashir, who is accused of genocide in Darfur. "You (the ICC) are concerned with people who are dead. We're also trying to deal with people who are living. You should take that into consideration, not just the matter of justice, but of peace, too," said Mr Ping who urges the UN Security Council to discuss a resolution to postpone the procedure "as soon as possible."



'Paris negotiates the accusations against Omar al-Bashir,' Philippe Boloipion and Natalie Nougayrède, **Le Monde** (France), New York-United Nations, 19 September 2008 (in French).

Extract:

Eliciting indignation from human rights defence organisations, France, backed by the United Kingdom, hopes to stop International Criminal Court (ICC) proceedings against the Sudanese president Omar al-Bashir, accused of committing 'genocide' in Darfur (western Sudan). Keen to put peace in Darfur before justice against the Sudanese leader, French diplomats called on their counterparts in Khartoum to cease fighting, negotiate with the rebels, standardise relations with Chad, cooperate with the UN on the deployment of the international United Nations-African Union task force in Darfur (UNAMID), and try the Sudanese Minister of State of Humanitarian Affairs Ahmed Haroun, along with the chief of the Janjaweed militia, Ali Kushayb, who has already been accused by the ICC.

Regarding the request for an arrest warrant filed on 4 July by the ICC Prosecutor Luis Moreno Ocampo against Omar al-Bashir, the first state leader in office under investigation by the Court, the judges are expected to announce their decision in the coming weeks. The UN Security Council nevertheless adopted a resolution invoking Article 16 of the ICC statutes to suspend proceedings for one year.

According to diplomats, without the backing of Paris and London, the chances of the resolution (which could be carried by South Africa) being adopted are zero. [...]

For the NGOs concerned about the situation in Darfur, agreement would be tantamount to 'blackmailing' Sudan, which "would strike a major blow to the credibility and dissuasive capacities of the international criminal justice system."

B. SECURITY THREATS AND ADMINISTRATIVE HARASSMENT

Misinformation and administrative blockages against MSF increased.

On 24 July 2008, an article in *Akhir Lhaza*, a Sudanese newspaper, accused MSF France/OCP of conspiracy against the president of Sudan. It stated that MSF supported the ICC indictment of President Bashir and mentioned MSF France's supposed links with Bernard Kouchner, the French Minister of Foreign Affairs.

Kouchner was a founding member of MSF but departed the organisation in the early days.

The newspaper retracted its statement, but MSF had to provide the HAC with clarification of its position on the ICC decision.



'Minutes of MSF France Executive Committee meeting,' 22 July 2008, update 31 July 2008 (in French).

Extract:

Operations Department:

Sudan: On 14 July, the ICC Prosecutor presented several pieces of evidence as a basis for requesting an arrest warrant against the president of Sudan Omar al-Bashir. On 24 July, an article appeared in the news accusing MSF France of conspiring against the Sudanese president and collaborating with the ICC Prosecutor. The newspaper in question published a retraction the following day, and the HAC (the government's 'Humanitarian' department) asked us to explain our position. We sent a letter to the HAC the next day.

In the second half of July 2008, the Sudanese Armed Forces launched a large offensive in the Jebel Mara area around Tawila, Shangil Tobaya, and Kutum in North Darfur. A hospital, as well as many villages, were burnt down by government forces.

MSF Spain/OCBA teams in Tawila and Shangil Tobaya, in North Darfur, were attacked by armed men who entered the compounds at night, threatened the staff at gunpoint, and stole money.

MSF Spain/OCBA and MSF Belgium/OCB teams had to evacuate their staff, while MSF Switzerland/OCG reduced its staff from projects close to the fighting area.

On 2 August 2008, MSF Spain/OCBA issued a press release to denounce the attacks, announce the suspension of activities, and the evacuation of teams. The press release was distributed by other MSF operational centres.



'MSF evacuates teams after series of assaults on staff in North Darfur- 65,000 people in Tawila and Shangil Tobaya left without medical assistance,' MSF **Press release, 2 August 2008 (in English).**

Extract:

The medical humanitarian organisation Médecins Sans Frontières (MSF) has been forced to evacuate its staff from Tawila and Shangil Tobaya, in North Darfur, after a series of violent assaults against MSF staff.

The suspension of activities leaves more than 65,000 civilians, the majority of them displaced people, without medical assistance. MSF strongly condemns these attacks and calls for the respect of humanitarian aid workers, so they can continue providing much needed assistance to civilians.

Over the last week, the teams in Tawila and Shangil Tobaya were victims of two similar attacks. Groups of armed men entered the compounds at night, threatened the staff with their guns and stole money, including salaries of the local staff, along with other valuables. Staff were held at gun point and intimidated. [...]

In Tawila, MSF is the only medical organisation providing medical care to more than 30,000 internally displaced people (IDPs) living in three camps and to the civilian population of the surrounding rural area. [...]

This is not the first time that such incidents have occurred in the area. Over the last year, the team in Tawila has been victim of three serious security incidents and was evacuated twice. In Shangil Tobaya, activities were suspended for several months in early 2007. When teams started working again, a new serious robbery took place in October.



'Tous Terrains, MSF Switzerland/OCG Newsletter,' 19 September 2008 (in English).

Extract:

Sudan/Darfur: Biggest military offensive since 2004

The biggest military offensive since 2004 has been launched by Sudanese Armed Forces last week. Fighting occurred in the Jebel Mara area, near Tawila, Shangil Tobaya and in Kutum in North-Darfur province. Bombings with Antonov and movements of ground troops have been reported. There is no confirmation at this point of large movements of population but the access for humanitarian organisations is almost impossible at this stage. The government denies the offensive and evokes only military actions against bandits threatening humanitarian action. The Spanish and Belgium sections evacuated their staff from their projects in the area. On MSF Switzerland projects close to the fighting area, Golo and Killin, the team has been reduced for security reasons. On the northern corridor side, the mobile clinics have been stopped until the end of the Ramadan, because of the higher risk of banditry in the area due to the religious festivities.

On 26 August 2008, MSF Holland/OCA issued a press release alerting that an armed attack in the Kalma camps occurred in the morning, and that MSF teams evacuated the wounded from the camp clinic to Nyala hospital.



'MSF evacuates 49 wounded from Kalma Camp, Darfur, Sudan,' Project Update, MSF Website, 26 August 2008 (in English).

Extract:

The medical emergency organization Médecins Sans Frontières (MSF) evacuated 49 patients suffering from gunshot wounds from Kalma Camp to the hospital of Nyala in

Darfur, Sudan. Kalma Camp, home to more than 90,000 people, is one of the largest camps for displaced people in Darfur.

At least 65 patients were admitted yesterday to the MSF clinic in the camp after shooting early in the morning. More than half of those admitted were women and children. MSF managed to secure safe passage to evacuate 49 of the most severely wounded to the hospital in the nearby town of Nyala for emergency care. One patient died in the hospital overnight.

MSF teams will try to return to the camp today to provide medical care to the wounded and regular patients. This incident puts increased strain on a population already struggling to cope with flooding that has recently destroyed some 6,000 shelters.

Beyond security issues, all MSF teams in Darfur faced increasing administrative hurdles to obtaining visas, travel permits, and logistic authorisations. This hampered their capacity to assist people in need in Darfur.

The Sudanese authorities ordered MSF to suspend its distribution of Plumpy'DozTM in Darfur, an essential nutritional supplement in programmes for malnourished children. The authorities alleged that abnormal levels of aflatoxin, a kind of fungus, were found in MSF's supply of Plumpy'DozTM.

The security situation worsened in Chad where MSF facilities and staff were attacked and robbed by armed men on a regular basis. This was also the case for other INGOs.

An MSF inter-desk (programme managers) meeting was organised to agree a common reaction.



'Minutes of Inter-Desk [Programme Managers] Meeting Sudan,' 30 September 2008 (in English).

Extract:

MSF Holland: [...]

Secu incident in NY [Nyala] airport (with log expat) as HAC searched all NGOs to verify if any were carrying money without authorisation, MSF log held and questioned by NS [National Security] but allowed to leave, Solidarités had authorisation, and ICRC diplomatic pouch status eventually respected. [...]

MSF France:

ZA camp: Plumpy'Doz story still on with HAC; MoH lab not validating use of P. Dose despite lab countercheck from MSF France; MSF France having feelings that more political than mistake in diplomacy by not asking Ethical Board to validate use of P. Dose; no support at all from WHO or UNICEF (rather traditionalist in protocols); MSF France sending a letter to HAC and MoH.

Admin constraints keeping 9/23 expats on stand-by [...]

Recommendations:

- Common reading that no major humanitarian crises have been missed, although general sense that our programmes are status quo with lost capacity in moving out of existing projects and assessing new 'hot' spots.
- Common reading that geographical access to people reduced + consequences on population not completely known.
- Common reading that worrying trend of secu incidents on key-national staff to be followed (as can increase and impede operationality).
- a Common reading that MSF operations in Darfur are pertinent (although some sections to internally review ambitions), but HR constraints have limited expansion and follow up.
- Common reading that government admin blockages and our own human resource shortages are major factors limiting expansion of activities.
- Common agreement that compilation of points above to be done to draw a more accurate message and see if clear patterns can be seen. Suggest hiring one person to support HoMs on this documentation.
- HoMs to give opinion on above proposition, knowing that this documentation cannot be ready for the HAC meeting on 8/9 October, but to be along same line of issues to be raised (loss of geographical access, # of days lost due to bureaucratic blockages, etc). Each desk to discuss with HoMs; if all agreed, leading section = MSF France/Switzerland (ToR's and follow up of the person identified). No COMM before the deadline is respected.

Desks to see with COMM departments to release pressure on missions. [...]



'Ongoing violence in Chad jeopardizes MSF's humanitarian assistance to population,' **Project Update**, MSF Website, 2 October 2008 (in English).

Extract:

During the past weekend, two health facilities of Médecins Sans Frontières (MSF) in Adé and Goz Beïda in eastern Chad were robbed by armed men. MSF teams have been evacuated and the project activities in these locations have been suspended indefinitely, leaving 70,000 people without access to life saving health services.

The weekend incidents, with additional armed robberies on two other NGOs and a vehicle hijack of a UN car, mark a peak in the number of attacks against humanitarian organizations over the last six months and MSF will review how it will be possible to return to full operations in eastern Chad.

"The fact that MSF is being attacked on a regular basis threatens our and other aid agencies' capacity to provide assistance to populations in eastern Chad," said Karline Kleijer, Head of Mission for MSF in Chad. "It is with significant alarm and regret that we have now pulled out of two locations in eastern Chad, leaving 70,000 Chadians without adequate health care. Ultimately, it is the sick and vulnerable that suffer the most." [...] The latest attacks have followed a series of armed attacks against humanitarian organizations in the past months. In the past 10 months, there have been 24 serious incidents involving MSF, leading to the temporary suspension of activities and regular evacuations of MSF staff. This time, neither patients nor staff members were hurt but past attacks on humanitarian workers have resulted in serious injuries and deaths. In most of the incidents, robbers have stolen cash for staff salaries, vehicles, and satellite phones.

C. SUSPENSION OF MSF MENTAL HEALTH & HOME VISITOR PROGRAMMES

Since early 2008, the signing of the "technical agreement" between the Sudanese authorities and MSF Holland/OCA was suspended. However, the teams managed to keep working, despite the absence of any response from the Government of Sudan. Finally, In October 2008, the Sudanese authorities asked MSF Holland/OCA to remove the mental health programme from the technical agreement proposal. MSF Holland/OCA refused.

On 16 October, MSF Holland/OCA received a letter from the Humanitarian Affairs Commission (HAC) announcing the suspension of their activities due to lack of a technical agreement. Almost immediately, OCA were told that this suspension was lifted until the end of October, but access to medical facilities and medical cargo were blocked.

MSF France/OCP experienced the same constraints and restrictions as MSF Holland/OCA regarding programmes and staff. OCP was told by the HAC to close the home visitor programme. The Sudanese authorities said they did not want MSF to have direct contact with the Sudanese people.

While dealing with the authorities, MSF continued to emphasise the organisation's independence from the ICC.



'Darfur and the ICC arrest warrant for President Bashir – analysis of the operational environment,' MSF Inter-section **Memo**, 20 October 2008 (in English).

Extract:

Concrete implications for MSF

As recent events have illustrated (suspension of MSF OCA's activities), MSF can anticipate that it will be a particular target for the government of Sudan. This is particularly true in South Darfur, where governmental pressure has been more intense. In the eyes of the government, MSF's economic contribution is minimal, while we have a potential to be a much greater risk. MSF does not distribute food or NFIs [Non-Food Items] on a large scale but does work in areas of greater sensitivity to the government, both geographically and programmatically. Moreover, though there has been little strong action from MSF in terms of temoignage in recent years, the government is aware that this is a possibility. Though MSF has had incidents of physical insecurity in the past that have almost certainly involved government collusion, this has tended to be rare and restricted to isolated areas where our presence was not desired. It is virtually certain that if MSF wishes to remain present in Darfur, it will be possible for us to do so. That said, there will also almost certainly be a cost. At the moment, with regard to the MSF OCA programme, that price appears to be the closing of the mental health programme. It will be necessary for MSF to decide sooner rather than later what its bottom line is in order to preserve presence in Darfur.



'Letter from Arjan Hehenkamp, MSF Holland Director of Operations to the Commissioner of Humanitarian Aid Commission, Khartoum, Sudan, 30 October 2008 (in English).

Extract:

Second, I would like to re-affirm MSF's position with regards to the ICC. We have no interest in passing information to the ICC, as it would severely compromise our ability to access populations in conflict. Not only in Sudan but also elsewhere. We have therefore a strict policy of a priori non-collaboration with the ICC, and recently we have also published – in response to media allegations in the Sudan – a public position by the MSF International President, saying the same. In order to protect its ability to carry out its medical work in conflict, MSF has even campaigned to receive immunity similar to ICRC – but unfortunately failed to obtain it. So, the organizational and practical position is clear on this issue too.

Third, MSF is a neutral, independent, and impartial humanitarian actor. This is the fundamental basis upon which we can operate in conflicts such as Darfur. It is also a requirement not only of the Geneva Conventions, but also of the relevant laws of the Republic of the Sudan. These require us to be impartial and neutral in our work. But these principles very much imply that we carry out independent needs assessments, responding on this basis to the needs of the population. Through this process we identified mental health as a priority medical need, and this is therefore the reason why we have been carrying out mental health activities in Kalma camp for the past 3 years and have proposed mental health in Muhajariya and Feina. Stopping these upon the instruction of the Sudanese authorities would therefore violate the very principles that allow us to work in Darfur.

Of course, the Government of Sudan has the prerogative as well as the means to allow or disallow for certain medical activities. As a humanitarian NGO, MSF remains dependent on the collaboration and authorization of any government. If then the Government of the Sudan clearly instructs us to cease certain activities MSF may have to comply, even if under protest. Is it in this light that I understand the most recent communication of Dr. Mohammed Hussein, which de-facto disallows continuation of our medical activities in Kalma camp? Your clarification or further communication is politely requested.



'Minutes Meeting of MSF France/OCP Coordinator with HAC,' 4 November 2008 (in English).

Extract:

HAC sent us a letter on the 26-Oct-08 opposing several conditions to the endorsement of our Technical Agreement for Zalingei, among which the suspension of our Home Visitor Program, the reduction of our international Staff to 2 per location, and the necessity to handover all the assets to the MoH at the closure of a project.

Handover to MoH: that was not really negotiated. We had to focus on the main problems, but I think we shouldn't give up that point. We should be allowed to transfer assets between our MSF France projects in case of closure.

Duration: we will have to sign Travel Authorisation for the end of the year, and we will sign a new one for 2009. We have the choice about the duration (we can sign from now to the end of 2008, or for one year from date to date), but we can't do without the 2008 TA [Travel Authorisation]. We chose to sign it only up to end of 2008.

Reduction of expatriates: There was room for negotiation on that point. We finally obtained 4 expatriates' positions only for Medical Staff [...] We had to negotiate the positions one by one.

[...]

Suppression of Home Visitor program: [...] He categorically refused to discuss the relevance/importance of that program, or to check the job description and tell us what part they disagree exactly. He told us that we are here to help MoH, provide capacity, but they don't want us to have direct contact with the people of Darfur. Basically, we have to build hospitals, and then stay inside until it becomes a MoH hospital. [...]

Comments: This meeting was exactly the same meeting that MSF Hollande had. I discussed it with MSF Hollande HOM Reshma, and they obtained exactly the same results (negotiation for expatriates, no room for negotiation for Mental Health Counselling), and had the same feeling, it is to say:

Something changed in the government policy. They are determined to restrain the possibility of contact and information sharing between INGOs and people of Darfur. This is their answer to the ICC accusations, they know that the information came from somewhere, and they don't want any more alarming reports about Darfur.

They only play with us. We didn't get anything they didn't plan to give us before. Hussein knew perfectly that he could give us more expatriates, up to a specific number, and just had fun watching us negotiating. But we talked only about what he wanted to talk about. Something really big is coming for 2009. Our negotiations are only for 2008, and they won't be that 'nice' in 2009. This is a strong feeling, shared by Reshma, myself, and most of the NGO people I've talked to lately, corroborated by the strange behaviour of [HAC representatives].

We should hurry to strengthen our communication and negotiation in an intersectional approach. That's the only way we can deal with the government reaction. We have 2 months for that.

The decisions are not coming from HAC, but from a lot higher level. We don't know where from yet, and we don't understand the different 'influences' inside HAC.

Another information is that they will cancel the Country Agreement of MSFH at the end of the year. They will have to negotiate a new one, and obviously not for the better.



They did not like these mental health consultations to take place. They never said as much, but we were thinking that they were afraid of the stories that people would tell outsiders. When they said to us, 'you can't do this type of work anymore,' we had a big debate in MSF Holland, in OCA even. How do we react to that? Are we basically taking a very principled stand and say: well, when the government starts to tell us what to do, we withdraw? Or given the fact that we were being one of the sole health care providers in the camp and had a significant maternal health care programme, are we basically continuing our work and trying to negotiate our way back in. Ultimately, after discussions internally, in the team, debates also in the MSF Holland Association, the decision was: we'll stay, and we'll continue. That did result in some internal discord. Not everyone agreed with that choice.

Hans van de Weerd, MSF Holland, General Director, 2008-2011 (in English).

On 22 October 2008, an article posted on the government-controlled Media Centre website stated that the Sudanese government was taking legal action to halt six INGO projects in Darfur, including MSF Holland/OCA. The Sudanese argued that INGO activities did not comply with humanitarian laws and were “exploiting the situation in Darfur to prolong the dispute in the region.” MSF Holland/OCA prepared a communication reactive line to answer any media requests.

On 27 October, an update entitled “Sudanese authorities threaten to suspend MSF activities in South Darfur” was posted on the MSF International website. It presented the whole story of the technical agreement negotiations.



‘NEW South Darfur REACTIVE Comms Line,’ **Message** from Jake Wadland, MSF Holland to List Press, 22 October 2008 (in English).

Extrait:

This is a reactive communications line only, no proactive communications at this time please. [...]

1. A brief article about the MSF OCA suspension appeared today (22 Oct) on the government-run Sudanese Media Centre Web Site: [...]

Authorities Halted six Projects Undertaken by Some Foreign NGOs in Darfur
Acting manager of humanitarian aid commission for NGOs affairs [...] told that the concerned authorities had undertaken legal procedures to halt six projects endorsed for implementation by some foreign NGOs in Darfur. He said his organization monitors the respective NGOs and realized their activities not incorporated with humanitarian laws. He said there are some NGOs exploiting the situation in Darfur to prolong the dispute in the region.

2. Reactive communications line

On Thursday 16 October, the Dutch section of MSF was told by Sudanese government authorities in Nyala to suspend all activities. When we attempted to verify this with the authorities at the Khartoum level, we were told that our suspension had been lifted. Yet blockages on cargo have not been lifted and we have not been able to obtain travel permissions for our medical staff.

Sudanese national staff continue to provide medical care to patients in our clinics, to the extent possible. The health situation of the people we assist could rapidly deteriorate if authorities continue to prevent MSF from sending staff and supplies to the health facilities it supports in the camps.

For two weeks Sudanese authorities have been obstructing our medical activities, preventing essential medical staff from accessing our clinics and hospitals, and blocking medical cargo from reaching project sites.



‘Sudanese authorities threaten to suspend MSF activities in South Darfur,’ **Project Update**, MSF Website, 27 October 2008 (in English).

Extrait:

Médecins Sans Frontières (MSF) is extremely concerned about recent comments made by Sudanese government representatives that the aid organization’s activities in South Darfur may be suspended after October 31.

In February 2008, based on the health needs of displaced people and local residents, the Dutch branch of MSF signed an agreement with the state government of South Darfur for medical activities to be carried out through the year.

The agreement was sent to Khartoum for national endorsement. For months, MSF has been engaging with the Sudanese government in an attempt to obtain the final signatures, but without success.

The government has since asked MSF to reduce its personnel, to stop certain medical activities and to limit staffing numbers. We continue to negotiate the signing of the agreement, which covers our current activities.

“For decades the Sudanese authorities have allowed MSF into the country to help people in need,” said Vincent Hoedt, a former MSF Head of Mission in Darfur now with the organization’s Amsterdam Operations department. “We don’t understand why they are now trying to prevent us from providing medical aid to the population. It’s incredibly frustrating, when there are clearly still serious needs in Darfur.”

On 22 October 2008, the MSF directors of operations decided to send a high-level MSF delegation to Sudan to address the insecurity and administrative blockages with the Sudanese authorities. This process included an MSF international briefing paper, documenting all the constraints.

On 3 November 2008, the MSF Sudan country coordinators sent a joint message to the RIOD asking for the postponement of the international high-level delegation meeting with the authorities until January 2009. The coordinators asked that the delegation provide a concrete package of information encompassing all sections and be ready, if needed, to use the “threat” of intersectional public communication.

The message would be based on three points:

- **MSF should be able to independently assess and implement programs based on the needs of the populations.**
- **MSF should be able to provide quality healthcare with the resources that MSF deems necessary.**
- **Widespread insecurity in both government and other areas should be addressed with government officials and other parties to the conflict.**



‘Minutes of MSF International RIOD Meeting,’ Paris, 22 October 2008 (in English).

Extract:

South Darfur and OCA blockages

Since last week, OCA is facing a suspension of its activities by the authorities (along with other NGOs operating in the South Darfur region). The rationale of it is complex but it seems that it polarises on couple of issues (number of medical experts, mental health counselling relating to ICC issue, Kalma camp management...). If the analysis is not very precise, OCA is perceived to be particularly targeted, and is extremely concerned about the significant obstructions the section faces. Both Khartoum and Nyala need advocacy

rounds and different attention to solve the issue. For OCA, the assumption is that we may have to address publicly the different issues (obstructions, abuses, manipulations, intimidations...) but that MSF may need to be put in a more global strategy, as the targets are multiple. The RIOD considers that it is important to document precisely on the constraints we have today and MSF France, to help the procedure, would like to know if the Presidential decree towards the NGOs is still in action or has been suspended. OCG also confirmed some difficulties to have medical staff on the ground and different operational constraints. The fact that the UN transport capacities are reduced following several security incidents, further hamper work in Darfur.

The RIOD considers the importance of having an intersectional briefing paper and the visit of the IC Pt [International Council President] in Khartoum to meet officials. Besides that, if it is important to brief different Sudanese ambassadors worldwide, we must recognise that the issue remains in MSF capacity to build/develop contacts at high levels in Khartoum. In the past, we didn't achieve much by meeting very key people. MSF France believes that ideally, the IC Pdt [International Council President] would meet key officials [...]:

- An international briefing paper is under draft.
- OCA is planning to do a web article regarding the issue (maybe used by Sudanese media center)
- Desks must be more proactive.
- IC Pdt visit must occur if we obtain high level meetings.



'Letter from Christophe Fournier, MSF International President to Government of Sudan,' 3 November 2008 (in English).

Extract:

I am writing on behalf of the international medical humanitarian organization Médecins Sans Frontières (MSF) to request an urgent meeting with you to discuss several issues concerning our humanitarian work in Sudan, in the Darfur region in particular.

MSF has worked throughout Sudan for over 25 years. In doing so, we have always demonstrated our commitment towards the people of the Sudan in delivering medical assistance to those most in need, wherever they are and in collaboration with the Government of Sudan.

In its work today in Sudan, MSF is encountering a number of significant issues that we would greatly appreciate having the opportunity to discuss at high-level meetings between the Government of the Sudan and its relevant departments and MSF.

More concretely, we would like to propose the following agenda for discussion:

A need to reaffirm and clarify the MSF position of neutrality and independence in Sudan in relation to all political, peacekeeping, and judicial agendas. This would include:

- Clarification of MSF's position regarding the ICC in particular, and regarding the UN and States in general,
- Exploring with you the possibility of independent transportation means for our work in Darfur, so as to reduce our dependence on the UN.
- A growing number of administrative obstacles that are affecting the ability of our organization to effectively and efficiently deliver humanitarian assistance in Darfur.[...]
- Delay or denial in providing visas and work and travel permits,

- Delays or refusals in authorizing medical needs assessments,
- Difficulties in maintaining specific medical activities.
- Exploring possibilities of specific bilateral agreements between MSF as a whole and the Government of Sudan, as a means to improve on the collaboration and the work of MSF in Sudan.

Of course, we would also be very interested in discussing any other concerns or issues you may have regarding MSF's work in Sudan.

I am prepared to lead a senior MSF delegation to travel to Khartoum to take up these issues with the relevant authorities in a frank and transparent manner. I am therefore seeking your assistance in introducing requests for meetings for this delegation.



'International delegation to visit Sudan,' **Message** from MSF Coordinators in Sudan, 3 November 2008 (in English).

Extract:

Since the concerns surrounding the ICC, and the government of Sudan reaction to this has become more apparent, MSF has been finding ways to make our position clear on our non-cooperation with the ICC. In this light the idea for the International President to visit Sudan has grown. During the month of October, the need for such a visit became even more apparent. This was given in by the threat of suspension of the activities of MSF OCA, as well as obstructions felt by other MSF sections in Sudan.

There is no denial that these obstructions are hampering our activities, and clearly affect the quality of the work that we do. We need to realize that the obstructions have always been part of working in Sudan, and though it may feel different at the moment, MSF has in general has less issues to face than many other organizations. We have always managed those obstructions by dealing directly with the relevant authorities in country. And we will in future need to keep doing so. For these issues it will not be at HQ level, or representatives from outside Sudan who can address these issues.

There has been a significant increase in different obstructions in the past months. And I think we all recognize that this is due to a changing political agenda. And though we are not into politics, it is the result of these changing politics that need to be addressed at a higher level than the contacts that we have on a regular basis.

Also bear in mind that for MSF OCA putting up the obstructions was done within a justified framework (in their eyes) as we did not have an endorsed agreement to work in Darfur, and therefore should not be issued with permits. The fact that these obstructions were used to pressure MSF OCA to accept the instruction to give up its Mental Health activities is more the issue than the obstructions in itself. Therefore, any International Delegation meeting with government officials should be addressing the effects of these obstructions and not the obstructions itself. Things like administrative obstacles flow from the fact that the government find ways to limit our activities, therefore slowly eating away at the humanitarian space where we feel we have to operate to best address the needs of the people.

In short, such a delegation should address the issues that fundamentally affect our principles, and our choices on how we wish to operate; the obstructions are to be used as examples, not as the issues.

Having said all this, it also means that the timing of this international delegation is crucial, as it should be happening at a time when we are facing an infringement on our principles or expect to be facing an increase in obstructions. Looking at the current situation, the timing of events, and December as a holiday month, that the best moment would be just after Christmas, into January 2009, when the discussions for the new TA's will be expected to be in full force.

The International Delegation should therefore address the following main issues:

1. Lack of operational autonomy – MSF should be able to independently assess, and implement programs based on the needs of the populations. This can be generalized in four main 'packages' of services: basic health care (includes women's health and mental health not as separate components), nutrition, emergency surgery and emergency response.
2. Lack of independence – MSF should be able to provide this quality healthcare with the resources that MSF feels necessary to be able to do so, including amongst other things the presence of expatriates. Of course, bearing in mind relations with Ministry of Health.
3. Insecurity needs to be addressed as an issue not only with government officials, but also with others, as this is not just an issue in government held areas.

In addition, the delegation should arrive with the consolidated data of all sections including the total volume of MSF impact in the last 5 years – encompassing total consultations, resources/budget, emergency response impact, etc. [...]

Very practically we are suggesting the following:

1. The delegation should try to postpone until January 2009, if given the opportunity
2. The main issues (listed above) should be the core of the message for the international delegation.
3. The delegation should arrive with a concrete package of information encompassing all sections.
4. The delegation should be ready to use the 'threat' of intersectional public comms if necessary.
5. The international delegation should be ready for key briefings by heads of missions upon their arrival Sudan.

On 7 November 2008, MSF posted a website update announcing the Sudanese government's suspension of the mental health programmes, explaining the agreement was "withdrawn," and that MSF was only authorised to complete current patient treatments. At the instruction of the HAC and MoH, no new patients could be included, and these programmes must close by 31 December 2008.

On 10 November 2008, the BBC reported a text posted on the pro-government Sudanese Media Centre website entitled, "Sudanese official terms aid agency's work as "intelligence gathering."

In this text, the Head of HAC presented MSF's update as intent to hide the truth and to give the impression that the HAC was hindering MSF activities. The HAC added that "the so-called mental health program was mostly an intelligence-gathering activity, which had nothing to do with health."



'Suspension withdrawn, but MSF instructed to close mental health programmes in South Darfur, Sudan,' **Project Update**, MSF Website, 7 November 2008 (in English, in French).

Extract:

At the instruction of the Sudanese Humanitarian Aid Commission and the Federal Ministry of Health, Médecins Sans Frontières (MSF) has to close the mental health counselling component of its activities in South Darfur, Sudan.

As of the beginning of November, MSF cannot accept any new patients into its counselling programme in Kalma Camp. On the grounds of medical responsibility, MSF has been given permission to continue treating current patients up until the end of the year but will have to completely cease all counselling activities as of December 31, 2008.

MSF is permitted to continue treating only minor psychiatric illnesses. Since 2006, MSF's trained staff has provided 9380 individual counselling sessions for over 1600 patients suffering from mental health problems. In the last year, 84 percent of MSF mental health patients reported either improvement or complete resolution of their symptoms upon discharge from treatment.

MSF regrets the fact that we will not be able to continue treating mental health patients and that we were unable to convince the authorities of the vital medical nature of this activity.



'**Minutes** of Inter-Desk Teleconference on Darfur situation,' 11 November 2008 (in English).

Extract:

1. Context

OCA, Tech agreement, not signed by all authorities after seeing the web article by MSF. Asst. HoM called [Herad of HAC] [who] asked if MSF had seen the newspaper this morning talking about MSF and intelligence gathering. "If you want a media war, you have it." Technical Agreement is again under review. OCA requested a meeting with [Head of HAC], but not available before Thursday 2pm. We can expect something major. OCP?!

Problem in Zalingei about the CHW [Community Health Workers] work and number of expats. Ready to compromise on CHW if don't put in danger 2 programs and find ways to keep CHW work in camps, change Job description, follow up of activity. Probably no comms. [...]

2. Communications

What are we ready to say, not say?

Keep a diplomatic line, privilege the intl. visit. No start of a media war with Sudanese, MSF will never win on that side in Sudan.

- 1) Re-state what has been posted on web site. We wish to continue dialogue with Sudanese authorities
- 2) We are shocked by the allegations and believe in mental health care.
- 3) MSF collects data for a reason. [...]

- Prepare some possible scenarios for the coming days/months

- What if we have an intl deleg, but no decision or too much compromise?
- If no meeting with intl deleg?

On 17 November 2008, the MSF France/OCF coordination team met with the head of HAC, who maintained the suspension of home visit and mental health activities, which he linked again, to “intelligence-gathering.”

The authorisation to use Plumpy'Doz™ was not received, thus the MSF France/OCF team was implicitly told to “give up the issue.”

MSF France/OCF in Khartoum were indirectly threatened about the consequences of an MSF international delegation to Sudan and were told that the government was currently discussing the expulsion of all MSF sections from Sudan.



'Minutes of MSF France Meeting with Federal Head of HAC,' 17 November 2008 (in English).

Extract:

After being asked to reduce the number of expatriates and to suspend the Home Visitor program, we tried a new approach with support of MoH at State Level [Head of HAC] supposedly agreed with M. H [...] to keep our TA [Travel Authorisation] as written for 2008, and to endorse it at federal level. We got the signature from State level and came to M. Hussein for federal endorsement. This didn't work and the position of M. Hussein is still the same, focusing on the suspension of the “intelligence-gathering” and all contacts between MSF staff and the population of Darfur, and not on the medical or technical aspect.

Plumpy'Doz: The discussion is ongoing, right now the decision makers are busy with other issues (HAC is having a lot of internal meetings lately), but M. H. [...] will call Khaled in the coming week to keep him informed. M. H. [...] told us that he is doing his best to help us, but that we shouldn't try to defy the authorities, and should better give up with this issue. Anyway, even if he “succeeds” to help us as he says, he made clear that it will take a long, long time (he described a crazy process: first they will have to find specialized consultant, then let them do a report, then endorse it with X, discuss it with Y, etc. it was a no end process.)

Basically: we can go to hell with our Plumpy'Doz, said very nicely. [...]

International Delegation: He talked a lot about that and brought this issue by himself. He is really uncomfortable with this delegation coming and negotiating “above his head” and said that he doesn't understand because he always has been helping us, that we only have small problems that everybody is facing and that it is not “correct” to do that. He reacted like if it was an insult to him. He actually looked really uncomfortable with the idea of this ID [International Delegation] coming, which means that this ID can have a real impact.

He threatened us more or less directly about what would happen to MSF if this delegation really came and said that right now the GoS is discussing the scenario of expelling all the MSF sections out of the Sudan.

He also asked about this “MSF international” and seemed worried to see that we are willing to communicate/answer all together. We explained to him that MSF is international.

Analysis: About Plumpy'Doz, it's clearly not the end of the story. We did everything they asked for and are following this issue for months now. But they are still delaying and delaying without giving us clear reasons or obstacles to the non-obtention of the authorizations. About the HOM visa, I'm convinced he will help. Actually, we came to that

meeting to “lose” on the Technical Agreement to be able to “win” on other issues. He was so happy that we stopped arguing about the TA and just asked more details about his comments that he decided to help us for everything else, and wrote it down in his agenda with deadlines, priorities, and everything.

About the ID, they are all reacting like him, and are clearly unhappy and uncomfortable with this high delegation coming.

About the TA, we decided to do it the smooth way (unless someone disagree...?).



They'd been actively trying to get us out for 10 months, if not two years. But the efforts had been significant, and it was rotating through the MSF sections. Every six months. It was a different section under pressure. When I arrived in November 2008, the pressure was coming off OCBA and coming onto the French

*Jane Coyne, MSF France/OCP, Coordinator in Darfur, November 2008 to April 2009
(in English).*

D. MSF'S RISK MITIGATION FOR THE ICC

Meanwhile on 15 October 2008, the ICC Pre-trial Chamber requested additional supporting materials from the prosecution, for the arrest warrant of Omar al-Bashir, no later than 17 November.

Within MSF, discussions focused on how to mitigate the risk of certain MSF documents already requested for the procedure.

One main question was, how to manage with a possible implication of MSF by the prosecution on the basis that denial of humanitarian assistance could constitute evidence of intent of genocide. Or on the contrary, that allowing humanitarian aid delivery was evidence there was no GoS intent to commit genocide.

While examining this issue, MSF's legal advisor looked for other information, besides the public report, that could be used by either side in the ICC case (ICC or prosecution lawyers) which could compromise the safety of victims.



'Instructive reading,' **Message** from Arjan Hehenkamp, MSF Holland/OCA Operational Director to MSF Legal Director, Françoise Bouchet-Saulnier and MSF Holland/OCA Head of Humanitarian Affairs Department, Kate Mackintosh, MSF Legal Advisors, 3 November 2008 (in English).

Extract:

Hi Kate/Francoise,

I was reading the relevant ICC doc's they published on 14/7, on their website.

The case of the prosecution does not rest only on violent and targeted attacks for which evidence is said to have been gathered; it also rests on the argument that denial of humanitarian assistance constitutes evidence for the prosecution in its own right, since the UNCOI [UN Commission of Inquiry] concluded that if populations receive assistance in government-controlled areas post-attack, then there is no question of genocide at least.

The evidence of the prosecution centres around violent attacks but also displacement, sexual violence, and death by attrition of populations forced into displaced camps. It even mentions somewhere 'Genocide through mental health etc of the target population'. This of course puts MSF and organisations such as MSF right on the spot.

Efficacy of current humanitarian work can be taken as evidence against the prosecution, problems in service delivery may be taken as the opposite.

The potential and practical ramifications of this are evident, and we may be living it somehow now.

I lack the legal learning to see how we could (publicly) position ourselves towards such argumentation, but it seems to me that we ought to define a position that at minimum points out the concerns we have regarding the fact that such argumentation puts our current humanitarian work right in the politico-judicial frame that we want to avoid (even if we as an institution are in favour of mechanisms that improve compliance with IHL [International Humanitarian Law] etc).

[...] could you see a way to develop a substantial opinion on this issue I describe above?



'Re: Arjan question on Sudan and ICC/MSF,' **Message** from Françoise Bouchet-Saulnier, MSF Legal Advisor to MSF Holland/OCA Director of Operations, Arjan Hehenkamp, MSF France/OCP Programme Manager, Gabriel Trujillo, MSF Belgium/OCB Director of Operations Jerome Oberreit, MSF Holland/OCA Head of Department of Humanitarian Affairs, Kate Mackintosh, 17 November 2008 (in English)

Extract:

Following questions raised by Arjan + others, here is a short update on coming scenarios with ICC/Sudan (MSF) [...]

Consequences of this situation on MSF and NGO are of two kinds (field security and potential request for MSF cooperation).

Regarding the "Summary prosecutor application" of the ICC regarding an arrest warrant against President Al-Bashir (Sudan), it is worth noting that:

With regard to the crime of genocide, the OTP [Office of Tribunal Prosecutor] application provides for the following elements:

- Regarding the intent "to destroy in substantial part the Fur, Masalit and Zaghawa ethnic groups as such", the OTP points out the deliberate infliction "on a substantial part of those groups conditions of life calculated to bring about their physical destruction, in particular by obstructing the delivery of humanitarian assistance" (para. 10)
- Regarding the crime of "Genocide by deliberate infliction upon members of the target groups of conditions of life calculated to bring about the physical destruction of the group in whole or in part": "Al-Bashir and his subordinates systematically refused to provide any meaningful Government aid and hindered other efforts to bring humanitarian aid to the approximately 2.5 million civilians who found a haven in the camps, including a substantial part of the target groups" (para. 34).
- regarding rape: this is included in the charges against al-Bashir, meaning that MSF Holland document could be referred to.

This has a practical consequence for NGO in general and MSF in particular.

- NGO and MSF public reports could be used (and people for NGO could be summoned) either by the prosecutor or by al-Bashir defence lawyer in order to confirm or deny

the alleged hindrance in the effort to bring humanitarian aid in the camps+ to confirm or deny that such alleged hindrance has caused calculated physical destruction.

• it is important in this context:

- (1) to review the existing MSF report and public statements to figure out how much we could be exposed to such request
- (2) the rapes appear in the text of the prosecutor application. Make sure the exact status of MSF Holland document and who it has been transmitted to
- (3) to follow the ICC schedule for the next step
- (4) to prepare an answer to any such questions by journalist or request by the ICC
- (5) check with the international working group on ICC where we stand on the work that started on Sudan and ICC following the teleconference on RCA [CRA, Central African Republic] and ICC and where we go further.



I carried out a thorough, hands-on examination of what we knew, what was said, where the evidence was, and where the people who had given eyewitness accounts were. I also went through the charges with a fine-tooth comb. I examined all the documentation that had been made public and could be used to identify people or really put us in an awkward position: what do we know, what are we sure about, where are our medical archives from the time?

At MSF Holland, the majority supported the ICC. In Paris, most were against the international justice route, and everyone was convinced that MSF Holland had passed on this report to the ICC.

Anyhow, the report went public, so everyone was able to read what was in it.

But it raised questions around the names of the surviving victims who could potentially have been called as witnesses by the ICC. I was concerned that they could be identified. Did MSF Holland hand over the report, or more? At the end of the day, it was impossible to be sure. I can't say with any certainty they sent it because I don't have any proof.

Françoise Bouchet-Saulnier, MSF France/OCP, Legal Advisor 1991-2005, MSF International Legal Director 2005-2022 (in French).

On 20 November 2008, the MSF programme managers sent a letter to the directors of operations addressing the issue of institutional (government) funding for Darfur programmes.

The programme managers recommended to abstain from sourcing institutional funds for Darfur for as long as MSF continued access negotiations.



'Letter from MSF Programme Managers to MSF Directors of Operations,' 20 November 2008 (in English).

Extract:

Although from 2004 and through 2006, we had some institutional funding for the missions in Darfur, the exclusive use of private funds in the last years has allowed us to reaffirm our independence during a period of rising tensions between the Government of Sudan (GOS) and "the international community": involvement on peace negotiations, deployment of troops (AU, then hybrid UN AU), and recently ICC.

Furthermore, we can see in the past months a rising tension between the GOS and NGOs in particular, hampering space of work mainly through administrative constraints and blockages, limitation of programs etc. We have adopted for the moment a bilateral negotiation with authorities in Khartoum, and Sudanese Embassies in Europe, the US and at the UN; this should culminate with meetings between an international delegation of MSF with Sudanese authorities in January 2009. One of the core messages passed is our independence and neutrality. This goes for the ICC, the UN and the fact that we are privately funded for our operations in Darfur.

Although we do not rule out the possibility of institutional funding in the future, we do not think that as long as our presence is at stake in Darfur and with the present negotiations that are ongoing that we should ask for funds at this moment. As institutional funders are in general quite interested in funding Darfur, we believe that if a decision later on is taken to request funds, it should be feasible and meet with a positive outcome. Waiting for the International Delegation's negotiations will help us in appraising better the evolution of the environment with particular concern for the outcome of ICC and the scope of our activities.

End November 2008, MSF decided to conduct a joint evaluation of all Sudan operations, to assist in negotiations with Sudanese authorities.

The objective, as defined in the ToR was, "to produce a document of consolidated data of all the MSF sections in the last five years to provide a better understanding of the conditions leading up to the current situation and its future consequences for the medical humanitarian impact, mainly for the civilian population."

This document was for internal use, providing a background document for future lobby/external communications delegations in their meetings with Khartoum. It was agreed that pieces of the data could be used as needed.



'Terms of reference for intersectional evaluation of the operations in Darfur, Sudan,' 20 November 2008 (in English).

Extract:

General Objective

To produce a document of consolidated data of all the MSF sections in the last five years to provide a better understanding of the conditions leading up to the current situation and its future consequences for the medical humanitarian impact, mainly for the civilian population. This report is to be used as an internal document only and may be used as a background document for future lobby/external communications as determined by the Sudan Desks.

The document should include:

- Medical-Humanitarian needs and responses (main activities per section, per site) and the impact of the different strategies implemented (basic medical care in remote areas, secondary level of medical care, medical care in camps) Number of consultations, main morbidity. Number of medical staff: [...]
- Financial aspect: Expenses per year per project per OC.

- HR: Total of national staff and international staff per project per OC at 6-month intervals.
- Produce a spreadsheet with all consolidated data from MSF OC's. Inventory of communications/advocacy initiatives and their results.
- Other basic data and/or analysis reflecting humanitarian needs: war trauma, nutrition, displacement, SGBV, etc.

Specific Objective

To collect data on medical activities from the different sections focusing on the diversity of different experiences in the different projects—as well as on obstacles to humanitarian aid and data reflecting how humanitarian needs developed and were responded to over time.



'Fw: Darfur document,' **Message** forwarded by Fabien Dubuet, MSF Liaison to UN to Emmanuel Tronc, MSF Policy and Advocacy Coordinator, MSF Belgium/OCB Programme Manager Karima Hammadi, MSF France/OCP Programme Manager Gabriel Trujillo, MSF Holland/OCA Programme Manager Vanessa Van Schoor, MSF Spain/OCBA Programme Manager, Marta Cañas, 28 January 2009 (in English).

Extract:

One quick advice: I think it would be useful to remind the objectives of this work/document to ensure the comments you will get are adapted to the overall strategy. [...] - In general, I would be extremely careful on the publication of documents related to Darfur before the ICC decision as this could be perceived as a support/encouragement to the court's decision. Personally, I think that public coms should be limited (except major developments) before the visit of our delegation.

The fact is that we have been very reasonable for several months. Putting aside the ICC context, I would redlight the externalization of this document as such as there is still work on it.



'Darfur 'short doc (revised version),' **Message** from Katharine Derderian, MSF Belgium/OCB Humanitarian Affairs Officer to Fabien Dubuet & Emmanuel Tronc, MSF HART, cc Jonathan Whittall, MSF Belgium/OCB Humanitarian Affairs Officer, Karima Hammadi, MSF Belgium/OCB Sudan Programme Manager, 4 February 2009 (in English).

Extract:

As promised, attached below is the revised version of the short document on Darfur, as prepared by Jonathan.

This new version takes into account to the greatest extent possible all your input over the last 2 weeks and incorporates several points on obstacles to MSF operations (drawing from Fabien's document based on our earlier discussions for the ID) along with some new data as well.

We hope this paper will be a good basis document for the international delegation meeting.



'On the short briefing doc,' **Message** from Vincent Hoedt, MSF Holland/OCA Emergency Programme Manager to Jonathan Whittall, MSF Belgium/OCB Programmes Unit, 12 February 2009 (in English).

Extract:

A) (as said) in its current form I believe the document is TOO CONFRONTATIONAL, and therefore counterproductive in such a mission.

=>I would refrain from handing over anything [...]

B) If the desks have indeed agreed to hand something over, and Vanessa, once back concludes to consent with that, then my feedback would be:

1) Make it more diplomatic, remove the title "hindered response" on the front-page, add some acknowledgements of cooperation with the Govt.

(like; in 2005 MSF cooperated well with MoH of West Darfur in a measles vaccination campaign)

2) If we quote surveys (page 3) we have to be ready to provide proof of permission given for these (otherwise they will refute the results) and also be ready to explain methodology. (either in text or verbally by the delegation)

3) On page 8/9, in the table "Key medical indicators", I firstly miss the statistics on SGBV/ rape cases (were in earlier versions)

4) For the same table, my concern is that the text strongly suggests that the reduction after 2005 is due to insecurity/loss of access (text says 'see table 1 "I assume you mean table 4). The sharp decline by 2005, for many of the activities and related budget and human resources, is actually largely linked to the closing or handing over or changing of activities in that period (I was then HoM and I cross checked this also with our that time nutritional coordinator. =>I believe we need to improve the logic/analysis here.

5) Either in the text, or at least in the heads of the GDs, should be stronger examples of blockage/intimidation/arrests of staff. the examples on page 7, in my opinion is rather light. (while many and bad things have happened)

6) Outside this document, but available for the GDs there should be info on major mistake MSF made (OCA made a few in communications for example), issues on drug destruction, the Jewish issue etc (but maybe this is in the other document??) I do fear the GoS will confront the delegation with those.

In late 2008, a review of MSF France/OCP's communications on Darfur highlighted a general reduction of working humanitarian space in Darfur, and public voice deterioration on the crisis.

Various reasons were put forward to explain the reductions at MSF France/OCP including: a decline in media interest; a sense of caution following the ICC prosecutor's request to indict al-Bashir; an MSF lack of human resources leading to communications difficulties in assuming strong positions; and a deliberate choice to restrict the communications to the description of operational activities only.

The review noted a significant coverage in the French media of communications from other MSF sections and acknowledged a real interest in intersectional communications on important issues.



'Sudan-Darfur communication review 2008,' MSF France/OCP Communications Department **Review**, December 2008 (in French).

Extract:

MSF communication editorial line

In 2008, we communicated about Darfur to meet the following aims:

- To clarify our position: a press release addressing our position vis-à-vis the ICC.
- To respond to events that occurred: a press release on the thousands of Sudanese fleeing to Chad; an article on the threat of suspension of MSF Holland activities in southern Darfur; an article on the 65 wounded people admitted to the MSF Holland clinic at the Kalma camp following an attack by armed forces; an article on the evacuation of the MSF Spain teams from Tawila and Shangil Tobaya.
- To present our activities: malnutrition in Adila; malnutrition conference in Khartoum (article + video); distribution of Plumpy'Doz in Zalingei; activities resumed in the displacement camp outside Zalingei; accounts from patients on the various projects (report and testimonials about Darfur); report on a situation with even more displaced persons (video).

Analysis

- Purely descriptive communication.

In 2008, our communication on Darfur was purely descriptive, limited to reporting back on our frontline activities regularly. N.B. We weren't sending out a more general 'activity update' type of document. This policy followed the desk's decision to review everything on a case-by-case basis in May 2008; the desire to return to communication solely focused on humanitarian issues was then voiced, the aim being to avoid communication becoming overly analytical of the political situation.

- No 'responsive' communication from us.

Other sections issue more 'responsive' communication (see above) based on events. By refocusing communication on humanitarian issues, haven't we lost our ability to be responsive? In fact, several headline events throughout the year could have been occasions to speak out publicly. These events include, for example:

In early 2008, several displaced persons in Thur, a town where MSF ran a mobile clinic, were raped.

In July, our teams received orders to stop distributing Plumpy'Doz in Zalingei. Several months later, distribution activities were terminated in Zalingei.

In October, two days before our programme in Adila definitively closed, the entire MSF compound was deliberately destroyed.

During 2008, our workspace gradually shrank due to administrative problems, increasingly complicated visa/work permit/travel procedures, requests to restrict the number of expats working on projects, etc.

- Several factors may explain why we don't issue communication.
 - In late 2007, the Arche de Zoé [Zoe's Ark] matter caused media tensions in the region; did the period that followed coincide with a drop in media interest?
 - Calls to charge Bashir issued in July by the prosecutor Ocampo before the ICC.
 - On the ground, there was a lack of continuity in terms of human resources, e.g. in Darfur, in 2008, there were six successive different heads of mission. In these circumstances, would frontline personnel have been capable of coping with such a forthright editorial line?

- The continuous reduction of our workspace made operations increasingly difficult in the field. Did the space to communicate shrink apace with it? It's hard to say whether a stronger editorial line would have served as operational leverage (e.g. the Dutch have had lots of problems this year, particularly following the publication of the sexual harassment report...)
- Regarding Plumpy'Doz, did we decide not to publicise the distribution ban because it would have come across as being of lesser importance? Would we have taken the same line if a TFC [Therapeutic Feeding Centre] or paediatric activity had been taken out of our hands?
- Within the communication department, there was a change of communication lead on Sudan. A possible explanation for the lack of responsiveness (finding a new context for intervention...)?

To sum up: a year keeping a low profile, or a conscious decision to restrict our communication.

The decision to keep communication on Darfur to a minimum was partly a conscious one. That said, our communication wasn't limited to reporting on humanitarian issues and was partly confined to covering our activities in the field. As we saw, there are factors which explain the reason for all this. Is this enough to explain why we became less vocal about Darfur? [...]

An initial observation: the other sections were very vocal about Darfur in the French media [...], communications from other sections have a massive impact on our own media landscape. There's a lot to gain from intersecting communication on important issues. Which obviously implies that we also need to factor this in when our section wants to issue communication.

Clarification of our position regarding the ICC: a relatively successful media campaign.

E. PENDING IMMINENT ICC ARRESTS WARRANT FOR AL-BASHIR

In mid-February 2009, the ICC judges were still discussing the issue date of the arrest warrant for al-Bashir.

The MSF International directors of communications & fundraising drafted a position paper on MSF's relations with the ICC.

The directors decided to stick to the 3-point message from the July 2008 statement by MSF International President, Christophe Fournier:

- MSF respects the ICC mandate but never comments on judicial decisions.
- MSF maintains a specific policy of refraining from ICC cooperation on behalf of independence and generally remains independent from judicial proceedings.
- MSF continues to help people in Darfur, despite difficulties.



'Minutes of MSF International Directors of Communication & Fundraising Meeting,' 12 & 13 February 2009 (in English).

Extract:

Potential issue of warrant for arrest of Sudanese president by ICC in the coming days/weeks.

If it happens, we will not communicate proactively about it, but we need to have a reactive line (Q and A).

It will be based in Statement by Christophe Fournier last summer:

- we respect the mandate of ICC but never comment on judicial decisions,
- we have a specific policy of refraining from cooperation with the ICC on behalf of independency and generally we remain independent from judicial instances.
- we continue to provide assistance to people in Darfur in spite of difficulties.

Michel [Peremans, MSF International Communications Coordinator] mentions the facts that ops and coms should meet soon to discuss about temoignage activities in Darfur and notably on the needs to raise the populations needs. DirComs see no point in this meeting at this stage. Key priority in communication should be linked to the outcome or failure of the MSF international delegation to Khartoum (planed for the coming weeks but not yet confirmed).

On 17 February 2009, after a series of postponements, MSF was finally informed by the HAC secretary that the proposed dates for the meeting between an MSF International high-level delegation and the Sudanese authorities were not suitable. The HAC said they would be in touch with further arrangements in mid-March.



'Letter from Fabien Dubuet, MSF International Liaison to the UN to Permanent Representative of Sudan to the United Nations,' 20 February 2009 (in English).

Extract:

Visit of an MSF high-level delegation to Khartoum [...]

As requested, I confirm you that we unfortunately received the information from Mr. [Head of HAC]'s office on 17 February that the visit of the MSF high-level delegation led by our International President, Dr. Christophe Fournier, and planned for the end of this month, had to be cancelled. Additionally, we were told that MSF would be contacted mid-March for further arrangements.

On behalf of my International President, I would like to ensure you that MSF still looks forward to engaging in this high-level dialogue with the Government of Sudan at the earliest convenience of Khartoum.

I would be very grateful for any support you might provide to facilitate this visit and dialogue, especially to secure dates and meetings with Sudanese officials in Khartoum.

In mid-January 2009, following an armed non-state actors attack, the MSF Holland/OCA base in Muhajariya was destroyed and part of the team evacuated. However, the clinic was untouched, and a small team of Sudanese staff continued to provide services as much as possible.

On 18 February 2009, MSF Holland/OCA announced online, that their international teams were back to Muhajariya “after four weeks of forced absence.”



‘South Darfur: MSF team returns to provide health care to the people affected by heavy fighting in Muhajariya,’ MSF **Web Update**, 18 February 2009 (in English, in French).

Extract:

After four weeks of forced absence an MSF team has been able to return to Muhajariya in South Darfur where an estimated 35,000 people were affected by heavy fighting.

In mid-January clashes between two rival rebel groups forced MSF to evacuate most of its medical team to Nyala, the regional capital, an estimated 80 km away. During the first days of fighting the MSF base was completely destroyed by fire. The MSF clinic was untouched and has remained functional. MSF holds the respective rebel groups responsible for damage to MSF’s goods and premises, during the time they were in control of the town.

MSF has begun re-establishing full medical services. By the second day the number of outpatients had already doubled. MSF plans to bring in more staff and to restore our clinics in the nearby areas of Labado and Um Shegeira.

On 25 February 2009, the ICC set Wednesday 4 March 2009 as the decision date for the issuance of a warrant for the arrest of President al-Bashir, as requested by Prosecutor Ocampo in July 2008.



‘Khartoum prepares its response to the probable warrant to be issued by the ICC against Bashir,’ Guillaume Lavallée, **AFP** (France), Khartoum, 25 February 2009 (in French).

Extract:

To harden or pacify the regime? That is the question. Sudan is preparing its response to the potential arrest warrant to be issued by the International Criminal Court (ICC) against President Omar al-Bashir for his alleged role in the Darfur conflict. This week marks seven years since the latter began.

The ICC has shut down rumours by scheduling its decision on whether to issue an arrest warrant against Mr Bashir as requested by ICC Prosecutor Luis Moreno-Ocampo back in July.

On 1 March 2009, the MSF France/OCP and MSF Holland/OCA coordinators, along with coordinators of six other NGOs were instructed by the HAC that they must leave 10 sites before 4 March, “due to credible security threats.” Most MSF France/OCP and MSF Holland/OCA project sites were involved.

In the Nertiti and Kalma camps, MSF teams just started to organise treatment for an outbreak of meningitis.



'URGENT – Darfur,' **Message** from Vanessa van Schoor, MSF Holland/OCA Programme Manager, to MSF Sudan Programme Managers Karima Hammadi (OCB) Philip Humphris (OCG), Marta Cañas (OCBA), cc Gabriel Trujillo (OCP), Fabien Dubuet, MSF Liaison to UN, 1 March 2009 (in English).

Extract:

Today, the French and Dutch HoMs were called to meetings with HAC in Khartoum and Nyala, along with a number of the other key NGOs and we were all informed that due to credible security threats, they were instructing us to leave about 10 sites, including most of the French and Dutch project sites, before 4 March. We are trying to clarify the situation and will have more in the morning.

On the comms side, it seems the mobile phone networks are down in Nyala and Khartoum, so we have not yet been contacted by any journalists but will have to also prepare for this.

In addition, following warnings from all sides, we also brought our team out of Feina today. MDM's [Médecins du Monde] team from the East Jebel Marra also came out and were detained at the airport, questioned, and had computers seized. The MOM staff have since been released.

It looks like we have an interesting week ahead.



'Lovely Darfur,' **Message** from Jane Coyne, MSF France/OCP Coordinator in Nyala to MSF Gabriel Trujillo, MSF France/OCP Sudan Program Manager, 2 March 2009 (in English).

Extract:

Lovely Darfur - Sunday March 1st

Summary - today HAC in Khartoum asked us along with six other NGOs (MSFH included) to evacuate all expat staff from our field locations to Khartoum before March 4th. They claim this is for our security and they say it is compulsory. This contradicts the current security situation on the ground and the indications from our contacts in the field. We have 24 hours to understand the situation, decide, and prep for the evacuation. Walai!

Baseline information -

- 50 relocatable staff in Darfur today (see attached list). 3 Darfur/47 Khartoum
- Current security situation in all our locations is good [...]
- Meningitis - NI passed outbreak threshold last week with majority of cases coming from Thur. Fuck!
- No major risks, no threats, no signs of targeting against MSF.

Khartoum Meeting - HAC 3 PM 3/1/09 [...]

Like most things Sudanese we understand very little at this point ...

Locations targeted have no clear common link in terms of allegiance, ethnic group, or geography. Though it does cover most of the major IDP camps and is predominantly Fur/pro SLA areas. In many locations there are other organizations that are currently present that have not been called into this meeting.

Organizations - the usual suspects, but again there are no obvious conclusions. Many but not all the orgs expecting post ICC retaliation are on the list. [...] Others feel that the list of orgs could be less significant and merely represents the disorganization of HAC.

Timing - why do it before the announcement. MSFH is convinced it is based on some kind of security threat and that there is some basis in fact. I am less convinced that there is a 'real' security risk, but I have no logic or facts to support this. [...]

Communications themes:

Medical impact of departure - meningitis threat, sole provider of medical care to Nertiti /Kutrum and surrounding areas. [...]

Zalingei impact depends on whether the MOH staff stays in the hospital - FYI the nurses in ZA (MOH) are currently on strike - not paid in two months!

MSF executives analysed the forced evacuation of INGOs from Darfur. This was due to pressure coming from the Government of Sudan on the international community and ICC, ahead of the planned 4 March 2009 decision on an arrest warrant for President al-Bashir.

MSF Switzerland/OCG Programme Manager, whose teams made a precautionary evacuation, was in favour of an "MSF public communication stating the reasons for evacuation (HAC demand), MSF concerns for the population, regret that the humanitarian operation is suffering from a political/ justice process."

The analysis of the UN position on these events, as reported by the MSF liaison in NYC, was that the Government of Sudan targeted organisations "with a history of speaking out" and "which could happen to see something, because of their strong presence/operationality and then say something."



'Evacuations and ICC,' **Message** from Philip Humphris to MSF Switzerland/OCG Sudan Programme Manager, to MSF OCP, OCBA, OCB Sudan Programme Managers cc Fabien Dubuet, MSF International Liaison to the UN, Emmanuel Tronc MSF Policy and Advocacy Coordinator, 2 March 2009 (in English).

Extract:

We are evacuating Gola, in co-ordination with MSF France. We have not been requested by HAC to evacuate; it is an internal decision coming from the field. The problem is mainly to lose Nyala transport link in this unstable period. [...]

I think the most likely scenario is that there is no real security threat against MSF in Darfur in the areas that we are requested to evacuate from. This is a move by Khartoum to avoid any political manipulation by foreigners to de-stabilize the government, at the time of ICC decision. They want to put us on the back foot.

We will see at the RIOD teleconference this afternoon what we can agree on. I am in favour of an MSF public communication stating the reasons for evacuation (HAC demand), our concerns for the population, regret that the humanitarian operation is suffering from a political/justice process. Staying quiet in this situation could lead to more manipulation and misinterpretation of our evacuation than would be the case after communication.



'Darfur Urgent,' **Message** from Thierry Durand, MSF France/OCP Director of Operations to Filipe Ribeiro, MSF France/OCP General Director, Marie-Pierre Allié, MSF France President of the Board of Directors, cc Malika Saïm, MSF France/OCP Head of Emergencies, Caroline Livio, MSF France/OCP Deputy Director of Communications, 2 March 2009 (in French).

Extract:

Yesterday afternoon on Sunday 1 March, the HAC and national security convened a meeting with MSF Holland and other NGOs to order the evacuation of nine NGO work sites in Darfur, including our sites in Zalingei and Nertiti (five in South Darfur, three in West Darfur and two in North Darfur), with security the only reason cited.

Of course, this is clearly a deliberate attempt to mount pressure on the international community and the ICC, in view of the announcement on 4 March. I've attached the update on this situation drawn up by Jane, the HoM in Nyala, last night. [...]

I'll try to hold a RIOD group call in the early afternoon to plan a collective response (probably to evacuate everyone) and joint communication (tomorrow at the latest), certainly including a focus on MSF and the humanitarian organisations caught in the middle of the government/ICC tug of war and on the abandonment of people at sites where there's no HoM [...] Golo, Nertiti, Feina, etc.). This morning, I'm also going to schedule a meeting with the Sudanese ambassador.



'**Message** from Fabien Dubuet,' MSF Liaison to the UN in NYC to MSF OCP, OCA, OCBA Sudan Programme Managers, cc OCP, OCA, OCB, OCBA Directors of Operations, 2 March 2009 (in English).

Extract:

Here is a quick feed-back from the UN in NYC on our current situation in Sudan/Darfur. Everything is off the record.

- For them, the request from the Sudanese authorities applies to organisations 'with a history of speaking out' (Oxfam, Care, MSF), NGOs with 'a strong advocacy and management machinery', agencies 'who have talked against the regime in the past'. They also think Khartoum might just want to get rid of organizations which could happen to see something, because of their strong presence/operationality and then say something. That's probably why they also think we should avoid public communications on what's going on/our evacuation. They really think this is a mistake and 'an unfortunate' decision.

MSF drafted a press release, while the field teams asked for a less political and more medicalised communique, for security reasons.

ICRC advised MSF not to criticise the Government of Sudan "for taking security measures" and to focus on humanitarian concerns.



'MSF potential public positioning (ICRC point of view),' **Message** from Emmanuel Tronc, MSF Policy and Advocacy Coordinator to: Meinie Nicolai, MSF Belgium President, Laurent Ligozat, MSF Switzerland/OCG Deputy Director of Operations, Arjan Hehenkamp MSF Holland/OCA Director of Operations, Jerome Oberreit, MSF Belgium/OCB Director of Operations; cc Kris Torgeson, MSF International General Secretary, Fabien Dubuet, MSF International Liaison to the UN, Vanessa Van Schoor MSF Holland/OCA Sudan Programme Manager, Gabriel Trujillo MSF France/OCP Sudan Programme Manager, 3 March 2009 (in English).

Extract:

Dear All,

As just had feedback from ICRC on that, their point of view regarding the PR initiative,

- the press communiqué, insinuates that we doubt the reasons provided by the government (security) as the basis for the extraction of your expatriates. (Ref: Humanitarian aid to tb people of Darfur must not be held hostage to political or judicial concern). True or not, this may not 'please' Khartoum.
- It may be counterproductive to criticise GoS for its attempt to take security measures to protect humanitarian organisations (whether we believe in them or not). The validity of these measures will surely be tested later in the day, with an eventual return or not of the expats.
- Once this materialises, it may be more pertinent to use the card 'held hostage'.
- Lastly the humanitarian concerns and impact of this pull out on the vulnerability of your beneficiaries remains a pertinent and strong message.



'Comms HoM Feedback,' **Message** from MSF Sudan Heads of Missions to MSF Sudan Programme Managers, 3 March 2009 (in English).

Extract:

Dear all,

We are sitting together in Khartoum [...] regarding the release. We have some specific feedback we would like to outline:

We have made some rewording to put it more medical/more concrete. We have also changed the order of the paragraphs leaving the ICC issue at the end.

As HOMs, our main current/short term concern would be the security of the teams. The evacuation has not yet been completed for Zalingei and Nyertiti and we doubt it will happen today for Gola. Moreover, we still have teams in Kaguro, Seleia, El Fasher, El gen[E]ina, Nyala ... It is difficult to measure the exact impact that the press release could have on security but if it is true that there are genuine concerns about well-known NGOs being directly targeted because of their weight/impact on western public opinions, this is exactly the text that would put us at risk.

We understand that it is important to speak out. However, this text is extremely political and is going to be manipulated by all actors involved.

The government may be happy and take it as an additional argument towards the harm the ICC will make to the country. At the same time as you know, it will also be their opportunity to expel some of us. Some members of the international community will be also happy because we say what they don't dare to say.



'Darfur agreements (today at least),' **Message** from Arjan Hehenkamp MSF OCA Director of Operations to: MSF OCP, OCB, OCBA, OCG Directors of Operations, Kris Torgeson, MSF International General Secretary, Vanessa van Schoor, MSF OCA Sudan Programme Manager; cc: MSF OCA Communication Department, Hans van de Weerd, MSF OCA General Director, 3 March 2009 (in English).

Extract:

1. No proactive comms today.
2. A reactive line based on the draft CPs circulated to List Press, composed by Paris and Amsterdam, centralising media requests to the press officers in these locations -- Amsterdam comms to initiate, with Paris
3. A bilateral strategy including a letter of protest to the relevant authorities -- Malika to be in touch with her HoM to arrange this with Thierry.
4. A general agreement we also (beyond bilateral contacts) need to leave a public record of these events, so as to avoid major instrumentalisation. Timing and content to be determined later this week.
5. A desk meeting on Thursday in order to consider the evolution of events, and to determine the next steps in our ops and comms.
6. A clear desire from Amsterdam to not evacuate international staff from Nyala despite local insistence by HAC, so as retain an operational capacity in Nyala, keeping a presence and an ability to respond (particularly to Kalma meningitis).

V. EXPULSIONS OF MSF HOLLAND/OCA AND MSF FRANCE/OCP (2009)

A. TAKING NOTE OF THE SITUATION (March 2009)

1. Announcement and Immediate Reactive Communication

On 4 March 2009, in a project update posted on the international website, MSF informed that the Government of Sudan demanded the removal of all international staff from several projects in west and south Darfur. MSF expressed serious concern for the people of Darfur, left without healthcare.

During the day, as requested by the prosecutor, the ICC issued an arrest warrant for Sudanese President al-Bashir. **V8**

A few hours later, the MSF Holland/OCA coordinator in Sudan was summoned by the HAC and informed that MSF Holland/OCA was expelled from Sudan.

The MSF France/OCP director of operations who accompanied the OCA coordinator to the HAC, asked for an explanation and was sharply questioned "do you also want MSF France/OCP to be expelled?"

MSF issued a press release immediately, highlighting that the expulsion of the Dutch section would “leave hundreds of thousands without critical medical aid.” It stressed that MSF was completely independent from the ICC and did not provide any information to the ICC.



‘MSF seriously concerned for the people of Darfur left without healthcare following an order to remove international staff from relief projects,’ **Project Update**, MSF Website, 4 March 2009 (in English).

Extract:

The Government of Sudan has told Médecins Sans Frontières (MSF) it must remove all international staff from a number of projects in west and south Darfur by Wednesday, March 4, 2009. The projects, located in Zalingei, Nertiti, Muhajariya and Kalma, provide medical care and humanitarian relief to displaced and resident populations.

The explanation given by the Government is that it cannot assure the security of MSF international staff in view of the expected announcement of the International Criminal Court (ICC) ruling regarding Sudan’s President.

As a result of the removal of MSF staff, people will be rendered even more vulnerable. In some locations, where MSF is the sole medical provider, they will have no access to healthcare at all. This has already resulted in the cessation of MSF activities in Muhajariya, including the closure of the hospital, a location where MSF was only recently able to return following weeks of fighting early this year.

In Nertiti, MSF will be forced to stop medical services due to the departure of all medical personnel as a result of this order. This comes at a time when meningitis cases have been confirmed in Nertiti and Kalma camp, temporary home to 90,000 internally displaced persons.

MSF firmly reiterates that the organisation is completely independent of the ICC, and that MSF does not cooperate or provide any information to it. It is critical that humanitarian aid remains independent and impartial, to ensure that essential medical aid reaches those who need it.

MSF calls on all parties to the conflict to respect and facilitate our work, and to ensure the swift return and safe presence of our international staff.



‘The ICC issues an arrest warrant against the Sudanese President – Omar al-Bashir is charged with war crimes and crimes against humanity in Darfur,’ **Le Monde/AFP** (France), 4 March 2009 (in French).

Extract:

On Wednesday 4 March, the International Criminal Court (ICC) announced its decision to issue an arrest warrant against the president of Sudan, Omar al-Bashir, for war crimes and crimes against humanity in Darfur. Contrary to the opinion of the Prosecutor, Luis Moreno Ocampo, the Court did not support his allegations of genocide. The Sudanese minister of justice has already announced his decision not to cooperate with the international justice system.

In the afternoon, the authorities expelled a dozen non-governmental organisations. Médecins Sans Frontières (MSF) reported that it received an order from Khartoum to evacuate its international personnel based in Darfur. Shortly before, the army spokesman, cited by Radio Omdurman (official station), announced that the Sudanese army would respond “vigorously against anyone [who collaborates] with the International Criminal Court.”

Darfur, a region in western Sudan, has been torn apart by a violent civil war over the past six years. According to UN estimates, the conflict has left 300,000 dead and 2.7 million displaced. Khartoum puts the death tally at 10,000. “Our guys on the ground feel things heating up,” said a person in charge of the UN-African Union peacekeeping mission in Darfur (UNAMID).



‘Dutch section of MSF expelled from Darfur, leaving hundreds of thousands without critical medical aid,’ MSF **Press release**, Nairobi/Khartoum/Amsterdam, 4 March 2009 (in English, in French).

Extract:

The Government of Sudan has today informed the Dutch section of the international organisation Médecins Sans Frontières (MSF) that they are expelled from Darfur. This follows a previous order, issued on March 2, for MSF to remove all international staff from a number of project sites. The organization is outraged at the decision which leaves more than 200,000 of our patients without essential medical care.

MSF was summoned to meet with the authorities shortly after the International Criminal Court (ICC) announcement regarding the indictment of Sudan’s President Omar el-Bashir and told that it must cease all activities and prepare staff for immediate departure from the country. No further explanation for the decision was given. The Dutch section of MSF runs medical activities in three sites in South Darfur, in the areas of Kalma, Muhajariya and Feina.

This expulsion comes at a time when meningitis, a deadly disease if left untreated, has broken out in Kalma Camp, a temporary home to more than 90,000 internally displaced persons. It also leaves an estimated 70,000 people without any access to healthcare in Muhajariya due to the closure of the area’s only hospital and forces the closure of health clinics in and around Feina, where MSF treats an average of 3,000 people each month. MSF firmly reiterates that the organisation is completely independent of the ICC, and that MSF does not cooperate or provide any information to it.

“It is absurd that we, as an independent and impartial organization, have been caught up in a political and judicial process,” said Arjan Hehenkamp, Operational Director of MSF in Holland. “MSF has worked tirelessly to deliver medical aid to the people of Darfur since the beginning of the crisis. It is completely unacceptable that the people of Darfur are being deprived of essential medical care.” [...]

Since May 2004, the Holland section of MSF has been providing care in South Darfur’s Kalma camp, home to more than 90,000 displaced people. It is one of the country’s biggest camps. The MSF clinic saw its number of patients double in 2008, partly because a number of health care providers stopped working in the camp. [...]

At this moment, other MSF sections continue to work in a number of locations throughout Darfur.



In our risk analysis and our preparedness for the ICC verdict, we were preparing for MSF Holland to be the main target. We were preparing for my arrest as the country director. We had organised the team for that to happen. We had engaged with obviously the heads of missions of the other sections.

We had more than 50% of the international team already in Khartoum on the day of the announcement. We were all sitting in the house, and we were watching Al Jazeera. They announced the indictment of the President. And not even two minutes later, my phone rings and it's the HAC asking me to come to the office right then. I told the team, okay, I'm going... The deputy head of mission of Darfur was in Khartoum, so I put him in charge. I called Ghazali Osman the Deputy Country Director, who is Sudanese, and he said, 'Okay, I'll come and get you.'

Then I called Arjan, the Director of Operations. He said, 'I don't want you going alone. Thierry [Durand, MSF France Director of Operations] is in the country. Take him with you.' We picked up Thierry and we were probably at the HAC 45 minutes after they called. There were other country directors in the room from other organisations. I said to Thierry, let me take the lead. We were called into the room. It was the desk of the HAC Commissioner, but he wasn't there. It was the national security guy who was a real jerk to everybody. He was sitting behind the Commissioner's desk and there were five or six armed guys from national security, Ghazali stood in the back. Thierry sat next to me on the chair.

The national security guy put a piece of paper in front of me and he said, 'I regret to inform you that by order of the government of Sudan, MSF Holland is being expelled from Sudan.' Because I'm an idiot, I said, 'Well, why?' He said, 'You want to know?' I said, 'Yeah, I do.' He explained everything. I then said, 'Look, I have people in Darfur.' And he said, 'Don't worry. They'll be out in 24 hours.'

It was very clear they were making it up as they went along, they had no clue what they were doing. At the end, the national security guy said, 'Okay, I need you to sign this paper acknowledging that you've received this message.' I signed the paper. I had to put the date. I was just in this really weird headspace, and I said to him, what's the date? And he said, 'You don't know the date? It's 4 March. It's the day that the Sudanese people will never forget.'

Then he said, 'Do you have any other questions?' I said, 'No.' And then Thierry went, 'Oh but I do.'

I knew this was going to be bad. The national security guy had been ignoring him this whole time. He probably thought he was just another white guy in the room and did not care who he was. It was the first time he looked right at him, and he said, 'Who are you?' And then Thierry made the mistake of introducing himself. 'I'm the Director of Operations of MSF France.' The national security guy said to him, 'If MSF France wants to be in the same basket as MSF Holland, we can make that happen.'

Reshma Adatia, MSF Holland/OCA, Coordinator in Sudan, August 2008 to March 2009 (in English).



I was Director of Operations. Gabriel, the Programme Manager, asked me to go to Sudan on his behalf as he was unavailable. In Khartoum, I managed to tell someone in the security services that we didn't feel that the order to leave Darfur was justified and that we would release a press release to that effect.

The Nertiti team was in Khartoum, waiting to hear. We watched the TV and that's when we

found out that Ocampo, the ICC Prosecutor, had issued an arrest warrant against Bashir. Ocampo's press conference hadn't even finished before Reshma, the HoM for MSF Holland, called me: 'I don't get it, they want me to leave right now, they've not even told me why, what's your take?' I replied: 'I don't know, must have something to do with the arrest warrant. If you want, I'll come with you.' She said: 'Yes, I'd prefer you to come with.' So, I went with her to the HAC. There were other NGO representatives, gathered in what felt like a doctor's waiting room. Then they were taken into another room, and never came back out! [laughs]. Then it was our turn to go in, and we're greeted by the guy in charge of relationships with NGOs at the HAC, the sort of guy who does all the dirty work, psychologically inflexible and paranoid, who thinks NGOs are a bunch of spies. He's surrounded by guys in uniform. He says to Reshma: 'The government has decided to expel you. The letters are ready, etc.' And before she can say anything, he adds: 'You're being expelled, your property will be seized, we'll escort you to your office.'

I interject: 'I'm the Operations Director at MSF France, etc. Can you tell us a little bit more because this is going to have repercussions on everything MSF is doing here.' He replies: 'What are you even doing here! I'm not talking to you. It's none of your business, etc.'

He hands the letter to Reshma, we leave through another door, and he escorts us personally to the MSF Holland office to start seizing our property. He opens the safe, looks on the computers. His justification for seizing all our computers is that they allegedly found evidence of anti-government espionage activity committed by NGOs.

While they're seizing all our stuff, I'm in the MSF Holland office notifying Paris and starting to respond to the messages from journalists I've received from all over: BBC, RFI [Radio France Internationale], and so on. I say the same thing to all of them: 'I don't understand this decision, they've conflated the ICC's arrest warrant for al-Bashir and the most militant human rights organisations that supported it, and strictly operational aid-driven humanitarian organisations like MSF. It's going to be a disaster, the sick won't be treated, an epidemic is already starting in Nertiti, we were going to vaccinate people against meningitis, etc.' I basically got everything off my chest.

Thierry Durand, MSF France/OCP, Interim General Director 2007-2008, Director of Operations 2008-2014 (in French).



Everyone associated OCA's expulsion with the rape report. But at that moment, OCA seemed to be the golden child. Reshma had by far the best relationship with HAC or any government leader I've ever experienced in MSF. She had a very professional but very close relationship with the leadership and HAC and that didn't protect them.

Jane Coyne, MSF France/OCP, Coordinator in Darfur, November 2008 to April 2009 (in English).

In the afternoon of 5 March 2009, the MSF France/OCP coordination team in Khartoum received a letter from the Sudanese authorities announcing that the French section of MSF was expelled from Sudan.

The same day, 11 other INGOs were expelled. President al-Bashir justified all these expulsions by accusing INGOs of bias and collaboration with the ICC. He denounced Western "neocolonialism."

MSF issued a press release immediately, strongly protesting both expulsions and calling upon the government of Sudan to repeal the decision. The press release highlighted the expulsion consequences on the population of Sudan and reiterated that MSF was completely independent from the ICC.

On 6 and 9 March 2009, MSF hammered the same messages in press briefings in Geneva, Paris, and Nairobi. The media coverage was significant. V9 



'MSF strongly protests the expulsion of a second section from Darfur, Sudan major medical programs forced to halt activities; people of Darfur held hostage to political and judicial agendas – MSF calls upon the Government of Sudan to repeal its decision and allow vital assistance to the people of Darfur to resume,' MSF **Press release**, Geneva/Paris/Khartoum, 5 March 2009 (in English).

Extract:

This morning, the Sudanese authorities in Khartoum demanded the immediate expulsion of a second section of the international medical organization Médecins Sans Frontières (MSF). The decision to expel the French section of MSF, brutal and sudden, follows the expulsion yesterday of the organization's Dutch section. MSF is appalled by this order, which clearly holds the needs of the population of Darfur hostage to political and judicial agendas. The organization protests the order in the strongest of terms and appeals to the government to repeal these decisions and allow MSF to resume independent and impartial humanitarian assistance immediately.

"The order to expel MSF from Darfur is a dramatic turn of events that will have unprecedented consequences for the people of the region. Much of the population of Darfur is totally dependent on international humanitarian aid," says Dr. Christophe Fournier, International President of MSF. "The sudden halt of our medical programs, including vital surgical, nutritional, and basic healthcare programs, in large areas of Darfur will have an immediate and devastating impact on the population."

The vast needs of the population left unaddressed by the expulsion of so many aid organizations leave a huge void in assistance, impossible for any remaining agency to adequately fulfil. The basic needs of hundreds of thousands of people will now go unmet, be they medical, food, water, and sanitation. Outbreaks of meningitis in Kalma camp and Nertiti – where an estimated 130,000 people are in urgent need of vaccination – risk going completely unanswered.

The remaining sections of MSF working in Darfur are committed to continuing to provide medical care in the areas where they are working. However, this is a far cry from addressing the extent of the needs throughout Darfur.

"The ability to provide independent humanitarian assistance in Darfur has been drastically diminished over the past year, but the actions of the Government of Sudan this week risk to cut off humanitarian assistance for displaced and local populations in large areas of Darfur," adds Christophe Fournier. "The needs of the population are falling prey to political and judicial ends, which is wholly unacceptable. We appeal to the government to immediately repeal its decision and allow for independent and impartial humanitarian assistance for the people in Darfur."

MSF firmly reiterates that the organization is completely independent of the ICC and does not cooperate with or provide any information to it.



'Darfur: "Entire populations" left "without aid" after NGOs expelled," laments MSF,' Laurent Lemel, **Associated Press** (USA), Paris, 6 March 2009 (in French).

Extract:

"It's left entire populations without aid for weeks and months ahead. The situation is catastrophic for these populations," explained the president of MSF, Dr Marie-Pierre Allié, during Friday's press conference in Paris.

"Hundreds of thousands of people" are now "without the aid they need to meet their vital needs: medical treatment, food and sanitation," explained Dr Christophe Fournier, president of MSF's international board, in a press release. "Meningitis epidemics in the Kalma and Nertiti camps, where 130,000 people need urgent vaccinations, risk not getting the required treatment."

The order to expel MSF from Darfur "will have unprecedented consequences for the people in the region. Most of them are dependent on international humanitarian aid," added Dr Fournier [...].

MSF has been present in Sudan since 1979 and Darfur since 2003 and has now been expelled from five sites in western and southern Darfur: Feina, Kalma, Muhajariya, Nertiti and Zalingei. The French NGO, said Dr Allié, was providing medical aid to 300,000 to 400,000 individuals, in places where MSF "was the only aid operator" for these people who are "now totally deprived of healthcare".

In 2008, the MSF teams in Nertiti, Thur and Kutrum had, for example, given on average over 7,100 external consultations and treated 400 hospitalised patients every month, primarily to treat diarrhoea, respiratory illnesses and malnutrition.

At the Kalma camp, one of the biggest displacement camps in Darfur and home to over 90,000 people, medical aid included external medical consultations (4,500 a month), maternal health (pre- and post-natal consultations and at-risk pregnancies) and psychological disorders, including care to victims of sexual violence.

At Zalingei, where 130,000 people are living, MSF was working in various hospital departments, mostly in paediatric A&E, dealing with over 300 consultations a month in the children's (under-5s) emergency department and operating theatre. In the displacement camps, most of the MSF's activity consisted of giving "medical care not provided by existing health structures", primarily prenatal consultations but also treatment to victims of sexual violence.

The decision to expel NGOs is plainly "a political one driven by the need to find a scapegoat following the decision announced by the ICC and the international community," said Marie-Pierre Allié.

It is a 'tragic' situation, even more so given that the NGOs "are completely independent of this whole process" and are being "held hostage". MSF's president reiterated that the organisation is independent of the International Criminal Court.

The humanitarian organisation "does not cooperate or pass on information or eyewitness accounts" to the International Criminal Court.



'NGOs expelled from Sudan: the independence of humanitarian organisations called into question,' Isabelle Ligner, **AFP** (France), Paris, 6 March 2009 (in French).

Extract:

NGOs condemn the conflation of humanitarian aid, politics and the military following the decision to expel a dozen organisations operating in Sudan, after the arrest warrant issued by the International Criminal Court (ICC) against President Omar al-Bashir. [...]

"It's vital (for NGOs) to be seen as independent from the UN Nations," added Rony Brauman, from Médecins Sans Frontières (MSF), during a discussion Thursday evening in Paris entitled: "End of independence for the humanitarian sector?"

[...]

In mid-February, without singling any one out, Sudan accused NGOs working in its territory of being foreign agents and collecting information.

On Thursday, Omar al-Bashir lambasted Western "neo-colonialism" as justification for the expulsion of at least 13 international NGOs.

Khartoum accused them of being biased and collaborating with the ICC, which has accused the Sudanese president of war crimes in western Darfur, torn apart by a bloody civil war (leaving 300,000 dead according to the UN, 10,000 by Khartoum's estimates).

This matter is "extremely frustrating for the NGOs who have no interest in endorsing Bashir or taking the opposite position either," underscored Rony Brauman.

As far as he's concerned, "the only effect of this expulsion will be to radicalise the regime".

"Most of the world perceives what's happening not as doing justice but settling scores," he continued, as "other war criminals [...] are not just spared but considered watertight".

He mentioned the former US president George W. Bush and the Russian prime minister Vladimir Putin by name.



'Quick feed-back press briefing Sudan Geneva/Paris,' **Message** from Jordi Passola, MSF International Communication Coordinator to MSF List Press, 6 March 2009 (in English). video

Extract:

Hi there: we had an informal press briefing in Geneva this afternoon and there was also one in Paris this morning (with Marie Pierre Allié [MSF France President] and Thierry Durand [MSF France/OCP Director of Operations] by phone). In Geneva, Christophe Fournier [MSF International President], Filipe Ribeiro [MSF France/OCP General Director], and Bruno Jochum [MSF Switzerland/OCG General Director] briefed journalists on the expulsion of two MSF sections and specially on its consequences for the people in Darfur. It was (not so expectedly) well attended (including Reuters, AP, BBC, VOA, EFE, DPA, Kyodo news). They are available for interviews.



The next morning, I went to the MSF France office in Khartoum and two blokes in plain clothes brought us a letter confirming our expulsion. The guys looked awkward: 'It must hurt to be expelled? You know we're going to take everything you've got.' I replied: 'What worries me are the 800 people about to lose their jobs.'

There are several theories to explain our expulsion. I guess that at the end of the first day of the expulsion, in the middle of the night, the Sudanese security forces got together and said: 'What have we done? How did this happen?'

So, maybe they weren't happy that I rocked up with Reshma and decided to put us on the list too, but I doubt it as the guys were just jobsworths, not the people giving the orders.

Another explanation is that they conflated us with the announcement made around that time by the cabinet of the French Minister of Foreign Affairs, Bernard Kouchner, saying that France and its allies or partners would do whatever it took to arrest al-Bashir should he transit through one of their countries. Anything's possible, I've no idea.

Thierry Durand, MSF France/OCP, Interim General Director 2007-2008, MSF France/OCP Director of Operations 2008-2014 (in French).



And the next day, they got their paper. They were expelled the next day. I have thought about this day for so many years and I am still convinced they would not have been expelled if Thierry had just shut his mouth. He and I had a debate about it, years later. He still thought he was right. He was not right. He could have even said I'm representing the Director of Operations of MSF Holland, but he had to say he was from MSF France. He had to bring another section into it and that's what did it.

*Reshma Adatia, MSF Holland/OCA, Coordinator in Sudan, August 2008 to March 2009
(in English).*



MSF Holland had just gotten permission to vaccinate against meningitis the day that their expulsion happened. I went in the middle of the night with my local co-med to the MSF Holland house in Nyala while they were packing. We took over all their plans but 12 hours later, we were expelled as well. So, it was all for naught. However, I had this feeling that 'that's what we can do, that's what MSF can offer right now to these people' and I put a ridiculous amount of energy into just trying to share all the medical data with the Ministry of Health and sharing all the medical data with the other MSF sections in this pipe dream that they would be able to do the vaccination in our absence. And in the end, the outbreak did not take off.

*Jane Coyne, MSF France/OCP, Coordinator in Darfur, November 2008 to April 2009
(in English).*



It was MSF Holland who was in quite a moment of tension with the Sudanese authorities, and it was leading up to a point where they might get expelled. And suddenly, out of the blue, MSF France Dirops got in the middle of it and got expelled too. You wanted to open your big mouth? You're out too. Well... Holland, because of the report and because in general they were more defiant, I guess. And more troublesome for the government. It's possible the government suspected that they wouldn't lose MSF completely and that other sections would stay.

*Eric Thomas, MSF Spain/OCBA, Director of Operations July 2003 to July 2007
(in English).*

Many Arab states denounced the ICC warrant against President al-Bashir, and in support, the Arabic-language media relayed al-Bashir's accusations against INGOs, publishing articles about alleged INGO reporting to the ICC.



'Minutes of MSF ExCom Meeting on Sudan,' 6 March 2009 (in English).

Extract:

Communication and advocacy

Overall, the ExCom is satisfied with the communication and the way the RIOD and Com people have managed communication.

An advocacy plan has been approved by the RIOD; some meetings have already taken place. There are plans to meet with the Arab League and the African Union and many others and the ExCom members will be playing a role in this. MSF will continue to state its position and distinguish itself from other NGOs – no joint statements or positions.

The ExCom agrees with Hans that there should be strong and clear strategic position in the Arab media. Kris [Torgeson, MSF International General Secretary] mentions that the RIOD shared this opinion, and communications is working on a strategy for this.



'MSF France Weekly **Press Review**,' 2-9 March, 2009 (in French).

Extract:

In an interview broadcast on TV5 Monde, Marie-Pierre Allié, President of the French section of MSF, described this decision as "out of the blue and disrespectful". Her outrage was palpable: "We are an independent humanitarian organisation, yet we feel as if we are being treated like criminals."

Meanwhile, Thierry Durand, MSF's Operations Director, in his interview on France 24, said: "It's a clear political sign from the Sudanese government. They've given no explanation for their decision or answered any of the questions from MSF members."

During the LCI world news segment, Meinie Nicolai, (MSF Belgium [general director]) in Johannesburg, was just as categorical: "They're trampling on our independence by hinging our future on a political matter."

On France Inter, Marie-Pierre Allié sounded the alarm: "We're already seeing cases of meningitis; an epidemic is just round the corner."

Most of the online press is reporting on this story: many sites such as Express.fr, Monde.fr, 20 Minutes.fr and NouvelObs.com are running lead stories on MSF's expulsion. The online news site Rue 89 interviewed Christophe Fournier, president of the international movement: "MSF is appalled by this order that is treating Darfur's people like political and judicial hostages".

On 6 March, MSF held a press conference in Paris. The RFI news broadcast an interview with Marie-Pierre Allié: "Over recent weeks, indeed months, we have increasingly been struggling with administration including getting visas, work permits and so on," she explained. "It's going to be a disaster for the people there [...] We provide care to about 300,000-400,000 people in Darfur. Hundreds of thousands of people depend on international aid."

Lots of other publications also covered the expulsion: The Guardian, The Herald Tribune, and the BBC and Sky News, who interviewed Thierry Durand. The Arabic media network *Al Jazeera* also interviewed Christophe Fournier.



'Coverage of the Nairobi Press Briefing on Darfur Expulsions,' **Message** from Susan Sandars, MSF Regional Information Officer Nairobi, 10 March 2009 (in English).

Extract:

The Independent (UK National)

Humanitarian crisis looms in Darfur, say aid workers

By Daniel Howden in Nairobi

Tuesday, 10 March 2009

Thousands of children on feeding programmes face starvation, patients awaiting surgery have been left in doctorless wards and 90,000 refugees are now defenceless against a deadly meningitis outbreak in a single camp in Darfur, say international aid workers expelled from Sudan.

"A lot of lives will be lost," said Dr Philip Ejikon, from the Dutch division of Medecins Sans Frontières, in Nairobi yesterday. MSF Holland's operations which had been providing basic medical care to as many as 450,000 Darfuris have been dismantled.

The expulsions were a retaliation for the international warrant charging President Omar al-Bashir with war crimes in Darfur, where a rebel war is raging. "They targeted large organisations which did large food operations, medical programmes, water and sanitation," said MSF Holland's general director Hans van de Weerd. He said his organisation alone was feeding 2,000 young children and had delivered 50,000 babies in the past year.

The government accused MSF and others of working with the International Criminal Court; they strongly deny it. [...]

Nation Newspaper (Kenyan)

[...] Médecins Sans Frontières Monday appealed for the rescinding of their expulsion because of the human suffering it portends.

Mr Hans van de Weerd, the general director of MSF Holland, said in Nairobi that they were not aware of the reasons behind their expulsion, confiscation of their equipment, liquidation of bank accounts and grabbing of the workers' personal effects, since they have never associated with ICC.



I did a press conference in Nairobi. The day later in one of the biggest Kenyan national papers, there was an article that basically said: 'MSF condemns Bashir.' And it had a picture of me basically wagging my finger. I was a little upset with that picture because I thought it was probably not a visual that was so helpful in this! But that press conference got a lot of coverage because we were also one of the few that were doing that at the time that all these agencies were being expelled.

Those that decided to cover the press conference and were there, broadly were interested in bringing the story. The media that were supporting Bashir were not so keen in having stories like this be presented on their page. For sure there must have been papers that celebrated Bashir for taking a courageous stance and kicking all these foreigners out.

Hans van de Weerd, MSF Holland, General Director, 2008-2011 (in English).

On 11 March 2009, MSF France/OCP and MSF Holland/OCA evacuated international staff from Sudan. MSF issued a press release with accounts of the situation in Darfur, after the expulsions of INGOs. On 8 February 2001, duricessful.



'Concern and confusion following teams' expulsion from Darfur,' MSF **Press release**, 11 March 2009 (in English).

Extract:

Twenty-eight international aid workers arrived recently in Paris and Amsterdam after the French and Dutch sections of Médecins Sans Frontières were expelled from northern Sudan. These two sections represented half of the MSF staff working in Darfur. They are all worried about the future of those with whom, and for whom, they worked over weeks or months, and they wonder why they had to stop this essential medical aid.

"I just don't understand," says Eric Jeunot, who served as MSF's program manager in Zalingei, western Darfur, for seven months. [...] Since December 2003, MSF had been providing medical aid in this city of 130,000, whose population includes 100,000 displaced persons. "I can hardly believe it. I can see the dozens of patients who came to the clinic in the displaced persons' camp at Hassa Hissa every day. Now when they arrive, the door will be closed. We also had two nutritional clinics for severely malnourished children. And we provided free care in the hospital departments where we worked – patients could be now required to pay, which is particularly worrying as they don't have much money. And that's not including the medical staff, who will no longer receive bonuses from us. They could be less motivated to continue working in the hospital."

The problems are already visible. Pauline Busson, formerly MSF's program manager in Nertiti, received a call for help from the team's local staff members. "They said, 'We don't have any more food to feed the hospitalized patients. We can't pay to transport patients to Zalingei who need surgery or a caesarean section or to send patients with meningitis to Nertiti right away.' What could I say? There's nothing I can do! So, I told them to go see the local authorities. It's their responsibility now. MSF can't help them now." [...]

In the Kalma camp, vaccinations were to begin on Saturday, March 7 as meningitis has broken out in this camp of 90,000 displaced persons. "It's a complete disaster," says Lydia Geirsdottir, who spent nine months there coordinating Médecins Sans Frontières' projects in the camp. "People with meningitis will not receive treatment and there will be no more referrals to the Nyala hospital or vaccination campaigns. That means people could die."

2. Urgent Negotiations & Advocacy

The expulsion of two MSF sections sparked strong criticisms against the government of Sudan from the UN and many States. The MSF HART (Humanitarian Advocacy and Representation Team) multiplied meetings with diplomatic actors to secure support for further negotiations with the Sudanese authorities.

However, INGOs and humanitarian agencies were reluctant to speak out and preferred "strong lobbying to Sudan-friendly actors."



'Sudan & Advocacy objectives and proposal,' **Message** from Emmanuel Tronc MSF Policy and Advocacy Coordinator to MSF Directors of Operations, Kris Torgeson, MSF International General Secretary, Christophe Fournier MSF International President, Malika Saïm, MSF France/OCP Emergency Director, Jean-Clément Cabrol, MSF International Medical Secretary General, 5 March 2009 (in English).

Extract:

Dear all,

Trying to go out from a strict reactive approach, from our point of view, we need to develop an advocacy initiative based on the main objectives by interacting with actors regarding the expulsion of MSF sections:

- to confirm the expulsion of MSFF and H and underline the medical/humanitarian consequences.
- to preserve the operability of the OCs still authorized to stay.
- to preserve our room to manoeuvre for upcoming difficult negotiation on our new modus operandi (possible handover of MSFF and H program to other OCs, new technical agreement, return of some of the international staff evacuated, etc.)
- to check with them whether they think there is some pace for dialogue/ negotiations with the GoS to review this decision and see whether they are willing/can help us on that front.
- to better understand Khartoum's strategy and upcoming political/military developments on the ground
- to reaffirm strongly our independence toward the ICC process.



'Notes on Darfur,' **Message** from Fabien Dubuet, MSF International Liaison to the UN to Jerome Oberreit, MSF Belgium/OCB Director of Operations, Christophe Fournier MSF International President, Kris Torgeson, MSF International General Secretary, Arjan Hehenkamp MSF Holland/OCA Director of Operations, 5 March 2009 (in English).

Extract:

Washington, Paris, and the European Commission have called publicly [on] Khartoum to review their decision. Additionally, China, the Arab League, the African Union, the OIC [Organisation of Islamic Cooperation] and Syria have called on the SC to suspend the ICC proceedings. Note the silence of Chad/Deby. Others like Iran, Hezbollah, Turkey (which qualified privately the GoS decision as 'a huge mistake') or South Africa have only condemned or express concerns about the indictment and warrant of arrest. [...]

FYI, I have circulated widely our two press releases to UN officials, the diplomatic community (including AU, Arab League, OIC and Muslim/Arab states), ICRC and the NGO community.

Basically, the UN is not only stepping up public communications on the expulsion, but also starting intense diplomatic efforts/pressure on Sudan, the Permanent members of the SC (P5), the Arab League and the AU. They are trying to build a critical mass to review the decision of the GoS, using a provision of the Sudanese national law allowing an appeal within 30 days. This is seen as a possible face-saving way out for Khartoum, although many contacts in the UN and in Foreign Ministries are very pessimistic about a possible review of the GoS decision, that was taken at the highest level.



'The other organisations [...] my teleconf,' **Message** from Arjan Hehenkamp MSF/ Holland OCA Director of Operations to: MSF Directors of Operations, Emmanuel Tronc MSF Policy and Advocacy Coordinator, Marcel Langenbach, MSF Holland/ OCA Operational Manager; cc Vanessa Van Schoor MSF Holland/OCA Sudan Programme Manager, 6 March 2009 (in English).

Extract:

teleconf: OXF, SCF x 2, ACF, IRC, MERCY CORPS, MSF, CARE, VOICE, ICVA

- most prefer a silent lobbying towards Sudan friendly actors, legal appeal - couple with a low or descriptive public profile not to endanger chances of resuming work.
- outcome: a joint statement of hope and a request to the UN for strong leadership and strong communication. much concern about 'gap' information and advocacy.
- tidbit of interest is that the UN might consider employing all 6,500 staff in order to continue work? This elicited some concern about complicity
- I told them I was discouraged by the lack of strong public positioning by them, and that the UN as it is balancing multiple interests it needs also to be pushed through NGO comms.
- I disagreed to sign a joint statement, nor agreed to be mentioned in an email on behalf of the 7 to John Holmes asking for UN initiative/leadership.

With ICRC's support, MSF executives again tried to secure an MSF high-level delegation meeting with Sudanese authorities, specifically with the Minister of Humanitarian Affairs, Ahmad Muhammad Harun, who was one of the Sudanese officials wanted for crimes committed in Darfur by the ICC, which issued his arrest warrant.

On 6 March 2009, the MSF operational director platform, RIOD, and the General Director platform, ExCom, acknowledged the need to cooperate collectively on the Sudan case and agreed that MSF should stand as one in front of the Government of Sudan, to prevent plays on divisions between the various sections.

The RIOD discussed the future of MSF operations in Sudan; should all sections withdraw, or should the remaining sections continue? Should they organise operations differently?

All agreed to keep contact with the MSF Sudanese staff.

On 8 March, an intersectional agreement was drafted, setting up the "principles defining humanitarian space for MSF in Sudan." It was to be used as a base for further negotiations with the Government of Sudan.



'**Minutes** of MSF ExCom Meeting on Sudan,' 6 March 2009 (in English).

Extract:

The ExCom absolutely supports the need to act as one organisation and the need to discuss and cooperate at desk RIOD and ExCom level. Standing up as one is most important, as the government has been playing a lot with our sectional set up.

Meeting with Haroun

Kris [Torgeson, MSF International General Secretary] mentions that OCG HoM via ICRC may be able to set up a meeting with Haroun (Minister of Humanitarian Affairs) in Khartoum. Haroun is to call back ICRC tomorrow at 1pm to confirm or not. Meeting could take place on Saturday or Sunday. Nothing is confirmed and chances to get the meeting may be slim. [...]

The ExCom believes that making sure the meeting takes place and the agenda of the meeting are more important than the composition of the MSF representation. [...]

Main points to consider according to the ExCom:

- MSF presented as one movement.
- Reiterate positions taken publicly.
- Protest expulsion and inquire into reasons for it.
- State Security concerns for people on the ground and remaining MSF teams and staff who we have no contact with.
- Eventually, discuss on how we continue working there, how we can help the population, what conditions we are expecting to continue work in Sudan. [...]

RIOD began discussions on:

- the conditions for MSF to continue working,
- the capacity for the remaining sections to respond to the gaps consequent to the expulsions of 2 MSF OCs and all the other organisations, and how to organise that.
- modus operandi for operations going forward – do we stay, do all sections stay, do we arrange our operations differently.

For Christian [Captier, MSF Switzerland/OCG General Director], MSF is not yet in a position to talk about conditions, as we are not even sure that we can continue work in the country. Even if technically possible, we need to see our positioning: should we stay at all costs or have another strategy. We need a few days before we can make a decision.

Christian insists that we should not underestimate the other parts of the country and we need to be ready for other events in the months to come (in Juba, South Sudan...). We should have a broader view with not only Darfur but also the entire Sudan and some neighbouring countries and start think of a more global strategy.

Filipe [Ribeiro, MSF OCP Director of Operations] mentions that OC Paris may consider sending some staff back to Darfur to go and speak with our national staff and with the people we left. It seems that the HAC authorised some people to stay longer and is not so pushy to kick everyone out quickly anymore.

For Christopher [Stokes, MSF Belgium/OCB General Director], we must make sure we keep contact with our personnel.



'Principles defining humanitarian space for MSF in Sudan,' **Draft** intersectional agreement (RIOD), 8 March 2009 (in English).

Extract:

The following principles constitute the basis of the action of MSF in Sudan and should serve as a guide to negotiate with high level authorities and evaluate whether the conditions are in place for the continued presence of our teams, especially in Darfur but not only.

1. Ability to fulfil our social mission, i.e. assisting vulnerable populations victims of conflict, disease and exclusion
 - Recognition by GOS that there are still today victims of conflict and disease in need of the assistance provided by international organizations as referred to in IHL.
 - Recognition by GOS that MSF's humanitarian action takes place within the frame of:
 - IHL principles, and notably those referring to medical succour for victims of conflict,
 - the 2006 national bill on the organization of humanitarian voluntary work,
 - and is independent from the UN and the ICC in its objectives and means.
 - Capacity to assess in new locations and respond to new situations (epidemics, malnutrition, etc.).
 - Unrestricted delivery of medical and non-medical care (food, water, and sanitation) corresponding to needs of populations after they have been assessed by our teams.
 - Continuous presence of international staff, including medical, for reasons of programme effectiveness, proximity, and accountability to our private donors.
 - Recognition by the GOS that MSF's humanitarian assistance carried out within the frame of IHL is not an infringement or interference in internal affairs in a way that affects the sovereignty of the country (article 5, 2006 bill).
2. Ability to communicate on the humanitarian and medical needs of the populations
 - the GOS accepts that MSF makes public the information obtained within the frame of its humanitarian and medical activities regarding the fate of the civilian population's victims of conflict and disease, with a view of alerting the different stakeholders on their obligations to respect populations and IHL.
 - the GOS takes act of MSF's commitment not to transmit any information to the ICC nor to any other judicial institution.
3. Respect by authorities of the neutrality of the organization:
 - no undue pressure on international or national staff.
 - no seizure or temporary use of assets (vehicles, radios...).
 - freedom to hire national staff based on competencies assessed by MSF.
 - ability to liaise with opposition groups to negotiate security of our staff.
4. Translation of agreement into action through
 - respect of written agreements and revised procedures (visas, medical registrations):
 - o travel permits procedure allowing international staff to remain effectively in the project location during their period of assignment
 - o respect of team security by all GOS administrations and employees (SAF [Sudanese Armed Forces], national security, HAC).
 - orders directed at the different layers of administration (HAC, National security, SAF, MOH).
5. Establishment of a "red line" between MSF and GOS to ensure resolution of practical infringements of agreed principles:
 - Capacity to meet HAC and MOH hierarchy in case of problem.
 - Follow-up on the agreement with minister twice a year.

On 9 March 2009, the RIOD reaffirmed the main MSF objective: to secure a high-level meeting with the Sudanese authorities. The MSF international president planned a phone call with Ministry of Humanitarian Affairs, Ahmed Harun, for 10 March with the objective of securing a series of further meetings in Khartoum.

The RIOD was divided on the MSF Holland/OCA proposal to address a legal appeal regarding the expulsions.

They agreed to wait for the meeting with Harun before writing directly to President al-Bashir. The RIOD also agreed that communication should focus on MSF's protest on the expulsion and "willingness to continue to operate in Darfur, as an independent actor."

However, the MSF country coordinators in Sudan, MSF UK, and the MSF France/OPC director of operations, who were in Khartoum at the time, insisted that it was "not at all the time for a presidential level plea or request."

Fearing that such a request would weaken MSF's long-term objectives, they pleaded for "re-establishing a different relationship with the government of Sudan."

The MSF policy and advocacy coordinator highlighted that the Sudanese ambassadors were "in the dark" regarding what the government of Sudan wanted. Any reference or elaboration about the "genocide issue" should thus, be avoided.



'Sudan, RIOD Teleconference Final Minutes/Decision (9/03) & Teleconference 10/03 at 11 h30,' **Message** from Emmanuel Tronc MSF Policy and Advocacy Coordinator to: Meinie Nicolai, MSF Belgium President, Laurent Ligozat, MSF Switzerland/OCG Deputy Director of Operations, Arjan Hehenkamp MSF Holland/OCA Director of Operations, Jerome Oberreit, MSF Belgium/OCB Director of Operations; cc Kris Torgeson, MSF International General Secretary, Christophe Fournier MSF International President, Fabien Dubuet, MSF International Liaison to the UN, 9 March 2009 (in English).

Extract:

1/ Strategy & basic principles

*The RIOD agrees that the main objective is to have a high-level meeting with the authorities. The telephone conversation the 10/03 at 7 AM between Christophe Fournier and Harun is supposed to secure the initiative of having a series of discussions in Khartoum [...] At Khartoum level, MSF had already the opportunity to pass clear messages to the HAC regarding the ICC issue/MSF principles and our specific role/positioning of MSF. => The discourse will emphasize on our space to work in Darfur and will help us to define the operational criteria to stay or not in North Sudan. [...]

2/ Letter to the President El Bashir

* All agreed in principle but decision to wait until the discussion with Harun to see it will not create more tensions with the authorities [...]

4 / Appealing or not appealing?

* For many, a Legal appeal does not make much sense

* OCA insisted on addressing the appeal, the expulsion order, and the way it is organized. The position is not yet defined. In fact, it is on the ToR [...] to make recommendations in that domain.

* Not enough elements to go in that direction but the RIOD sees the importance to stick to our operational principles

5 / Advocacy/ communication

* Importance to not pressure Khartoum via the round of discussions

* Should focus on our protest towards the decision and willingness to continue to operate in Darfur, as an independent actor.

=> The main message is our request to the GoS to review their decision to expel 2 MSF sections.

* Must avoid referring in documents about the genocide issue, only orally and not proactively. For OCB, we should avoid mentioning it in all public statements. In bilateral meeting if it is raised it can be answered but even there, we should avoid any elaboration, our concern is our expulsion from the country and the fate of the population today following these expulsions.



'Position from the OCA field,' **Message** from Marc DuBois, MSF UK Executive Director to Vanessa van Schoor, MSF Holland/OCA Sudan Programme Manager, Marcel Langenbach, MSF Holland/OCA Operational Manager, Hans van de Weerd, MSF Holland/OCA General Director, Thierry Durand, MSF France/OCF Director of Operations, Kris Torgeson, MSF International General Secretary, Emmanuel Tronc MSF Policy and Advocacy Coordinator, Reshma Adatia, MSF Holland/OCA Head of Mission in Sudan, 9 March 2009 (in English).

Extract:

Attached, a document summing up our position (Reshma, Jose, Marc) here on the ground amid rumours of writing Bashir a letter or pushing for the expulsions to be reversed. Have discussed with Thierry and he is largely on-line though this does not speak for him at all.

It is very clear to me that now is not at all the time for a presidential level plea or request. Moreover, I think it will weaken our position looking at the long-term objectives. What is happening here is huge at the moment, and we should be mature enough to understand the politics of it all rather than naive enough to believe seriously in our outrage at being caught up in politics. Ditto for yet again insisting that we don't have anything to do with the ICC. Those are beside the point. We must also realize the smallness of our five or six projects in this context.

On 9 March 2009, an Arab state ambassador to the UN confirmed to MSF that the Sudanese government felt threatened by the INGOs potential to report to the ICC against them. The ambassador advised MSF to rebuild confidence with the Government of Sudan by avoiding public communication. He recommended that MSF meet with key Sudanese advisors, "with no strong expectations in the coming weeks."



'Sudan & Advocacy [...],' **Message** from Emmanuel Tronc MSF Policy and Advocacy Coordinator to Fabien Dubuet, MSF International Liaison to the UN, to MSF Belgium, MSF France, MSF Holland, MSF Switzerland operational and communications directors and advisors, 10 March 2009 (in English).

Extract:

2/ Arab [...] Ambassador (9 /03)

In substance, he said that it is an unprecedented crisis (first time a President in mandate is sued by the ICC) and the UNSC is responsible for not paying attention to the signals that have been sent (by the ALS, AU ...). Sudan is the heart of Africa and both African and Arab States support Sudan. This political process will definitely affect the humanitarian assistance. The GoS is threaten by NGOs reporting against them and for MSF it is essential to rebuild confidence with them. The question is how do we do it? For him, we should be patient and prudent as trying to do something (public communication, tribune, letter ...) may negatively affect MSF operations. We should privilege diplomatic channels by meeting his key advisors, with no strong expectations in the coming weeks.

Humanitarian actors must avoid believing that their actions can be preserved and that in isolation, they can continue their programs. It is impossible.

ALS is active to defend Sudan and mediating for a one-year suspension of the decision, to let the crisis calm down and investigate about who really did what in terms of collaboration with the ICC?

=> Patience, no public communication against Sudan authorities, bilateral meetings promotion

The Sudanese ambassadors in Geneva advised MSF to communicate as much as possible about independence from the ICC, including how MSF does not share information with international tribunals. The MSF International Council President, Christophe Fournier, sent Haroun a letter to this end. Fournier insisted on the urgent medical needs left unaddressed since the MSF expulsions and requested "a special status for MSF as a whole."

On 10 March 2009, the MSF ExCom agreed to focus on advocacy and public communications on the population's needs and to distinguish MSF from the ICC, "rather than appealing to reverse the decision to expel sections."



'**Letter** from Dr Christophe Fournier MSF International President to Mr Ahmed Haroun Sudan Minister of State for Humanitarian Affairs,' 10 March 2009 (in English).

Extract:

As I stated this morning during our conversation, it is very important for MSF that the Sudanese authorities understand that we have absolutely no relationship with the International Criminal Court (ICC). Since the creation of the ICC all MSF sections have adopted a binding internal policy refraining from any cooperation with the IC. This policy has been presented and explained to the ICC in order to make sure that MSF will not be compelled or summoned to give information or provide witnesses to the IC. This policy is based on the recognition that humanitarian activities must remain independent from

any political and judicial process in order to be able to provide impartial medical and relief assistance to people in need in times of violence and connect.

MSF's policy toward the ICC applies to all countries where MSF works, including Sudan. In respect to this policy specifically concerning Sudan I would like to assure you that:

- MSF remains completely independent from any judicial procedures and has not supported them in any way.
- MSF does not comment on the work or the indictment of the ICC or on the position of the Sudanese government toward it.
- MSF has not provided any information whatsoever to the ICC or Mr. Moreno-Ocampo.
- MSF intends to maintain as its main and direct counterparts, its Sudanese interlocutors and the official authorities.

MSF has always remained committed to our policy regarding the ICC and this is the reason why the decision to expel half of our teams from Darfur is impossible for us to understand. We regret if we did not express our position clearly enough to the Sudanese administration, but we did send a letter to the HAC in July 2008 to clarify our position and I personally ensured that a statement on this position was made public through all our websites. Therefore, I hope it is only a misunderstanding and that the Sudanese government will be willing to consider revisiting their decision to expel part of our team. MSF has been working in Sudan since 1978 and in Darfur since 2003. [...] In carrying out our work in Sudan, MSF has fully respected the sovereignty of Sudan and the national legislation, as well as International Humanitarian Law, while seeking to maintain a constructive dialogue with the Sudanese authorities at all levels.

The situation of the people in Darfur today is of utmost concern to us. Lifesaving medical care is absolutely needed, especially for the most vulnerable. [...] At present, we are no longer able to maintain a large part of our program. [...]

You requested that I elaborate on the urgent medical needs that our teams are concerned about following the expulsion orders. Our very first priorities would be:

- Vaccinate for meningitis in all camps in Darfur where it has not already been done including Kalma and Thur, where outbreaks have already been confirmed.
- Maintain provision of adequate medical care, food, drinking water and sanitation.
- Build an emergency response system to enable rapid response to potential degradations in the health status of the population, including malnutrition or epidemic outbreaks. [...]

MSF would like to be able to continue to provide essential medical care for those in need in Darfur, but we will only be able to do so if we can be accepted by the authorities and communities at all levels as a neutral and independent humanitarian organisation and if we can mobilize all of our collective resource to quickly assess and react to emergency medical need.

As I mentioned this morning, I would be grateful if you consider discussing with your administration an agreement purporting to a special status for MSF as a whole. The condition of our space for working and our subsequent ability to be as effective as possible are key elements that we would like to elaborate further with you.



'Minutes of MSF International Executive Committee Meeting on Sudan,' 10 March 2009 (in English).

Extract:

Feedback from Christophe's [Fournier, MSF International Council President] telephone call with Minister Haroun

Minister Haroun:

- is welcoming a meeting to take place ASAP.
- realizes that this would be with a delegation made of GDs and headed by Kris [MSF International General Secretary].
- was open to discuss any further plans but said that nothing could be changed at this stage.
- considered very important that we stay in contact with him and his people.
- committed to support the visa process by calling the embassies and asked to receive copies of passports and visa applications (which we sent via the ICRC).

ICRC feedback on Haroun: he commits to what he says. ICRC has been able to rely on him for concrete matters. He is solution-oriented and not too political.

Meeting to take place as soon as the visa issue is secured. We will see if Haroun complies with his commitment to support our requests.

Feedback from Christophe's meetings with ambassadors

All ambassadors:

- advised to let things cool down for a while and then there will be some space to dialogue and discuss.
- are expressing the need for us to stay in contact and develop and resume contact as much as possible at all levels with Sudanese authorities in the meantime.
- confirmed that Bashir made the decision. Therefore, other members of the government may consider with a positive mind our intention to stay in contact / resume contact with them.
- Believe it is very important at that moment to be as visible as possible with our position with regard to the ICC (independence, no sharing of information etc.) and advise that we communicate on that as much as possible.
- advised sending a letter to key people explaining our position towards the ICC and our concern on Darfur.

Discussion

Christopher [MSF Belgium/OCB General Director] wonders if they would allow an expelled section back in. Christophe notes that Haroun said that he did not make the decision and said that Bashir's decision could not be revisited at this stage. [...]

Hans [van de Weerd, MSF Holland/OCA General Director] finds it a bit ironic that the HAC people, whom we've tried to meet for months without success, are now advising us to stay in contact. He also finds it odds that they are now providing us guidance on advocacy strategy and how we should portray and distance ourselves from ICC. Hans believes we should not be too naïve and be aware that there is a deliberate and well-thought strategy to deal with the NGO.

[...] Christophe mentions that Haroun said he appreciated MSF and had nothing against MSF (which he restated to the ICRC afterwards even saying that MSF should not have been expelled).

Christophe asked Haroun for a special agreement for MSF for the whole Sudan arguing that our scope of activities and identity deserved it, Haroun said he could not say yes today but that we could discuss.

For Filipe [Ribeiro, MSF France/OCP General Director] this situation is schizophrenic. He does not understand how they can be so nice after being so nasty. He wonders if this is the same message he gave to the other NGOs.

Kris mentions that, thanks to the network Fabien [Dubuet, MSF Liaison to the UN] has been able to build up in New York, and thanks to MSF reputation, we've been able to

secure many high-level meetings there with key actors, which other NGOs have not been able to arrange.

Kris agrees that we need to be cautious but also recalls that this is the biggest door open right now (thanks to ICRC).

Christian [Captier, MSF Switzerland/OCG General Director] agrees to play this card with caution and recalls that in the past we have never managed to meet with Haroun. Kris notes that there was cautiousness from the RIOD as well, but eventually they agreed to keep contact with Haroun and his people as he advised. [...]

Communications going forward:

Hans is fully supportive of using this meeting opportunity. But he believes that we should do to them what they do to us: maintain a certain level of public pressure and keep expressing our problems whilst keeping backdoors diplomacy and reconciliation work. There must be a balance between the two and he fears that if we relay too much on the diplomatic side, we will end up being screwed.

Christophe agrees and notes that the ambassadors met also advised us to keep addressing our concerns publicly and to advocacy with diplomats.

For Kris, although the discussion at the RIOD on the communication strategy this morning may have not been entirely clear, there was never a sense that we would stop advocacy and public communication. On the contrary, we have to continue and put pressure. Advocacy round will continue, and a letter will be sent to key actors.

Regarding the communication strategy. There is a plan to focus on the Arab and Middle East media and the IO [International Office] is about to hire someone to support this (to start tomorrow).

However, Kris notes that we may switch the content of our communication and focus more on the population's needs and distinguishing ourselves in particular vis-à-vis the ICC (rather than appealing to reverse the decision to expel sections). [...]

MSF external positioning on Int'l justice

Christian mentions that Rony Brauman [former MSF France President and Director of Studies at MSF France Foundation] advised us to start working on a real statement on humanitarian aid and int'l justice. Christian recalls that MSF already has quite good internal papers on this issue but never pushed them to the external.

Christopher agrees to have a review and also to see where this will lead us, but this should not be done in the heat of the moment. Christian approves, the issue is very complex, and it will be very difficult to articulate externally about that. We also have to consider the issue in view of the populations we assist and in view of the other cases on our back and not only Darfur. Christopher recalls that MSF called for humanitarian interventions and for an ICC.

3. Abduction of MSF Belgium/OCB staff

On 12 March 2009, armed men abducted five members of the MSF Belgium/OCB team compound in Serif Umra, North Darfur. MSF issued a press release immediately afterwards, announcing that MSF international staff were withdrawn from all Darfur programmes, highlighting that because of this, many of MSF's essential medical services in Darfur were interrupted.^{V10} 

Three days later, on 14 March, MSF publicly announced the release of the hostages. Later, information was disclosed about the abductors, who were presumably members of a militia close to the Sudanese regime.^{V11} 



'MSF confirms abduction of three international staff in Serif Umra, Darfur, Sudan,' **Statement**, 12 March 2009 (in English).

Extract:

Médecins Sans Frontières (MSF) today, Thursday, March 12, 2009, confirms reports that three of their international staff were abducted last night in Serif Umra, the Sudanese province of North Darfur. Two MSF Sudanese staff were also taken at the same time; however, they have since been released.

The three international staff abducted are a Canadian nurse, an Italian doctor, and a French coordinator. All three were working for the Belgian section of MSF. Their immediate relatives have been informed.

MSF is currently working to get more information about the circumstances and the motives surrounding this abduction.

Our thoughts are with the colleagues and families of those abducted. MSF is deeply concerned about their safety and is doing everything it can to determine their whereabouts and ensure their safe and swift return.

At this stage, MSF does not have any further information and is not in a position to make any further comments in order to try to safeguard the security of our colleagues.

The French and the Dutch sections of Médecins Sans Frontières were recently expelled from Darfur. This expulsion did not relate to the other three remaining sections of MSF in Darfur, the Belgian, Swiss, and Spanish.

As a result of the abduction of its staff, all sections of MSF are withdrawing almost all international staff from projects in Darfur. Only an essential skeleton team will remain to follow the case of the abducted MSF colleagues. A number of Sudanese staff will also be relocated for now.

This evacuation will mean an interruption to many of MSF's essential medical services in Darfur. MSF is extremely worried both for our abducted colleagues and for the populations the MSF teams had been providing medical aid



'Médecins Sans Frontières kidnapped staff released in Darfur, Sudan,' MSF **Press release**, Khartoum/Brussels, 14 March 2009 (in English).

Extract:

Four Médecins Sans Frontières (MSF) staff, kidnapped on 11 March from Serif Umra, North Darfur, Sudan, were safely released this evening, 14 March 2009. [...]

They are now with MSF staff. They appear to be okay and are on their way to Khartoum. "We are incredibly relieved that our colleagues are safe and in good health," said Christopher Stokes, General Director of the Belgian section of MSF. "Their families have been informed and are overjoyed. Our thoughts are with each of our colleagues and their families as they look forward to being reunited. We are delighted this incident is resolved."

Originally, five MSF staff members - three international and two Sudanese - were kidnapped on 11 March from Serif Umra. Later that same night one of the Sudanese staff members was released. Today, all kidnapped staff members are free.

"We also want to express our outrage at the abduction of our colleagues," Christopher Stokes added. "It is a gross violation of everything that we stand for. Kidnapping of humanitarian workers jeopardizes humanitarian assistance to the most vulnerable. Our independent medical work must be respected if we are to continue working in conflict areas to save the lives of those who suffer most."

As a result of the abduction, MSF evacuated almost all international staff from its Darfur projects. A number of Sudanese staff were also relocated to safety. A skeleton MSF team remained to secure the release of the kidnapped staff.

"This kidnapping represents a significant escalation in the insecurity faced by aid workers in Darfur. As a result of this kidnapping, MSF was forced to drastically reduce all medical projects across Darfur. We are incredibly saddened by this, particularly as in many areas we were the only healthcare provider. The needs of the population in Darfur are immense and they are the people who continue to suffer." said Christopher Stokes.



Discussions were being more around the security situation and there was speculation about if this kind of kidnapping was oriented and related to the issue or not. Or it was by coincidence? Later it was politically shown off with the 'Eagles of Darfur' or something like that. I can't remember the name, but it was a very politically crafted name which appeared only once in the history and then disappeared. Obviously, that was government motivated. But the discussions were focused on the security more than on the issue of moving out.

Aitor Zabalgogezkoa, MSF Spain/OCBA, Emergency Programme Manager 2003-2005, MSF Spain General Director 2006-2012 (in English).



Bashir had a popular base who supported him in northern Sudan. He'd started speaking out against international organisations, saying they were 'spies or thieves,' which was tantamount to saying, 'if you want to go and attack, loot them, whatever, go ahead.' This message from the head of state was like giving carte blanche to the Janjaweed militia, bandit groups, etc. And the kidnapping of MSF Belgium volunteers that occurred. After a week they were released thanks to the government and governor intervening.

Thierry Durand, MSF France/OCP, Interim General Director 2007-2008, MSF France/OCP Director of Operations 2008-2014 (in French).

4. Low-Profile Pending Negotiations

The RIOD suspension of MSF communications on Sudan, during the abduction of the MSF Belgium/OCB team, continued after the team was released. A decision on MSF's return to Sudan, the operational future, and negotiations with the Government of Sudan, was still pending. The impending 29 March meeting between the MSF high-level delegation and the Sudanese Ministry of Humanitarian Affairs would be a potential turning point.

However, on 16 March 2009, President al-Bashir announced that within one year, Sudan would no longer need active INGOs in Darfur.^{V12} 



'Darfur will be NGO-free within the year,' says Omar al-Bashir, *Le Monde/AFP* (France), updated 16 March 2009 (in French).

Extract:

Sudan wants no more international humanitarian organisations working in its territory and especially in Darfur, the stage of the largest aid mission in the world, announced the Sudanese president, Omar al-Bashir, on Monday.

"I've told the people in charge of humanitarian affairs that by next year we don't want to see any more foreign aid organisations working on the ground with our citizens and that Sudanese organisations will be taking over this role," he announced, referring to aid in Darfur. "If foreign organisations wish to supply aid, they can get it shipped to the airport," he added, without making it clear whether this plan included the organisations based in southern Sudan, where several NGOs are active.

President al-Bashir delivered his strongly worded message in a speech to thousands of servicemen at a square near Khartoum's airport. The soldiers publicly swore their allegiance to the president of Sudan, a country whose relations with the West are currently very tense.

The same day, while acknowledging a drastic reduction of humanitarian space in Darfur, the MSF Dirops reaffirmed a strong will to "avoid a complete break" in MSF operations in Sudan.

The Dirops prioritised MSF to "continue to attempt to access and respond to the current needs in Darfur and fight for suitable conditions to operate in Sudan." The three remaining OCs (OCB, OBA, OCG) agreed on a common approach until mid-May regarding negotiations with the government of Sudan and pooling resources for operational assessments focusing on acute emergencies, non-state-controlled areas, and camps where the Sudanese MoH had no access.

In terms of communications, a low-profile approach was confirmed.



'Minutes of MSF International RIOD Meeting,' Brussels, 16 March 2009 (in English).

Extract:

The expulsion of two MSF sections along with 11 other NGOs is viewed as an extreme and unprecedented incident in the history of MSF and the broader humanitarian world. The RIOD recognises operational space in Darfur is fully controlled by the GoS. [...] Today operations are stagnating in an environment of low to no humanitarian space with very little hope of change in the near future. This reduction in space was a major concern of all OCs prior to the expulsion of OCA and OCP, an international delegation had been trying to secure top level meeting since the end of 2008.

Nevertheless, the RIOD wants to avoid a complete break (Iraq and Afghanistan examples) with the context of North Sudan in which political change is a possibility in the mid-term and where the needs of the populations remain high, with a large proportion of displaced, and a likely deterioration of the livelihood conditions for this population in the near to mid-term. [...]

While today we cannot say that there is evidence of a direct impact of the diminished / complete halt of the assistance provided by MSF and other humanitarian actors in terms of broad indicators, it must be emphasised that the negative impact on individuals in terms of life saving assistance is already a reality.

MSF will therefore continue to attempt to access and respond to the current needs in Darfur and fight for suitable conditions to operate in Sudan based around:

- The ability to move and speak directly to victims with minimal intermediaries.
- The ability to directly assist those most in need according to our own assessment, both in terms of needs and security.
- The ability to redirect our means according to the reading and assessments done by our teams.
- The continued ability to have direct contact with all parties to the conflict.
- The ability to be transparent about what we see, do and constraints we face.

[...]

The RIOD recognises the failure of MSF to distinguish itself within this mess and the need to take the lessons learnt from this failure into account when positioning ourselves towards the public, governments, institutions, and other humanitarian actors. While breaking this amalgamation in a context like Darfur may seem extremely difficult if not impossible, while remaining in Darfur this must be a priority for the movement.

Next steps

OCB, OCBA and OCG intend to remain in North Sudan. The three sections have different visions as to how far they will be ready to compromise the principles of impartiality and independence in our choice of action. [...]

At this stage the three sections do not see the usefulness of looking into the creation of a single MSF in North Sudan. However, the principle of a common approach towards the GoS and attempting to obtain a specific MoU for MSF sections is accepted. [...] All 3 OCs agree to stick to this common approach until mid-May at which time the pertinence of this approach will be re-discussed for further development (common emergency preparedness and response etc...)

[...] The RIOD recommends engaging in intersection assessments in the three provinces of Darfur with the objective to see the evolution of the situation on the ground, respond to emergencies and test the flexibility of the authorities in allowing remaining sections to independently choose new areas of operations. These assessments to be done in areas with reported emergencies or uncovered needs as well remaining project areas and to be followed by emergency interventions where needed.

In the coming month, the remaining resources of the 3 OCs should be pooled to undertake these assessments under a common agreement between the 3 HoMs in terms of priority setting and security reading. Joint assessments will only reinforce joint negotiation at Khartoum level.

While the position of a negotiator is not seen as natural to MSF as we are by nature defined by our action, in addition to Khartoum being far more astute at negotiations in general, it is accepted that this would be an added value to ensure a common approach in the coming month and in parallel to undertaking assessments. [...] The negotiator will allow to have a single voice towards the GoS to obtain suitable conditions as we try and implement assessment and define new projects. [...]

Priority for MSF operations

for the expulsions, such as al-Bashir's desire to get rid of any witnesses to his reorganising camps and relocating populations. She asked for an intersectional communication line to be set up instead.

The MSF Representative to the UN, Fabien Dubuet, explained that MSF efforts on humanitarian diplomacy/advocacy must be supported by public communications on operations.

For Fabrice, as for MSF Switzerland/OCG Director of Operations, Bruno Jochum, the key stakes to be addressed were MSF's positions toward military and judiciary international interventionism. For OCG, MSF needed to clarify the meaning of "witnessing [...] in a context of increasing international interventionism, where violations of humanitarian law have become a rationale for individual criminal punishment and armed intervention."

Eventually, the Op-ed was amended, and the release was approved by other MSF OC executives.



'Complete details on the surrounding conditions for expulsion of some international NGOs,' *Al-Rayaam*¹³ (Sudan) issue 4110, Khartoum, 7 March 2009 (translated from Arabic by MSF).

Extract:

Al-Rayaam newspaper yesterday received a report containing the details of expulsion of ten international organisations. The report said that support and consolidation with the ICC took different forms after these organisations had taken advantage of the humanitarian work using it as a cover to implement invisible agenda and had worked to fabricate a lot of negative reports on violations of human rights, compulsory evacuation for Darfur people and commitment of genocide. [...]

As for the Dutch Médecins Sans Frontières organisation the report said that in October 2004 the organisation publicised a report on genocide in Darfur, saying that it was practised by the government against civilians using Janjaweed militias. The report said that a criminal summons was conducted where the organisation failed to proof the cases and the national workers including the medical staff wash their hands of the report and refuted it pointing that it was prepared secretly. The organisation tried to exert diplomatic pressures to file the summon. So, it was filed by the minister of justice and the organisation was given a final warning in addition to expulsion of the CD and the coordinator of Darfur.



'Minutes of MSF International Executive Committee Meeting on Sudan,' 10 March 2009 (in English).

Extract:

Op-Ed for Arabic media

An English version of an Op-ed to be published in Arabic has been circulated for comments. The RIOD already discussed and revised it, and Kris would like the ExCom to comment on it.

13. Sudanese daily Islamist newspaper in Arabic, closely linked to al-Bashir regime.

For Hans [van de Weerd, MSF Holland/OCA General Director] adds that this comes from an effort within OCA to be more visible in the Arab media. This is a way to position ourselves in these media. There is still very limited understanding of our work, profile etc. and this is some sort of a response targeting a specific Arab Muslim audience.

Filipe [Ribeiro, MSF France/OCF General Director] [...] agrees that we should be more visible on the Arab media, but he feels uncomfortable with the paper focusing (too much) on how we treat Muslim people. For him, we should speak about what we are doing before speaking about what we do to Muslims or Arabs.

Kris [Torgeson, MSF International Secretary General] agrees this goes a bit too far. She feels uncomfortable with the idea of the universal humanitarian value and the definition of humanitarianism (to better humanity). She also believes there should be a little more voice from the field, and testimonials.

Christopher [Stokes, MSF Belgium/OCB General Director] fears that this document may have a counterproductive impact, he is quite worried about some of the words used (such as Western and Zionist power) and some sentences that could be dangerous if read too quickly or quoted independently.

Christian [Captier, MSF Switzerland/OCG General Director] believes we should focus on (and overlap) our medical identity and activities (rather than humanitarianism). Our medical identity is a good way to explain MSF and is easier to understand than our humanitarian identity. A doctor should sign the document.

Kris is confident that the communication people working on this Op-Ed is a good team that will think very cautiously (the person hired by the IO will start tomorrow).



'Communications materials you can expect over coming days,' **Message**, 10 March 2009 (in English).

Extract:

Arab Media:

In response to current discourse in Arab-speaking Media, an Arab Media Advisor has been hired on a short-term one-month contract, to work with an internal Arab Communications Cell to improve the positioning of MSF in Arab-speaking world.



'**Comments** on Draft Op-Ed: MSF expulsion from Darfur by Reshma Adatia,' Fabrice Weissman, Director of Studies at MSF France Foundation/CRASH, MSF Holland/OCA HoM in Darfur, 10 March 2009 (in English).

Extract:

Hello everybody,

I fully understand the need to publish an Op-Ed on our relationship with the ICC in the aftermath of our expulsion from Sudan and its northern countries v. southern countries conflict dimension. However, I don't think at all we have the piece we need and first of all that we need a special piece for the "Arab press". I don't want to be rude, but the current Op-Ed make us ridiculous if not disrespectful for the targeted audience, which we are addressing as a 5-years old kid. Two remarks:

1. Our position toward international justice should be the same for every media, whether Arabic or English or Chinese. The best way to destroy any credibility is to be perceived as an organization with different positions for different audiences. In addition, the way we try to adapt to Arab Press supposed expectations is very

debatable. Highlighting our work in Muslim countries, while preaching impartiality, means implicitly that the “Arabo-Muslim” cannot understand what impartiality means, and that we have to appeal to its tribal feeling to convince him that we are good people since we help his “brothers.”

2. This Op-Ed cannot consist of wishful pledging or self-promotion sermon (we are good people, we love humanity, we even help the Muslims, and we swear, we don’t cooperate with the ICC). It must address the real tensions between international justice and humanitarian aid. We have been part of the NGO ICC coalition, have been advocating for the “end of impunity” and even published a report on the rape victims in Darfur three weeks before the UNSC meeting that decided in March 2005 to defer the Darfur case to the ICC. We should reflect on that and draw some public conclusions.

I think there is no utter emergency to publish this position paper, assuming we might agree altogether on its content. The Sudanese government will not change his mind within weeks or even months. The stake is larger. They are to clarify our relationship with the international justice in the countries the ICC is or might be competent. We can take a bit of time to finalize our discussion and come out with a coherent message – rather than preaching the “Arabo-Muslims” on our righteousness which is totally counterproductive. Kris is working on a piece, I’m also working on one. Let’s get together something like next week or two to discuss it.



‘Minutes of MSF International RIOD Meeting,’ Brussels, 16 March 2009 (in English).

Extract:

Arab op-ed

Some DOs are not happy with the result (because not strong, not MSF, too self-promoting) but greenlighted.

Explanation of Michel that this op-ed is the result of a consensus, that it has been downturned. And also, that there is an adaptation needed to an audience that doesn’t know MSF and if they know it’s rather negative.

Some of the DOs welcome further initiatives to strengthen the MSF presence in the Arab world, some of them in theory as well but at this stage they want to have only a controlled factual expression. Thus, no interviews with Darfur returnees, meanwhile others are more in favour of this. Not clear (see press release).



‘Reaction to Fabrice’s paper,’ Message from Hélène Lorinquer, MSF Belgium/OCB Director of Communications, to Caroline Livio, MSF France/OCP Deputy Director of Communications, 18 March 2009 (in French).

Extract:

We can discuss the content another time, but as a matter of urgency: the timing is not ideal, this paper must not be released prior to the inter-operational conversation and discussions between directors on Tuesday [...]

1. This document does not follow any comms strategy (not Fabrice’s fault, we need to determine this as swiftly as possible). What is the point of this column, what is its goal? This is unclear. It is crucial and imperative that we define a comms strategy for Darfur in line with our operational objectives. If I have understood correctly, the operational policy (deciding whether we stay in Darfur) isn’t something that can be determined overnight.

We need time, and that is what the Khartoum delegation is setting out to achieve. The best-case scenario is we will have clarity in a fortnight. In the meantime, we need to establish an external communications policy. Things are heating up in Khartoum, and we will be coming under pressure to speak out: we need to decide on a strategy and inform the network. Fabrice's column proves that writing in or responding via the media with no strategic comms policy in place would be disastrous and counterproductive. If we speak out now before any discussion between the OCs has taken place, we run the risk of saying things we might regret tomorrow. Be careful.

2. In terms of the content (based on the Version 1 I read), I can see four issues here.

Firstly, it lends legitimacy to the idea that we are only being kicked out because of the ICC, yet we know/assume that while this is true in part, the other agenda at play is reorganising the camps, relocating people, and Bashir's vision of getting rid of the witnesses and doing what he wants on his territory. In short, be careful not to resume Darfur to the ICC's position and nothing more: that would be a gross error in terms of analysis and operational positioning.

Secondly, is now the right time to recall NGOs' inconsistency towards the ICC? Internally and with the NGOs themselves, yes. Publicly we will need to do this, but is now the time? If we do it now, we run the risk of playing into Bashir's hands, aligning with his drive to divide the humanitarian landscape to better control it.

Furthermore, in the Bashir article, MSF emerges as a bastion of consistency, and we should watch out for this, as in the nineties, MSF publicly called for the ICC to be formed too, MSF members supported the ICTs [International Criminal Tribunals] in Yugoslavia and Rwanda... In short, let's not forget what side we are on.

Thirdly, I absolutely understand the angle of serving up reproaches to the international community (inconsistency, hiding behind the international justice system). But here again, I cannot help but wonder: is this the message MSF wishes to champion today? Is it the international community's fault?! The ICC weren't the ones who expelled us... Let's be careful not to kid ourselves.

Lastly, regarding the final paragraph: humanitarian action has had an impact. There is less need than in 2003/2004. Tucked away between the lines are the statements made by MSF France and Fabrice over the past few years. I disagree not with the medical reporting but once again with the interpretation and positioning underpinning the rhetoric. Here too, we continue playing Bashir's game.

PS: I should add, it undoubtedly served as a catalyst, but let's not forget the statements Bashir made in November 2004, calling for the camps for displaced persons to be dismantled. What is currently happening is very probably an excellent excuse to make this happen (we would need to check indicators for forced displacement across the camps).

Targeting the ICC alone is to fall into the government's trap: MSF France was expelled, and MSF France needs to move on. End of story.

4. The sections need to work together to define the comms policy ASAP before things spiral out of control.

In fact, prior to the kidnapping the sections were clear on the comms policy, except for MSF France. We must not go back to being split on comms, especially since the kidnapping.

The sections also collectively decided (RIOD teleconference) that we would start by prioritising diplomatic means (ID [international delegation] meetings and Haroun), and that all comms ought to be suspended, or that we should align with the pre-kidnapping comms policy.



'Re: Validated version of the Op-Ed on Darfur/ICC,' **Message** from Fabien Dubuet, MSF International Representative to UN to Fabrice Weissman, MSF France Foundation/CRASH, cc MSF General Directors and MSF France Foundation/CRASH, 19 March 2009 (in English).

Extract:

Dear all,

I fully support Fabrice's comments and analysis and could have signed his message. This would be a strategic mistake not to move forward on this, with consequences in terms of perception and operability beyond Darfur.

This is about choosing which humanitarianism we defend and want to be part of. This is about reaffirming the independence of humanitarian action towards the ICC, the international community, the SC, the GoS and all belligerents. And the only way to say we refuse this hostage-like situation.

It is absolutely essential in light of the information we have on dynamics within the SC here and before the Arab League and AU high-level delegation arrives in NYC.

We were encouraged by many contacts here to keep on clarifying our position towards the ICC. We rapidly chose this approach on our humanitarian diplomacy front with a strict bilateral approach (while all my NGO colleagues - Oxfam, Care, HRW, Amnesty, IRC, etc.- here were trying to have joint meetings with China, Egypt, Arab League, thus maintaining the confusion between operational agencies and HR/advocacy groups... I can tell you it took them more time than us to get these meetings and that they were told very different things by these contacts than we were... MSF received a clear support from these channels, and I can tell you they put the Sudanese ambassador here under pressure (on the expulsion and the kidnapping).

Our efforts on the humanitarian diplomacy/advocacy front need to be supported by our public communications.



'Re: Validated version of the Op-Ed on Darfur/ICC,' **Message** from Fabrice Weissman, MSF France Foundation/CRASH to MSF Directors and MSF France Foundation/Crash, 19 March 2009 (in English).

Extract:

Hi everybody,

[...] As far as communications plans are concerned, I understood there was a black-out on communication for the two coming weeks. I find this a bit strange, to wait for the media window of opportunity to be closed to speak out. We have been expelled, kidnapped, accused of being spies and thefts and our only communication line is: no comment... In the meantime, the GOS, the UN, Western Diplomats, Human rights organizations, and Save Darfur are talking about us or on our behalf, undermining any MSF pretense to have independent views and practices.

Even though we eventually decide to create the event by pulling out unilaterally the last MSF sections (our only freedom to escape the hostage situation we are in, if there is really no hope to regain a minimum of relevant operability), I don't see why we should shut up for the coming days. The Op-Ed is less taking position, rather than raising questions in response to the two reasons officially given by Al-Bashir to expel NGOs and reorder humanitarian work in Sudan (we are collaborating with the ICC, we represent the government favouring Al-Bashir indictment and must be punished for them).

Personally, I think the stakes are not only Darfur and Sudan - It's very likely that humanitarian space is dead for us in north Sudan until regime change – but, if we don't react, we will inevitably be considered as part of the new humanitarian world order whose mantra has become terminate and punish the wrong doers (under the very questionable assumption that the only reason behind mass atrocities are bad men doing bad things). We are becoming part of a new human rights inspired war on terror based on international military interventions, sanctions, and judiciary punishment against the enemy of humanity. To take our distance toward this war on terror in Darfur does not mean to support the Al-Bashir murderous regime (in the same way as to take our distance toward the US led war on terror doesn't mean to support Saddam Hussein, the Taliban or the Shebab). I agree we are walking on a fine line. But not to speak out put us inevitably on the side of the punishers and terminators.

I think the Op-Ed is a first step to distance us. It has a lot of limitations, I agree, but to remain silent at this very moment is a lot of worst!



'Re: Validated version of the Op-Ed on Darfur,' ICC **Message** from Kris Torgeson, MSF International Secretary General to MSF General Directors 19 March 2009 (in English).

Extract:

Hi all, [...]

Even though we have agreed to delay communications initiatives for the coming days until we have (hopefully) a clearer idea of what our position on our operations in Darfur will be, I agree with Fabrice that we cannot completely stop ALL communications, especially if they are strategic regarding clarification of our position on the ICC. I believe this piece can help us do this and appreciate Fabrice drafting it.

So, although it will not yet be submitted for publication, I propose that you provide comments (general or specific) on the piece now, as it will take some time to prepare, especially if we consider submitting it to the New York Times for potential eventual publication. I am sending to the ExCom in the hope that comments from each section can be coordinated. We will ask New York to lead the editing for an English version.



'Re: Validated version of the Op-Ed on Darfur/ICC,' **Message** from Christopher Stokes, MSF Belgium/OCB General Director to Fabrice Weissman, MSF France Foundation/CRASH, cc MSF General Directors and MSF France Foundation/CRASH 19 March 2009 (in English).

Extract:

Salut Fabrice,

We are in general agreement with content of this version. Thanks for this.

We looked over the tribune from the point of view of current developments in Darfur of course, our global communication/message & operational strategies, but also from the point of view of the longer-term positioning of MSF and I guess how we go on the record as regards international justice (keeping in mind the importance of MSF consistency as regards international justice, which has not always been the case to date historically and within the movement as your recent paper pointed out).

Our main points on the tribune are:

- 1) The last sentence of the first paragraph ("the same government that orchestrated") is certainly true we fully agree but potentially difficult given our current level of exposure still in Sudan -- here, as the GoS has already made distinctions between specific MSF sections, we would wish for the tribune not to be issued as an international position but as an MSF France position signed by Marie-Pierre [Allié, MSF France President] and Fabrice [Weissman [MSF France CRASH] rather than Christophe [Fournier, MSF International President], if the sentence is to remain.
- 2) The references to the ICRC as supporting the court (the sentence about Gustave Moynier and the phrase [le CICR] ("in favor of International Criminal Court") to be removed as not vital for our argument nor very useful for the ICRC itself (also we omit to mention that we too supported it, so why should we highlight their support).
- 3) On "génocide par attrition" -- divided opinion over here as to whether to cite a phrase used by Ocampo [ICC Procesutor] [...] which all of us agree is inaccurate.

Personally, I can live with it though you could perhaps date Ocampo's quote.

4) For a general reader with less knowledge of Darfur, the last paragraph risks giving the impression that humanitarian aid stabilised the conditions for people across all of Darfur, and everything was just fine after we intervened, which was not the case. We would suggest a change, as follows:

- The relief policies implemented in Darfur had succeeded in averting famine and bringing down mortality and malnutrition rates in the camps, despite the population's insecure and precarious situation.
- Lesser point: there are a number of questions about data being used: 13 NGOs expelled, 3 million IDPs in the first paragraph.

On timing we would be in favour of next Wednesday (not another two weeks, agree with you this would be too long) after the ExCom meeting where we would decide our operational line and in order to avoid comms from the whole movement going in all directions in the meantime, which this Op-Ed could launch as a side-effect.

Agree with your line that this a historic moment, our worst fears are being realised.



'Re: Fw: Validated version of the Op-Ed on Darfur/ICC,' **Message** from Hans van de Weerd, MSF Holland/OCA General Director to Fabrice Weissman, MSF France Foundation/CRASH, cc MSF Directors, 20 March 2009 (in English).

Extract:

Dear Kris, Dear Fabrice,

In general, we support this opinion piece, in addition to the comments of Christopher we would like to make the following points.

This piece should be seen as a resumption of the international communication line, that positions us towards the expulsion, continues to talk about the plight of the people of Darfur, our operational positioning in Sudan as well as the global perception of MSF as an independent agency.

More opinion pieces are necessary addressing particular audiences. As far as communication silence, we believe this period should be as short as possible, can live with Christopher's suggestion of Wednesday but if for NYT, this weekend would be preferable, although we have probably missed the deadlines.

More specific comments on the piece as follows.

We are concerned that the piece in itself may imply that all elements of international action - humanitarian assistance, international justice, human rights, etc. - are actually incompatible, which they aren't, being based on the same principles (the right to assistance in conflict and the definition of war crimes are both out of the Geneva Conventions, for example...). We think our point is actually that there are conflicts in carrying them out, which is an interesting thing to reflect on. So maybe a rephrasing of sentences: "At the time, few NGOs grasped how the implementation of international criminal law and humanitarian aid may come into conflict in the field," and "The fight against impunity...may not always be compatible with the practical challenges/realities of providing physical assistance to civilians in conflict situations" (it is worth noting that sometimes civilians prefer human rights assistance to food aid, so not fair for us to prioritize for them...).

On the above as Christopher is suggesting it is indeed important to understand where MSF position is as a movement as compared to the positions of sections within.

We are also concerned with the paragraph on page two that says "the international NGOs' expulsion from Darfur is ... a form of reprisal against the governments ...". This is one perspective/belief or opinion, but it is stated here as though it is incontrovertible.

Also important is that we think that in the last paragraph all references to 'contrary to what the ICC Prosecutor claimed' should be removed. It is sufficient to say that the aid policies pursued in Darfur had succeeded in doing good things and that that is under threat. We should not be commenting on the case.



'Re: Validated version of the Op-Ed on Darfur/ICC,' **Message** from Fabrice Weissman, MSF France Foundation/CRASH to Hans van de Weerd, MSF Holland/OCA General Director, cc MSF General Directors, MSF France Foundation/CRASH, 20 March 2009 (in English).

Extract:

Hi Hans,

Thanks for your comments! Just some few general remarks:

- You're underlining a key point. With ICC, Geneva Conventions have become a penal code (and with R2P, violation of humanitarian law has become a reason to go to war). Personally, I'm not comfortable with this use of humanitarian & human rights ideas as a justification for more prisons, more judges, more police, more troops, more repression and more wars. I find this humanitarian utopia quite frightening. It is strange actually to see human rights organizations like Amnesty International who was created to free political prisoners from jail asking now to put more people in jails (as with HRW explaining that the only way to deal with LRA [Lord Resistance Army] is to exterminate all these brutes). You're very right in underlining that advocate of humanitarian relief, humanitarian criminal justice and humanitarian armed intervention are referring to the same set of laws & ideas. But I think it is important to underline that they are not only incompatible in practical terms, but that they reflect different political projects. That being said, I have no problem with the rewording you're suggesting.

- As for people preferring “human rights assistance” to food aid, I would reword it in a different way. The human rights assistance you’re referring too (in the case of Darfur) is assistance for regime change or military support to the rebellion. I think to call this very legitimate and political claims as “human rights assistance” is misleading in a sense that it covers with a veil of moralism and legalism the dilemmas of foreign interventions in an ongoing civil war.
- Concerning the reason for MSF expulsion/kidnapping, one might speculate about the real intentions of the GOS, but there is no doubt that it is also a retaliation (it has been officially presented like this - even the kidnapping was depicted by the Sudanese Foreign Affairs Department as a consequence of ICC indictment).
- Lastly, I think it’s important to contest the lies of the Prosecutor on the reality of aid operations. Moreno-Ocampo’s reading of the situation in Darfur is similar to the one of Eric Breteau from the “Arche de Zoé”. By stating that NGOs have provided him with evidence and then describing the situation in the camps in Darfur as extermination camps during his July 14th presentation to the UN security council, Ocampo put us in the position of a biased propagandist.



‘Re: Validated version of the Op-Ed on Darfur/ICC,’ **Message** from Bruno Jochum, MSF Switzerland/OCG General Director to Fabrice Weissman, MSF France Foundation/CRASH, cc MSF General Directors and MSF MSF France Foundation/CRASH, 20 March 2009 (in English).

Extract:

Hi Fabrice

In Geneva, we also support the idea of publishing an op-ed positioning MSF towards the political and judicial agendas and their effects on humanitarian assistance and believe we can do so without appearing to defend or support the policies of the GOS in Darfur.

Regarding the article you sent, here is our feedback:

1) As you state, the impact of this crisis goes far beyond Darfur. What we see in most of the Middle Eastern and African press is that the public opinion mainly supports Bechir’s decision against the international community and in particular NGOs, do not believe humanitarians when they say they are independent and impartial and in general hold a negative view on the action of NGOs.

I think MSF’s position should go further than what you propose in the op-ed:

- if today NGOs are targeted as part of a political retaliation against the ICC decision (a declaration of “war”), it is because there has been 5 years of constant confusion between political, military, judicial and humanitarian objectives, and most NGOs have actively played their part in this confusion. The whole aid system as it functions subordinate’s humanitarian action to foreign policy goals, and what we see today is the detrimental consequence. This is why there is a rather wide public support to Bechir [al-Bashir] in many countries. The strategies of integration as defined by big states and the UN in the mid-90s are playing with fire and managing to create levels of hostility towards humanitarians which are maybe reaching a point of no return. In my view, we should push for a fundamental change if humanitarian assistance is to have a future, and this could be part of the conclusion.

- the second point is the necessity for MSF as an institution to clarify our position on “témoignage” [witnessing]: on one hand we say we have no relation with the ICC and pursue only an objective of assistance, on the other, the image we promote of ourselves on websites and activity reports is an organisation going beyond assistance and “witnessing”. Internally we may be able to understand this subtle difference, but for the external observer and even more so for a government official, the difference between the two is very narrow and probably unpalpable. I’m afraid that simply stating again that we have no connection to the ICC is not enough to be credible if we are not able to explain our approach to advocacy and “témoignage”. Especially at a time when 2 strong supporters (Kouchner and Chevalier) of the ICC procedure and the “droit d’ingérence [right of interference]” both have roots in MSF and MDM, and this is public knowledge. If we fail to address this fundamental question, I’m not sure the op-ed will reach its target and convince readers.



‘Re: Validated version of the Op-Ed on Darfur / ICC,’ **Message** from Fabrice Weissman, MSF France Foundation/CRASH to Bruno JOCHUM, MSF Switzerland/ OCG General Director, cc MSF General Directors and MSF France Foundation/ CRASH, 20 March 2009 (in English).

Extract:

Hi Bruno,

I fully agree with you that we need to clarify what we mean by “witnessing” and how we see our role in a context of increasing international interventionism, where violations of humanitarian law have become a rationale for individual criminal punishment and armed intervention. As we discussed with the international office, we need to organize a workshop addressing our position toward international justice, armed intervention in the name of protection, UN integrated missions and so on. Why not in April?

All these critical issues cannot be addressed in an Op-Ed which is more raising questions than giving answers. However, I would like to comment on one point. Should we ask for humanitarian assistance to be given a priority over judiciary punishment? I don’t think so. Yes, the very reasons given to justify the indictment of Al-Bashir are highly questionable. The idea that punishing past war crimes is a way to prevent future ones is quite weak (otherwise, crimes would have disappeared from every country provided with effective criminal jurisdictions!). As a matter of fact, the first reaction of the Sudanese government following Al-Bashir indictment was to commit another war crime through expulsion of aid agencies and subsequent privation of humanitarian assistance. And the idea that there can be “no peace without justice” is grounded on nonhistorical evidence (they are actually a hell of opposite evidence from LRA indictment in northern Uganda being an obstacle to peace negotiations, to the Irish peace process relying on partial amnesty for past crimes to the end of communism in USSR whose crimes have never been judged!). There are many other reasons to criticize not only the decision to indict Al-Bashir but the whole concept of “international justice” (which personally I consider as an institution dedicated to western public opinion rather than victims of mass violence). That being said, the indictment of Al-Bashir is triggering unexpected political developments, no one is able to predict. Would they contribute to the betterment of the situation or not remains an open question. But I wouldn’t feel comfortable to bluntly denounce Al-Bashir indictment on humanitarian grounds. I would rather put a question mark. ICC is supposed to work in the “interest of the victims”. It has to demonstrate now it is fulfilling its promises.

Lastly, I don't think we can raise the question of the political opportunity of Al-Bashir indictment without mentioning he deserves it! If Al-Bashir is innocent, there is no problem, drop the case! The dilemma stems from the fact that he is really one of the worst war criminals of our times.

Beyond Darfur and the reactivation of the north/south divide, the implicit questions is: how do we find our way between southern despotism and northern imperialism?



We needed to play the same type of public positioning game as the government was playing with us. And rather than doing that in markets where everyone knew about MSF and a lot of people agreed with our perspective, we had to do that in markets where we were not that well known and where people should also hear another narrative than just the Bashir narrative.

Hans van de Weerd, MSF Holland, General Director, 2008-2011 (in English).

On 27 March 2009, the Op-Ed was finally published in the *New York Times*, under the title “Punishment or Aid” and signed by the MSF International Council President, Christophe Fournier. The core message was, “humanitarian assistance is not compatible with punishing war criminals.”

However, in early April 2009, the MSF international communications coordinator asked that the same Op-ed “not [be] proactively pushed for publication in other media at this stage,” as another version was prepared, and another still for the Arabic media.



'Punishment or aid,' Op-Ed by Dr Christophe Fournier, MSF International President, ***The New York Times*** (USA), 27 March 2009 (in English).

Extract:.

Humanitarian assistance is not necessarily compatible with punishing war criminals. Shortly after the International Criminal Court delivered an indictment of President Omar Hassan al-Bashir, the Sudanese government expelled more than a dozen international humanitarian aid organizations from Darfur, including two sections of Doctors Without Borders/Médecins Sans Frontières who were forced to leave in the midst of a meningitis outbreak.

With attacks on remaining aid workers increasing, the Sudanese president then declared that all international humanitarian aid organizations must leave the country within the year, further endangering the delivery of food, water, and medical care to millions of people in the war-scarred region.

These expulsions are a direct reprisal against groups suspected of being involved with the I.C.C. as well as against governments that support the indictment of President al-Bashir.

With no way of sending investigators to Sudan (which refuses to grant them visas), the international court's prosecutor said in 2005 that it would count on cooperation from nongovernmental organizations, among other institutions.

For their part, aid groups have not always been clear with respect to requests from the court for cooperation or testimony. Many groups supported the creation of the I.C.C.,

thinking it would contribute to the prevention of war crimes and reconciliation of war-torn societies, and some went so far as to claim they could be “an important source of information.”

At the time, few organizations fully grasped how international judicial processes could come in direct conflict with providing humanitarian aid. Delivering lifesaving assistance to civilians and noncombatants requires constant negotiation with local authorities as well as warring parties, who might be responsible for war crimes. The moment aid workers are perceived as collecting information for possible prosecutions, our ability to reach victims in need is undermined.

An organization simply cannot provide humanitarian aid and at the same time fight against impunity. Our teams spend a good amount of their time in Darfur negotiating the movement of ambulances through checkpoints manned by commanders of various factions, some of whom were directly responsible for the displacement of people we are assisting or the wounded we are evacuating.

Though inspired by the same objective — containing the violence of war — humanitarian assistance is not necessarily compatible with punishing war criminals or, for that matter, the armed protection of civilians. The crisis in Darfur highlights the need for aid organizations to acknowledge these contradictions and dispel any doubts about what their priority is and what they will or will not do. While Doctors Without Borders respects the I.C.C., we have not cooperated and will not cooperate with the court or relay any information to it, a position we have publicly and privately affirmed both to the I.C.C. and to the Sudanese authorities since 2004. Making clear the role of humanitarian aid and demonstrating a commitment to impartiality and neutrality allows groups to work on both sides of the frontline not only in Darfur but in other conflicts as well.

Of course, independence from the ICC is not enough to avoid being blocked from providing lifesaving humanitarian aid. Recent events demonstrate that whatever position international groups have taken with regard to the I.C.C., emergency assistance in Darfur is being held hostage to political wrangling between the international community and the Sudanese government.

The current standoff illustrates how the different components of international crisis management must be carefully arbitrated, taking into account the impact on the people most affected by a conflict.

In 2004, intensive diplomatic pressure on Sudan (including the threat of armed intervention) forced the Sudanese government to open the door to international humanitarian assistance, hence averting famine following the massacres of 2003-4. Now, five years later, international pressure seeking to punish indicted Sudanese officials has led to relief efforts being cut in half, threatening the lives of millions of people.

It is not for humanitarian workers to decide on a hierarchy among humanitarian, judicial and political or military forms of action. While Doctors Without Borders reflexively tends to make aid our first priority, we are aware that other legitimate approaches are possible. But contrary to what the I.C.C. prosecutor stated to the U.N. Security Council in July 2008, the camps for displaced people in Darfur were not the ultimate instrument of “genocide by attrition.” Despite the persistence of insecurity and localized episodes of great violence, international humanitarian aid has succeeded since 2005 in avoiding famine and lowering mortality and malnutrition rates to pre-war levels.

These gains are now threatened by the response of the Sudanese government to a politics of judicial punishment that still needs to demonstrate it can serve the interests of victims.



'Quick update comms line Darfur,' **Message** from Jordi Passola, MSF International Communications Coordinator to MSF List Press, 3 April 2009 (in English).

Extract:

There is an Op-Ed to be published in Arabic media that will be finalized in the coming days. And another one will be written that will reiterate the position of MSF regarding ICC but also about the GoS including our concerns on the humanitarian needs and status of the projects. The one published last week on the IHT/NYT should not be proactively pushed for publication in other media at this stage.

On 24 March 2009, the MSF ExCom decided that "MSF as one movement" would suspend all operations in North Sudan because of:

- **the deterioration of the security environment in Sudan**
- **the highly hostile atmosphere against all NGOs and foreigners**
- **the associated propaganda campaign against MSF by the Government of Sudan.**

Despite the ExCom decision, the remaining sections did not withdraw.

The ExCom decided not to communicate on this decision until after the meeting with the Sudanese authorities planned on 29 March.

However, the ExCom renewed support for a comprehensive communication strategy about the relationship between justice processes and humanitarian aid. The strategy was targeted at broad audiences, including those in Africa and the Middle East, and specifically, the current Sudanese and Arabic-speaking media.



'**Minutes** of MSF ExCom Meeting on Darfur,' 24 March 2009 (in English).

Extract:

Decision – on next steps for MSF operations in Darfur, the ExCom decides:

- o Based on the analysis we have today of the highly insecure environment for our teams in North Sudan, MSF decides as one movement to suspend all operations in North Sudan, while restating our continued objective and commitment to providing assistance to those in need in the region by staying engaged with the Sudanese government to negotiate on the potential conditions for resuming our work in Darfur and North Sudan as a whole.
- o This effectively means that we will stop all activities of the remaining sections of MSF in North Sudan in the coming weeks (max 4-6 weeks) but does not imply a withdrawal.
- o This process will begin following the announcement of this decision to the Sudanese authorities during the MSF delegation meeting on Sunday 29 March.
- o MSF will maintain a presence in Khartoum both for the suspension activities that will take some time to undertake and then beyond to continue to have a presence to keep the lines of engagement open with the Sudanese authorities as well as to follow the situation of the needs of the population. [...]

Note: This decision should not be communicated beyond Heads of Mission on the field before the meeting of the 29th of March. [...]

Communications:

- o We will not communicate on our decision to suspend operations until after the meeting with the Sudanese authorities on 29 March.
 - The form of this communication will be a factual statement for websites for the record stating our intention to remain in dialogue with the Sudanese authorities to constantly review the situation with the objective of resuming activities in the region.
 - We will refrain from proactive communication on this decision but have a reactive line prepared.
 - We will inform the Sudanese authorities that we will communicate in this manner on this decision during the meeting. [...]
- o We should consider focusing our communications on the Darfur population and what is happening to them. [...]
- o We need to rapidly respond directly to the anti-MSF propaganda in Darfur and in the Arab media.
- o We support the Op-Ed on the relationship of justice processes and humanitarian aid and see it as part of a comprehensive communications strategy on this issue that we should support, that should include:
 - Having opinion pieces along the lines of this Op-Ed written and published for other audiences including in Africa and the Middle East.
 - continue clarification positioning of ICC and justice.
 - We need to continue to strengthen our Sudan and Arabic media set up and impact. [...]

Internal international reflection on MSF and international justice:

- o ExCom would like the international to organize an in-depth intersectional reflection on:
 - Need clarify current and future MSF position on acting as witness in international judicial processes.
 - MSF relationship with human rights organizations.
 - Discuss and re-evaluate the role of témoignage or “witnessing”, both the term and definition, in MSF.

Delegation Meeting with Haroun on 29 March:

- o Who: Kris [Torgeson, MSF International General Secretary], Aitor [Zabalgogeazkoa, MSF Spain General Director], Christopher [Stokes, MSF Belgium/OCB General Director]; Christian [Captier, MSF Switzerland General Director] likely to have to leave on Saturday.
- o Delegation to meet with Head of Missions on Friday-Saturday to prepare meeting.

During the meeting, in addition to points already agreed upon above, we will ask the reasons for the expulsion of the two MSF sections and what the GoS is doing next and what its analysis of the kidnapping is.

Meanwhile, movement-wide reflection on the reasons for MSF's expulsions and on MSF's relationship to international justice continued.

The MSF UK General Director, Marc DuBois, posited that the expulsions might not have been related to the ICC but to "(1) seizure of resources plus the (2) clearing of the humanitarian field" as "in fact the objectives, with expulsion serving simply as a convenient means."

Kate Mackintosh, the Head of the MSF Holland/OCA Humanitarian Affairs Department, questioned what she saw in MSF's first draft of the Op-Ed and more generally, as "a drift toward a redefinition of MSF as a simple deliverer of medical services." While considering some distance from international justice as necessary for practical reasons, she insisted that MSF did not "paint" this distance "as a principled one." Mackintosh said she worried about the "implication of such a position for all our actions that challenge violence and abuse against our patients."

On 27 March 2009, the MSF France board of directors underscored the weakness of the MSF communication toward the Arabic-speaking world. The MSF France/OCP Director of Operations, Thierry Durand, linked the expulsion of the French section to the French government's strong support of the ICC. He said the Government of Sudan expected MSF to put pressure on the French authorities to change their position on the ICC.

For Durand, the expulsions were part of a momentum by African states to reaffirm their sovereignty, also illustrated by the recent expulsion of MSF France from Niger.



'Is expulsion the wrong word?' MSF **Internal Memo**, Marc DuBois, MSF UK Executive Director, 20 March 2009 (in English).

Extract:

In the end, it may not be that the Sudanese government has countered the ICC's arrest warrant with an expulsion of the soft target of NGOs. To be sure, we were targeted by a pervasive state apparatus seeking to protect itself against a foreign community with a suspicious relationship to their military and political enemies, and especially to the ICC. But we have not yet been expelled. So, it may also be that the so-called expulsion is a misdirection of sorts, and that the (1) seizure of resources plus the (2) clearing of the humanitarian field are in fact the objectives, with expulsion serving simply as a convenient means. This period marks the onset in earnest of the *Sudanification* of public services (i.e., aid), with the ICC decision serving as a rallying cry and our former assets as the necessary input. To wit, President Omar el-Bashir declared last week that all international NGOs should be gone from Sudan in the near future, having built the capacity and then handed over to local organizations. This country will turn towards less judgmental corners of the world for friendship, support, and assistance. Hence, this round of expulsions should also be understood as a test run, a first instalment of a larger process. Even if two underlying goals may be to create a witness-free terrain and justify a 'solution' to the camps, the core operation is part of a larger drive to shake off the yolk of the West, of building Sudanese spirit and independence into the sort of state that does not require the largest exercise of humanitarian charity in the world. In that view, we humanitarians are not simply the enemies of the state, we are a blight upon its pride.



'More thoughts on MSF, protection, and international justice,' **Internal paper**, Kate Mackintosh, MSF Holland/OCA, Head of Humanitarian Affairs Department, 25 March 2009 (in English).

Extract:

I am concerned about the tendency in much of our recent discussion to portray humanitarian assistance as a hermetically sealed area of activity, unrelated to other forms of action in favour of a population at risk. I see this particularly (but not exclusively) in the debates about Darfur and the ICC, the idea that we are as a humanitarian actor quite unrelated even in principle to the idea of punitive action for crimes against a civilian population. I think this is a misunderstanding, and I worry about the implication of such a position for all our actions that challenge violence and abuse against our patients – call them *témoignage*, advocacy, or 'protection'. [...]

I hope, in the spirit of Chantilly [MSF meeting in Chantilly in 1994 when MSF principles of action were agreed], that we see ourselves as humanitarian actors, rather than simple providers of relief (*secouristes*? [first responders]). And while we need to distance ourselves from international justice for clear and practical reasons, we should not paint this stance as a principled one, and it should not feel good. I sincerely hope that in our important efforts to get back into Darfur we are not promising the government of Sudan never ever to talk about the rapes and murders of the people we are there to help, and that our representatives will find wording which somehow satisfies the wish of the government, like any criminal, to avoid punishment without making us sound like out and out collaborators.



'**Minutes** of MSF France Board of Directors Meeting,' 27 March 2009 (in French).

Extract:

The discussion then moved on to our position vis-à-vis the ICC (raised in one of Fabrice Weismann's columns), which was fairly ambiguous even before a pro-government Sudanese newspaper made allegations, albeit later retracted, that further muddled the waters, damaging our reputation for neutrality. The stances taken by former MSF members (platformed in protests organised by Save Darfur) then further obfuscated our position. What's more, the Sudanese government is plainly waiting for us to put pressure on the French government to step in and change the outcome of the ICC process.

Thierry Durand [MSF France/OCP Director of Operations] [...] also raised the point that we've been expelled twice in two months, in Niger and in Sudan, and it's a bitter pill to swallow. Aid is increasingly being centralised by the State, particularly in Africa, where they're fed up with NGOs. They don't want to see these forms of 'recolonisation' on their territory. There's a rising tide of sovereignty globally, and Thierry Durand believes Niger and Sudan are being swept up in it.

He invited us to reflect on how we are perceived by others, our expulsion being aimed more at the French government than MSF. Our message to the outside world was largely accusatory, critical, helpful for relieving our frustrations but hasn't it just roused more mistrust? [...]

Marie-Pierre Allié [MSF France, President of the Board of Directors]: "Concerning our relations with the ICC, we've established a policy founded on keeping open access to the people we are helping. However, the broader issue concerns speaking out: the legal testimony/speaking out that we advocate is embedded in our practices."

Fabrice Weissman [MSF France CRASH, Director of Studies] seconded what Marie-Pierre said: "Before 2004, working conditions were extremely tough and massive pressure from the Sudanese government forced us to throw open access in northern Sudan, the upshot being that we suddenly got work permits in a week, etc. This was unthinkable before because we sought assistance from Western democracies rather than shoring up support with the Arab League, etc. We should have taken our negotiations with Sudan to the highest table."

Anne Yzèbe [MSF France, communication officer for Sudan] made the point that we don't make an effort to communicate on what we do for the people in the countries where we run operations. We communicate essentially with rich countries, donors and then out of the blue we want to run a specific communication campaign aimed at Arab countries. This is a matter that will come up again, but put like that, she finds it frustrating, because she "doesn't see why we would run a special campaign" [...]

Thierry Durand commented that Al Arabiya and Al Jazeera picked up our communication right away; they have 50 million listeners. This has the power to shift people's views in the blink of an eye, especially given that they broadcast the most critical messages.

Françoise Boucher-Saulnier [MSF, Legal Director]: The big issue is how we are perceived. We take it as read that everyone knows us and it's clear to everyone that we are the experts in emergency aid. In the United Arab Emirates, there was huge interest in finding out how we forged our principles (impartiality, etc.) and how that resonated with societies. It's important we don't communicate at different speeds. We need to have a clear identity and take the time to foster it, which is basically the strategy taken by the ICRC, who seem much better tolerated than us. We shouldn't be forcing people to mix. We need to build relationships based on listening to what people want not what we need! The debate on the ICC is inspiring, we should be proud of what we've built, but we also need to accept that the organisation isn't founded on individual freedoms alone. Our position on the ICC breaks down on the issue of speaking out; we therefore need to go through the full process of grieving for our collaboration with the ICC.

The last part of the meeting was spent discussing the importance of communicating to 'non-Western' decision-makers (Arab League, OAU) and the beneficiary populations, possibly via the communications leads on the missions, which would be a fresh approach for our comms practices.

On 8 April 2009, the MSF France Foundation's Reflection Centre, CRASH, organised a public debate on MSF and the ICC and the difference between legal and humanitarian "témoignage"/testimony. During this debate, the MSF Legal Director, Françoise Bouchet-Saulnier, elaborated on the historical background and analysis of MSF and international justice. She presented her essay, co-authored with Fabien Dubuet, called "Legal or Humanitarian Testimony? History of MSF's Interactions with Investigations and Judicial Proceedings." V14 



'Grounds for divorce? MSF and the International Criminal Court,' Françoise Bouchet-Saulnier, **Debate** MSF France Foundation/CRASH, 8 April 2009 (in French; in English).

Extract:

In 1998 MSF decided to support the creation of the International Criminal Court. Whether as victims or witnesses, it seemed obvious that we should participate in this initiative in the name of the protection of populations and the construction of a 'more just international public order'. 10 years later MSF stated that it 'would not cooperate and would not transmit any information to the ICC'. The organisation needs to keep its distance from the ICC, as from any other political body.

How can we explain this change of position? Is it Justice or MSF that has broken its promises? What is our position regarding the arrest warrant issued in March 2009 against the President of Sudan and the consequent retaliation against NGOs working in Darfur?

Françoise Bouchet-Saulnier looks back at the relations between MSF and judicial proceedings, the theme of a publication in the Cahier du Crash series in 2007 with Fabien Dubuet¹⁴.

C. LATE & CAUTIOUS COMMUNICATION ON PROGRAMME CLOSURE PROCESS (April 2009)

MSF Holland/OCA and MSF France/OCP teams were organising, as best they could, the closure of their programmes in North Sudan. As with other expelled organisations, MSF endured administrative harassment, extortion of funds, lootings, threats, and for some, refusal of exit visas resulting in physical retention in the country.^{V13}

For a while, MSF Holland/OCA considered legal procedures such as an appeal against the expulsion or a request to the government for confiscated assets compensation.



'Minutes of MSF Holland Board of Directors' Meeting, 13 March 2009 (in English).

Extract:

Q&A:

- Impact on other sections and projects? OCB has withdrawn staff to Khartoum (to create capacity); discussions are ongoing with Southern Sudan authorities, so far without result.
- Appeal? In Sudanese law, after a government decision has been issued, a party can try to appeal the decision after a 30-day waiting period. We will make an appeal but will also explore other options in order to try to have some continuity on the ground. We have made an inventory of what we could/should do, and we now evaluate all steps in the light of the kidnapping case.

14. 'Legal or Humanitarian Testimony? History of MSF's Interactions with Investigations and Judicial Proceedings,' URL: <https://msf-crash.org/en/rights-and-justice/legal-or-humanitarian-testimony-history-mfss-interactions-investigations-and>

- Will compensation be asked to GoS for assets that have been confiscated? Legally difficult to challenge, but we keep record of our assets. We also do not want to endanger the presence of the other 3 sections on the ground. Strategy is to present ourselves more as one MSF, with the aim of continued presence. We have to carefully navigate.



'Minutes of MSF France Board of Directors Meeting,' 24 April 2009 (in French).

Extract:

Sudan (Jane Coyne, former coordinator): expulsion of MSF

[...] Our departure was requested in the first week of March by the HAC; in the second week of March, following the kidnapping of 4 people from MSF Belgium, we were plunged into silence because we didn't know what to do; week 3 we enter into discussions, the staff are under pressure and there are reports in the local media about the use of expired medicines in our missions. In week 4, intimidation and propaganda were used, and our attempts at negotiation failed; at the end of March, we left and paid the compensation imposed on us. The Swiss section is now in charge of day-to-day administration, and we are monitoring the closure in Khartoum and the payment of staff. [...]

Details of the expulsion

MSF France had certain weaknesses in its relations with the authorities and was targeted for alleged political links. The authorities' very rapid propaganda method (branding us as spies and liars) was effective, and this rhetoric was taken up by the local authorities and the local population, particularly our national staff, who constantly questioned us about our real intentions and motivations. This efficiency extended to the follow-up to our departure: less than 5 hours after the expulsion order was issued, officers were present to ensure that it was effective. We had problems with identity theft and for a while it was impossible to know who was wearing our T-shirts and who was driving our requisitioned cars (especially for the Dutch section).

Repercussions

All the organisations had to pay very high allowances to their national staff. We chose to join forces with MSF Holland, and this period was the most difficult in terms of links between the field and headquarters. Once the decision was taken to pay the 22 million dollars, it became a 'strange adventure' to manage such a flow of money to Darfur, especially as HAC was present at every stage. We don't know how the operational gaps will be filled, particularly in camps where community leaders don't want to give access back to other players. The consequences for the population are linked to access to quality water and therefore to the problem of diarrhoea; food will also be an issue.

Difficulties

Our weaknesses lay in our HR difficulties, with a high turnover of staff, mainly on the first mission, and national staff who were difficult to mobilise. It was also very striking to see the doubts national staff had about MSF's ability to manage security problems. In March, this was exacerbated by our image as an 'enemy of the state', which 'justified' identity theft and vehicle theft, and then moved on to kidnapping and murdering national staff (also seen as acts of intimidation against staff who support us).



They took the passport when we came from Nyala to Khartoum and HAC held all the passports. At the time, Sudan was a country where you needed an exit stamp.

I didn't have a passport for six weeks and we didn't have cars nor drivers anymore. It was unsettling from a security perspective, mostly because all our communications were tapped. When I went to a meeting at HAC, the whole purpose was to tell me that they knew everything I was saying. They told me part of a conversation that I said in the middle of a traffic circle with no telephones around! The most frightening part of it was that I didn't have any way to communicate with anyone that wasn't tapped. Gabriel [Trujillo, MSF France/OCP Programme Manager] and I had worked out a few things that we thought were more secure than others: I would send part of a message and an SMS and part of a message and a voice-mail and part of a message and then we would have interpretation problems! It was like a game of telephone to try to avoid other people knowing what I was saying. But we did not have that much to hide.

Then there was all the discussion on the strategy for how to pay the staff because it was millions of dollars. It was totally extortion. The bank accounts were frozen. I did take almost 5000 dollars out of the safe in Nyala. And I gave 500 dollars to every expat, and they put it in different parts of their body and brought them to Khartoum.

Probably the most irrational moment of my life was screaming at Gabriel while I was riding in a cab and the cab driver's eyes were like: 'WHAT!' We were in the final stages after having agreed to pay the money, and we had figured out how to get it to Darfur. And Gab just told me that they'd chosen a different method to get the money into the country, and I just lost it. I was just screaming at him in the car saying: 'Your job is to get the money in the country and you guys are fucking around...' I was so angry... It had nothing to do with the money and smart people made undoubtedly the right decision but that was the moment when I completely lost it. They kept texting me every two hours asking: 'You better yet? How are you doing?' The day I left Sudan, literally, the money wasn't in the country. I didn't have a plane ticket and I didn't have a passport with an exit stamp in it until 2:30 in the afternoon, and I got on like a five o'clock flight. Probably it was also part of HAC's trick of not giving us time to prepare for it. I remember saying: 'I'm not leaving, the money's not here.' For me, getting the staff paid felt like the last act. And Gabriel was repeating: 'Get on the goddamn plane.'

*Jane Coyne, MSF France/OCP, Coordinator in Darfur, November 2008 to April 2009
(in English).*



Before the expulsion, I was regularly having meetings with the HAC and with the Ministry of Health. I had great relationships with the authorities. I was told non-stop by HAC especially that if only I didn't work for MSF Holland. It was those positive relationships that helped us avoid major problems even at the expulsion. It was not nice, but we didn't have staff harassed or detained. In comparison to the other organisations, we were treated very well.

So, when things went wrong for us on the expulsion, I had all these contacts to go back to and have these conversations with. The national security guys who were assigned to MSF Holland were people I knew. They were very nice and let me keep my mobile phone.

*Reshma Adatia, MSF Holland/OCA, Coordinator in Sudan, August 2008 to March 2009
(in English).*



We had the same conditions as MSF France/OCP in the sense that they wanted us to make payments to staff and only when these payments were made would they agree to let all of our staff go. So, it also took a while for all our staff to leave. They were never formally sort of like hostage. But since they didn't have their passports and their exit permits, they couldn't leave. And so that took a long time to get that sorted. But they did not loot any of the materials or equipment. It didn't become hostile or threatening. I would more describe it as very frustrating, and very time consuming.

Hans van de Weerd, MSF Holland/OCA, General Director, 2008-2011 (in English).

The tough closure conditions remained under wraps for weeks in hopes of preserving any possible chance for MSF to regain full operationality in Sudan.

On 19 March 2009, a press release mentioning the expulsion and closure conditions drafted by MSF France/OCP was rejected by the remaining OCs in Sudan for being “too hard in the language.”



'Minutes of MSF Directors of Operations Meeting (RIOD), Brussels, 16 March 2009 (in English).

Extract:

Press Release on expulsion of MSF OCA and MSF OCP

There is no approved draft yet. The first version of a PR shown by OCP is seen as too hard in the language used by the remaining OCs. OCA and OC Paris are working on an English version, and they will share it with the 3 remaining sections. They will have then 48 hours to react on the English draft. This means that the press release will be ready in the beginning of next week.

It is not the idea to give a press conference, neither a press briefing.

They want only a couple of spokespersons of only OCA and OC Paris because they want a controlled factual expression regarding the expulsion.

OCA and OCP will send with the press release as well as comm strategy and a comms line (who are the spokespersons, degree of pro-active pitching, ...) to the 3 remaining sections.

In mid-April 2009, once all MSF international staff left Sudan, a new press release was drafted by MSF Holland/OCA and MSF France/OCP. It described the reasons, conditions, and consequences of the expulsions.

Considered by some in MSF France/OCP as not strong or explicit enough, and not addressing the actual issue, the communique was amended and finally released on 22 April 2009. At the same time, a high-level Sudanese delegation visited Europe.

The press release was “tolerated with understanding” by MSF Spain/OCBA and MSF Belgium/OCB while MSF Switzerland/OCG did not offer support, citing the potential field security risks from the communique.

On 17 April 2009, the Qatari television channel Al Jazeera broadcasted a 25-minute interview with the MSF France/OCP Director of Operations, Thierry Durand. Some in MSF France/OCP criticised the interview as too complacent with the Government of Sudan. Still other operational centres criticised MSF France/OCP for not announcing the interview in advance.



'MSF Sudan: The intolerable process of expulsion/MSF Sudan: The unacceptable, intolerable forms of expulsion,' **draft Press release**, MSF OCA/ MSF OCP, Paris/ Amsterdam, 16 April 2009 (in English and in French).

Extract:

In reaction to the indictment of the president Bashir by the ICC on the 4th of March 13 INGOs were expelled by the government of Sudan, among which were the Dutch and the French sections of MSF.

The decision of expulsion was arbitrary and based on a false allegation of violation of Sudanese law by those NGO. It was also an insulting denial of the quality of work done by these NGOs for the sake of the vulnerable population in Darfur and of their ongoing vital needs. But the process of expulsion itself has turned into an unprecedented, intolerable, and lawless harassment. During the last 6 weeks, the expelled expatriates have been struggling to complete the governmental requirements to be allowed to leave the country.

To support their decision, the Sudanese authorities organized, a campaign of propaganda against the NGOs, accusing us to be thieves and spies, of violating the Sudanese laws and of being a threat to national security. This led to an atmosphere of suspicion and hostility towards NGOs in general. MSF was specifically targeted when 5 members of the Belgian sections were kidnapped on the 11th of March. The propaganda continues even to discredit the quality of our health services though the false accusation of using expired drugs.

From the very first day of the decision of expulsion, all MSF assets and properties were seized, and all teams were given less than one hour to leave Darfur.

It was in this environment that MSF teams had to execute the government orders regarding settlement of salaries for our staff and administrative closure of our activities. Our remaining international staff experienced constant administrative harassment. During the entire process MSF expatriates were left without passports and under threat of legal charges. MSF's homes and offices were occupied by government authorities who declared a seizure of all our property and assets. These included vehicles and identification materials, some of which were misused by state authorities, which compromises the neutrality of our organization. Despite promises, it is unclear whether these seized assets will be used to continue humanitarian operations. In total MSF-F alone has effectively lost control of assets representing a value of more than 2.2 million euros.

Two weeks after the expulsion, a ministerial decree forced us to pay six-months' salary in addition to what is required under the existing labour law. The salary settlement raised up to a total of 1.1 million euros while guarantees to convey this amount to the employees were harshly negotiated. MSF decided to pay to get back the passports and be able to evacuate the remaining expatriates.

Six weeks after the expulsion, all our international staff have finally been allowed to leave Sudan and it is only now possible to explain how difficult the process of expulsion was. MSF remains concerned for the security of our national staff and for the fate of the population left without assistance. The expulsion process of the other NGOs is not yet completed and the ability to restart impartial humanitarian activities remains in question. MSF works in Sudan since 1978 and has carried out vital assistance in many different regions of North Sudan. Since 2003, MSF has worked in Darfur treating more than 3 million outpatients, 60,000 inpatients, given 225,000 ante-natal care consultations, delivered 10,000 babies, performed 12,000 surgeries, and provided mental health care for 20,000 people.



'Today's talk,' Interview with Thierry Durand, MSF France/OCP Director of Operations, **Al Jazeera** (Qatar), 26 March 2009, broadcast on 17 April 2009 (in English). **V15**  (in Arabic).

Extract:

Government has declared that you are not wanted in Sudan, what do you understand?

No, we don't understand why, this is unfair and sad essentially for the Darfur population. Accusations are false. We understand that the president is unhappy, but the NGOs were trapped in this situation and became the scapegoats.

What about the other sections? Are other sections staying?

Two have been expelled, three are still there for now. When we were expelled, our activities stopped, authorities did inventories of what we have. Many IDPs left without assistance. There are meningitis cases. We hope we'll be able to come back to Sudan one day.

Some say NGOs exaggerated what was happening in Darfur, that they contributed in stigmatising Al-Bashir – so they played a role?

There was a first period, around August 2003, when the situation was very violent and access to aid was bad. MSF was one of the first NGOs to work in Darfur at the time.

Following the ceasefire, a great deal of aid was deployed, stabilising the mortality figures. It has been a difficult situation, a situation of dependence, but in terms of mortality/morbidity figures the situation improved and was better than other regions in Sudan.

It is necessary to make a difference between Human Rights NGOs (that made lot of noise about Darfur like Save Darfur) and humanitarian NGOs.

I was also shocked by the declarations of Ocampo describing Darfur as exterminations camps when he said that 5,000 people were dying each month in Darfur. Even the figures according to the UN reports are not close to that.

Darfur is very politicised, what do you think?

All this is something and we are something else. MSF was there from the beginning of the crisis. What we saw in Rwanda is not the same as what we saw in Darfur. We don't collaborate with the ICC.

Bashir says that the organisations played a role in what happened to him.

It's possible that some other NGOs collaborated and also possible that ICC used reports that MSF addressed publicly. But we haven't any relationship with our government. Kouchner left MSK 30 years ago. We have good relations with Sudanese, we even have Sudanese working with us in other countries.

What is the situation for your Sudanese staff?

We are concerned about the situation of the staff. They have lost their jobs, so it is difficult for them. Al-Bashir says he wants the "Sudanisation" of the humanitarian work, yet we (for the two expelled sections only), had 40 expats, whilst around one thousand

Sudanese staff worked with us. So, the aid was mostly carried out by Sudanese already. The staff is worried about their future.

What do you think of kidnapping, what was the message?

Don't know who was responsible, but when Al-Bashir visits some areas like El Fasher and publicly accuses NGOs, then he leaves the door open for youth bandit groups to retaliate against NGOs maybe for their own account. We stay concerned about this but still don't know who did it.

About the Sudanisation, is the government capable of covering all the aid gaps created by the expulsion?

I don't know. But this requires logistical and financial means as well as human resources. Some Arab organisations like the Red Crescent have a great capacity. An issue remains whether Sudanese organisations can be independent. In the media, the displaced are reported not to want Sudanese organisations.

Are the doors closed definitively?

We've been working in Sudan for thirty years, there's always the garden door so we hope we'll come back. It is very difficult to envisage this right now though. At this stage, we don't have contact with the high level.

Is Al-Bashir the only one responsible for what happened in Darfur, or does the West also have a role?

Sudan is a sovereign state with its own institutions and should accept responsibility.



'Com Darfur,' **Message** from Fabrice Weissman, MSF France Foundation/Crash to MSF France/OCP General Director Filipe Ribeiro, President Marie-Pierre Allié, Director of Operations Thierry Durand, Deputy Director of Communication Caroline Livio, Communication Officer Julie Damond, Coordinator in Sudan Jane Coyne, Sudan Programme Manager Gabriel Trujillo, 17 April 2004 (in French and English).

Extract:

Hello everyone,

I was asked by Comms to give my opinion on the press release describing our 'anger' and 'outrage' at having been treated like 'criminals' by the Sudanese government. As you might have guessed, I'm not entirely sure that was the best approach. Here is an alternative proposition (in English, to share with your colleagues).

It's obviously too late for a redo (if we'd been well prepared, we could have run a smashing campaign about Jane's return with the cameras at Roissy airport and everything). In terms of timing, commenting on our expulsion more than six weeks after it was announced and 10 days after the last expat had returned home looks like we don't know what we're doing, but better late than never.

In addition, as you know, the interview with Thierry on Al Jazeera was finally broadcast this afternoon (25 minutes on one of the world's most viewed channels, in the same tone of the first Op-Ed provided by MSF Holland aimed at 'Arab Muslims').

Good luck to all of you who may have to respond to questions from journalists!

Hi guys,

Just a few comments on Darfur PR issue. Yes, it is of paramount importance to come back publicly on the reasons, conditions, and consequences of our expulsion. Considering the complexity of the various issues involved, the best way is to issue a +/- 6-page press briefing kits supported by a press release.

In my view, our communication should be based on the following ideas (just brainstorming...):

1. The reasons of our expulsions are fallacious

We cannot only state that the government is lying when it states, to justify our expulsion, that we are spying on behalf of the ICC and poisoning our patients with expired drugs. We have to deconstruct each accusation (it is not enough to be 'outraged' and 'angry' to be treated as a criminal, we must demonstrate the GoS is the one):

- No official explanation/proof but media propaganda
- ICC cooperation: The government never produced evidence of collaboration because they don't exist. We have a clear non-cooperation policy as opposed to other organizations which are still allowed to work in Darfur. The spying accusation has also been recently levied by the GOS against Tunisian and Egyptian journalists who were just doing their job. ICC cooperation is not the real issue explaining our expulsion. It is pretexted to satisfy internal Sudanese opinion, counter the western diplomacy, and regain the control over aid operations.

- Expired drugs: We must explain why we have expired drugs, how we deal with them and how the GoS orchestrated a TV propaganda show while visiting our MOH supervised warehouse for expired drugs.

2. The conditions are unacceptable

- Use of identification material and diversion of humanitarian goods for military purposes: not only a breach of 'humanitarian principles' the GOS is claiming to uphold but also a sign of its real commitment to substitute the expelled NGOs. While we managed to hand over our drugs to the MoH, our vehicles, radio, and satellite phones have been taken away by National security and will surely end up supplying the militias, instead of supporting aid operations.

- Administrative racket (holding of passports in exchange of extra payment).

3. The consequences are serious

- Describing the activities, we have abandoned, distinguishing between the places where we were any way considering scaling down our activities (such as Zalingei) and other projects which were more vital (Nertiti, Kalma, etc.).

- Re-locating our expulsion in the broader context of access shrinking for the past two years, preventing us to respond to localized emergencies.

- The agencies remaining in Darfur are in a bad situation, having to cover the gaps but living with the fear of expulsion, kidnapping or worst in a context of harsh propaganda against foreigners, equivalent to a license to kill. Very likely that the GOS will try to orientate assistance according to its own political and military interest rather than based on objective needs assessment (in the backdrop of numerous attempts to dismantle the camps and resettle the population in 'peace villages').

4. Do we ask something, what and to whom or do we just deplore our impotence?

(Actually, apart asking the GoS to make sure the staff receive their payment and to ask for the transfer of our vehicles and communication equipment to MOH and or local HAC, I don't see... Or asking not to be a negotiating token between the UN Security council and Khartoum... or precisely to be one...).



'Darfur: PR (no embargo), activity update and dissemination strategy,' **Message** from Julie Damond, MSF France Communications Officer, 22 April 2009 (in English).

Extract:

'Comms package' OCP/OCA PR and intersectional factual update on status of MSF projects in North Darfur (and expulsion), dissemination strategy and spokespersons
Timing: Almost two months after the expulsion Darfur vanishes more and more from the news. With international staff out of the country, we now have the chance to speak out about the conditions of the expulsions and the diminishing humanitarian space. There will be a high-ranking Sudanese delegation visit to Brussels on Wed (Christopher Stokes, OCB, will be meeting), to Paris on Thursday (Gabriel Trujillo, OCP will be meeting) and to the UK (awaiting confirmation if, and on the dates) and possibly to Washington (needs to be confirmed). This delegation (AFP mentions already) can create a momentum to get our message out.

OCP/OCA PR - NO EMBARGO "Harassed and at risk: the plight of humanitarian aid in northern Sudan.

Dutch and French sections of MSF reiterate their grave concern for the patients left behind in Darfur and denounce the unacceptable conditions of their expulsion.

Main messages :

- MSF France and Holland denounce the unacceptable conditions of their expulsion.
- Following the expulsion, now the danger that aid is delivered as a result of political agendas rather than based on the independent assessment of needs. Some places may receive no or insufficient aid. There is a risk that the health situation in Darfur will deteriorate rapidly, plunging the region back into an acute emergency.
- We remain ready and willing to mobilize to provide emergency assistance if the necessary conditions for humanitarian action are re-established.

Dissemination strategy PR:

1. Pitch in particular to key media in France and the UK (around delegation visit) and international correspondents (following Sudan) based in Africa (Nairobi and Joburg), key journalists in the US, to Sudan Tribune and to key Arabic media.
2. Post on MSF websites, put-on Reuters alert net, relief web
3. Offer interviewees – mainly the three returned HoMs, the 'news' we can offer to talk about the past weeks, harassments, how they experienced to leave Darfurians etc. Dir Ops/GDs for sensitive political interviews.

OCG does not support the PR hence it won't be published on the international MSF website. It is 'tolerated with understanding' by OCB/OCBA.



'Harassed and at risk: The plight of humanitarian aid in northern Sudan,' MSF OCA/MSF OCP **Press release**, 22 April 2009 (in English).

Extract:

The Dutch and French sections of Médecins Sans Frontières reiterate their grave concern for the patients left behind in Darfur and denounce the unacceptable conditions of their expulsion.

The issuing of an arrest warrant by the International Criminal Court for President al-Bashir was followed immediately by the expulsion of 13 humanitarian non-governmental organizations (NGOs) providing roughly 40% of the humanitarian assistance in the region. Major gains made by humanitarian organizations in the past five years in stabilizing the health status of hundreds of thousands of Darfurians could be reversed and plunge the region back into an acute emergency.

Working in Sudan has been complicated for many years, but despite increasing government-imposed restrictions, MSF was still able to provide meaningful medical aid based on the needs of the people.

Following the expulsion, the danger is imminent that aid will be delivered as a result of political agendas rather than based on the independent assessment of needs. Some places may receive no or insufficient aid.

After all the efforts in bringing aid to the people of Darfur, the Government of Sudan falsely accused the expelled MSF sections of collaborating with the International Criminal Court, which is categorically untrue. Bank accounts were frozen, access to offices denied, and vehicles, computers, and office equipment with an estimated value over one million euro were seized. Anti-NGO rhetoric by the Sudanese government in the past weeks has created an overall climate of hostility, causing an elevated risk to the safety of aid actors in Darfur, as exemplified by cases of kidnapping of NGO staff members in the past month. The immediate expulsion did not even allow organizations to close programmes properly. Activities addressing an outbreak of meningitis were forced to an abrupt stop, visits to project locations were forbidden, while staff were burdened for six weeks with managing the aftermath of the expulsion. The seizure of the passports of our three remaining senior staff until a few hours before their departure effectively put them in a hostage situation.

"It felt like we were treated like criminals. We were constantly torn between concern for the patients and staff we were forced to leave abruptly behind and anger at the expulsion order. It is shocking to experience such disrespect for the medical needs of vulnerable people and to be treated like this, after thirty years of providing assistance in Northern Sudan." Country Director Sudan, Reshma Adatia.

Six weeks after the expulsion, all of the international staff of the Dutch and French sections were finally allowed to leave Sudan. It is only now possible to explain how difficult the process of the expulsion was. We are gravely concerned for the fate of the people now left without assistance, the security of our Sudanese staff and are outraged at the current situation. We remain ready and willing to mobilize to provide emergency assistance if the necessary conditions for the provision of independent, neutral, and impartial assistance are re-established.



The most interesting question is why we didn't communicate between 15 March, once the kidnapping was resolved, and the time I left the country in early April.

The moratorium decision seems to have been made collectively at the time of the expulsion and the kidnapping. During the kidnapping, you let the kidnapping cell drive the communications, fine. But the decision not to communicate after the kidnapping was when I started to become impatient, this was ridiculous.

When I came back from Darfur, in late March, Gabriel [MSF France/OCP Programme Manager] and I went to Amsterdam to meet with the Dutch section to talk about communications and to sort of hammer out a press release. And it was only at that point that the other sections said, OK, you can communicate. OCA and OCP were aligned, and we wrote a joint press release that said nothing. The other sections felt like we had a right to say something, but they also did a lot of editing on that press release that dumbed it down.

I just remember reading and reading the press release and saying: 'It just says nothing,' it was the blandest thing, 'Oh, by the way, they made us leave and, you know, it was unpleasant, and all these people are suffering but we had no specific consequences.' In an interview, I used the word extortion, so one of the journalists asked me: 'Were you held hostage?' I answered: 'Well, I think when people demand money for you to get out of a situation, it's called extortion.'

*Jane Coyne, MSF France/OCP, Coordinator in Darfur, November 2008 to April 2009
(in English).*



I thought, to get through to the Sudanese, we mustn't go through the BBC or RFI, the best way to communicate is through the Arabic media. So, from Khartoum I went to Dubai and got to speak on Al-Arabia, where I broadcast the following key message: 'They don't understand the conflation between human rights and humanitarian aid organisations, which is a mistake.' I also touched on the point of view of Turabi, a Sudanese opponent, side-lined by Bashir, who'd said: 'It's not a great way to behave, but it's been done out of anger.' So, I repeated his words in some interviews and mentioned him by name. I really wanted to get through to the Sudanese, the regime, by showing that we were different. Then Al Jazeera (in Arabic) invited me for a one-on-one interview on a magazine programme. The interview was held at MSF's head office in Paris. The interview was broadcast in Arabic, but I spoke in English, which they dubbed.

I did my best to let the Sudanese authorities know the door was always open, to let them know we are happy to talk whenever, that we were struggling to understand what was happening, that historically we'd never blindly fallen in step with the ICC, that we had never accused the regime of genocide, etc. But it fell on deaf ears.

Thierry Durand, MSF France/OCP, Interim General Director 2007-2008, Director of Operations 2008-2014 (in French).



Basically, Thierry said: 'No, no, no, it wasn't us, we had nothing to do with any of this.' By that point, we had to hold our hands up and admit that we'd lost the battle. Playing nice with Khartoum was humiliating. He was clutching at straws to find any way to stay. In his defence, when we stood up against Save Darfur, that was what we were trying to achieve! Obviously, it was also an opportunity for us to strengthen ties with the Sudanese government.

Fabrice Weissman, MSF France Foundation/CRASH, Director of Studies from 2000, MSF France/OCP Coordinator in Darfur, August 2005 to August 2006 (in French).

On 23 April 2009, a project update posted on the MSF International website described the struggle of MSF sections remaining in Sudan to "provide meaningful aid." The update mentioned the difficult closure conditions in a moderate language.



'MSF struggles to provide meaningful aid following limited expulsion in Darfur, Sudan,' **Project Update**, MSF International Website, 23 April 2009 (in English).

Extract:

An expulsion order by Sudanese authorities in early March forced two out of five Médecins Sans Frontières (MSF) sections to close nearly half of the organization's medical programs in Darfur. MSF programs remaining in the region have been struggling to provide meaningful humanitarian assistance to those in need, as a result of insecurity and administrative constraints.

After the expulsion, valuable assets were seized, and medicines and other supplies had to be abandoned. Sudanese authorities also held passports of senior staff from the expelled MSF teams, making it impossible for them to leave the country until mid-April, more than one month after their official expulsion.

In addition, following the mid-March kidnapping of five MSF staff in Serif Umra and other serious security incidents, MSF teams made the difficult decision to close two projects in Serif Umra and Kebkabiya as it was no longer possible to continue providing medical assistance in a safe and meaningful way. Insecurity in the area has also led to the indefinite suspension of the Tawila project. MSF provided direct medical assistance to more than 170,000 people via these three projects in North Darfur.

Today, six other MSF projects continue to remain open in northern Sudan, although their future is under careful review and depends on a clear improvement in the working environment in the coming weeks.

MSF remains fully committed to providing impartial medical assistance to the people of Sudan. Consequently, MSF is currently engaging in direct discussions with the Sudanese authorities in order to continue to deliver emergency medical aid in Darfur and elsewhere in northern Sudan.

The MSF high-level delegation arrived in Sudan and negotiations with the Government of Sudan began in Khartoum in late March 2004. By early April, there was little ground gained regarding MSF's expelled sections' reauthorisation to work in Sudan.

On 23 April 2009, the MSF ICB endorsed the 17 April RIOD decisions on operational and communications strategies for Sudan. The priorities were to "concentrate MSF action on acute emergencies, assist the population's needs in the areas where [the] MoH has no access if this can be done independently."

An MSF International negotiator was named to continue talks with the Government of Sudan.



'Minutes of MSF International Council Board Meeting,' 23 April 2009 (in English).

Extract:

Sudan: update/follow-up executive decisions [...]

It seems that within MSF we do not have the same analysis of the situation (security, context, humanitarian space, etc) and this is worrisome. MSF has little leverage in Sudan. We should aim to have a common stand and a common approach in such complex contexts as Sudan, in order to regain the ability to fulfil an unhindered humanitarian action. The ICB agrees with the proposed priorities of operational approach: concentrate MSF action on acute emergencies (outbreak, new displacement, upsurge of acute malnutrition, etc), assist the population's needs in the areas where MoH has no access if this can be done independently. The ICB recommends the RIOD to look into the new/innovative ways of internal reorganizing of operations in Sudan and why not even consider the withdrawal of one of the remaining sections, if our scope of action will be aiming to respond to the acute needs only?

The ICB agrees that the international focal person (Dan Sermand) for the negotiations with the Sudanese Government must be fully supported by all OCs and have a full leverage for the negotiating re. working conditions, humanitarian space, and MoU for all remaining sections. The ICB questions if there would have been a possibility for this international negotiator to discuss not only political stand of MSF, but as well discuss the operational strategy with the Sudanese Government? The ToR of this international negotiator is being drafted by all OCs.



'Minutes of MSF Belgium Board of Directors Meeting,' 24 April 2009 (in French).

Extract:

b) North Sudan [...]

- Internationally and with the OCB, a meeting was held with the authorities to establish dialogue and the conditions for resuming our activities, guaranteeing security, improving access to populations. However, MSF France has just publicly condemned their expulsion and how the situation unfolded (leading our position to be splintered across sections).
- If these conditions aren't met, we'll have to reconsider our presence in Darfur, and possibly Sudan altogether.
- There are discrepancies across the sections in the timeframes (during which our operations will be scaled back) for the authorities to meet these conditions, with some willing to be more patient than others.
- We need to strike a balance between avoiding being manipulated and staying on the ground to monitor the situation and speak out where necessary. A protracted period of overseeing things remotely also comes with its own fair share of risks of manipulation.
- In the meantime, we've established a common approach for all sections on the exploratory missions to plan (on the off chance needed).
- The humanitarian situation in the camps we were forced to leave is still unclear despite the national staff now present there. There have been reports of shooting and houses burned down. The population displacement to Chad is yet to be monitored.



'MSF International ExCom Meeting **Outcomes**,' 28 April 2009 (in English).

Extract:

North Sudan: follow up

- [...] The ExCom believes that there have already been moves to be innovative in the approach and refers to the RIOD to continue to manage this together with the desks and HoMs and to propose specific plans on the way forward, making sure that resources and expertise of all sections are utilized and that communications plans be shared. The RIOD to discuss on Monday 4 May during their meeting.
- The ExCom agrees that dynamic and future set up in Sudan should remain international with both expelled OCs involved. [...]

ICC and MSF positioning on ICC

- The ICB has requested that the ICC expert group (Françoise Saulnier, Kate Mackintosh, Liesbeth Shockaert) review, clarify and strengthen MSF's current external and internal positions and policies on the ICC.
- Kris [Torgeson, MSF International Secretary General] to follow up with the expert group to discuss timeline and to ask that the group point out disagreements and difference of opinions if any, in order to have the ExCom and ICB make decisions on the external and internal policies and documents.

On 7 May 2009, the Sudanese government announced they would welcome new aid groups in Darfur and allow non-expelled organisations to expand their activities.

MSF prepared a reactive line in case of media questions on this issue, highlighting ongoing "discussions with the Sudanese authorities to continue to deliver needed emergency medical aid."



'Short reactive line - in off chance you get questions about BBC and AFP stories about Sudan welcoming new aid groups to Darfur and allowing existing groups to expand activities,' **Message** from Niamh Nic Carthaigh, MSF Belgium/OCB Communications Officer to List Press, List Web, 8 May 2009 (in English).

Extract:

Hi all,

Quick line on Darfur before the weekend [...] One or two offices have had calls from media today about MSF's response to the AFP and BBC news stories re reports that Sudanese authorities would welcome new aid groups into Darfur (not expelled ones) and would allow existing groups to expand their activities.

<http://news.bbc.co.uk/2/hi/africa/8039327.stm>

- Sudan opens up to more aid groups...

Below is the reactive line you can use in the off chance your office gets any media calls on this. As you can clearly see, it is mostly what we already said in the last web update about the closure of our projects but mentions a tiny bit more about how discussions with authorities are progressing.

Reactive line: Darfur (not for websites, just to respond to journo calls)

In early March, more than half of MSF's projects were forced to close when two of five MSF sections were expelled by Sudanese authorities from Darfur. In addition, following

the mid-March kidnapping of five MSF staff in Serif Umra and other serious security incidents, MSF teams made the difficult decision to close two projects in Serif Umra and Kabkabiya as it was no longer possible to continue providing medical assistance in a safe and meaningful way. Insecurity in the area also led to the indefinite suspension of the Tawila project. All these projects were providing vital aid to more than 600,000 people. MSF's priority is that the humanitarian needs of people in Darfur are met in an independent, neutral, and non-political way. Currently, six MSF projects continue to run in northern Sudan. However, the future of these remaining projects is under careful review and depends on a clear improvement in both the working environment and in the ability to provide medical aid in a safe and meaningful way.

MSF remains fully committed to providing impartial medical assistance to the people of Darfur, in those areas where needs are most acute. As a result, MSF is continuing with direct discussions with the Sudanese authorities to continue to deliver needed emergency medical aid. There are initial indications from authorities that conditions will improve on issues such as visas, travel permits and technical agreements. It is vital that these promises become realities on the ground.

Any opening of new projects by MSF in Darfur to address the gaps left by the expulsion absolutely depend on concrete improvements in security and working conditions, plus the ability to carry out independent assessments to determine where needs are most acute.

On 14 May 2009, the MSF directors of communications reviewed the MSF communications on Darfur from the last few months. They found that decision-making processes were a mess. More specifically, MSF Holland/OCA and MSF France/OCF communications directors asked why the three sections remaining in Darfur had not publicly relayed their post-expulsion press releases.

In June 2009, the MSF ExCom found that the communications on expulsion went “pretty well [...] although eventually expelled sections had a different communication than these staying.”



'Minutes of MSF International Directors of Communication & Fundraising Meeting,' 13-14 May 2009 (in English).

Extract:

Darfur

- Press release of OCA-OCF Paris: Paris is asking why OCF-OCBA-OCB were not supporting [...]
- Comms line not clear. Until further notice, no comms
- Would be good to have comms involved in decision making (ExCom level): will be addressed at the RIOD meeting.
- Decision making processes were a mess on different levels (ExCom, OPS, comms, ...)



'Draft minutes of MSF International Executive Committee Meeting,' 22 July 2009 (in English).

Extract:

Sudan

For Christian [Captier, MSF Switzerland General Director], there is a need to maintain the pressure on the 3 OCs to keep on cooperating as much as possible and to carry on what has been agreed upon. OCG feels some do not commit to this whereas it is important to complete the process and finish it with another visit of Christophe in Sudan to sign the MoU (this was to take place this month but now seems unlikely). The RIOD and the desks are discussing it, but the ExCom should put pressure.

The issues we brought up on need to find new way of operating should still be followed up.

Hans [van de Weerd, MSF Holland/OCA General Director] would like to know what is happening, what are the progresses and obstacles. Filipe is uncomfortable with the whole situation. We were expelled, decided to stay, have no access, and are still trapped and keep very silent, trying to accommodate everyone.

Christian notes that OCG wanted to assess 12 locations and was denied access to 7. This questions the space left to work. In the 5 locations assessed needs were not critical. In addition, security is a concern. So, we need to finish the assessment and make decisions. OCG believes 2 OCs may be enough.

Emmanuel [Tronc, MSF Policy and Advocacy Coordinator] MSF fears this may not be possible in the coming months. OCB has had many securities incident and threats and is not so keen to develop assessments in north Darfur.

OCBA has problems running assessment in south Darfur due to lack of resources (HR). Hans believes it may be the time of addressing as a movement the lack of access and make strong position in Sudan. There was a clear strategy with clear objectives. Now based on the fact that needs seem limited, and that access is very limited, objectives are not so clear.

In October 2009, the ICB regretted that in the Darfur crisis, “no real efforts on identifying a coherent common strategy and ops plan, nor common negotiation with local authorities” were made.

The ICB asked the 5 OCs “to come to a commonly agreed strategy for negotiations and operations in Darfur that will describe the needs that have to be addressed by MSF and the way we can best organize ourselves to address them.”



'Minutes of MSF International Council Board Meeting,' 23 October 2009 (in English).

Extract:

Darfur

Since the expulsion of two MSF sections from Darfur earlier in 2009, the ICB asked to come up with a common operational strategy to handle needs in Darfur and better negotiate the access for MSF as a Movement.

Six months later, the ICB asked Kris [Torgeson, MSF International Secretary General] to give an update on the situation in Darfur and MSF's operations, as it seems no common negotiation line and no coherent strategy was developed since then.

Update from Kris:

- Level of operational activity is low.
- Negotiations with authorities are done individually.
- No common strategy
- Situation in Darfur does not seem to be catastrophic.
- Limited access to area due to insecurity

OCG

Closure of the OCG projects is scheduled. This is a difficult decision, which is based mainly on uncertainties regarding MSF's capacity to ensure quality of the assistance provided due to difficult security situation. OCG informed the authorities about its decision. The authorities accepted this decision, but no communication is foreseen.

OCB

For OCB, it looks there are no huge emergency needs in N. Darfur. Other NGOs and UN increased their activities since spring 2009. OCB, due to limited HR capacities and security situation, decided not to carry out additional assessments, but is waiting for the outcomes of the OCBA assessment in Kagoru, Port Sudan and N. Sudan. Based on the outcomes of the OCBA assessment, OCB is willing, if needed, to do more. At present, OCB is working mainly in rebel zone area, which is shrinking.

OCBA

2.5 months in S. Darfur, area previously covered by MSF Holland/[OCA]

Full access to the area with support of HAC

No major humanitarian catastrophe is seen.

Big concerns expressed on sustainability: nutrition and secondary health care.

Results of the assessment will be presented at the RIOD next week.

OCBA continues its programs in Shangil Tobaya, which were previously announced to be closed.

Security issues remain a concern, one national staff killed on 22 Oct 2009.

OCA

OCA is looking at potential return to Darfur. It started to explore this possibility at the local and national level. It seems there is positive indication on local level, but no support from HAC level.

OCP

No independent actions on the ground foreseen. Willingness to support other OCs if needed.

The ICB expressed its concerns regarding the situation and that no common efforts were put together to address the humanitarian needs in Darfur. Acknowledging the fact that the coordination has improved, there are no real efforts on identifying a coherent common strategy and ops plan, nor common negotiation with local authorities. [...]

In conclusion:

Last June, the IC made the following decisions:

- "In highly insecure contexts (currently such as Somalia, Pakistan, Iraq, Yemen, Sudan), the IC requests operations seek new models -- including single coordination or representation -- for a more coherent and coordinated operational set up.

-Such models should include a comprehensive and proactive approach to advocacy and communications.

-In order to do so, the IC commits to giving up some level of autonomous operational decision making at operational center level and accepts the potential organizational consequences."

The ICB therefore reiterates this request and asks the 5 OCs to come to a commonly agreed strategy for negotiations and operations in Darfur that will describe the needs that have to be addressed by MSF and the way we can best organize ourselves to address them.



Between 2005 and 2009, the situation had gradually changed: our work in Darfur moved from the major crisis/emergency it initially was, to a long-term set-up dealing with chronic needs. We'd shifted from deportation to rural exodus. The war had amplified a massive rural exodus, which was problematic, but was nevertheless a rural exodus of people who'd become urbanised and got used to having a cinema or video rental shop nearby, a bar to go to for a cup of tea – a far cry from the more basic village life they'd left behind. And over time, people started saying that our facilities that resembled refugee camps, which were displacement camps initially, were now completely off the mark. If we wanted to stay, we had to reassess our entire operation. The reasons for our intervention were obsolete, but the system remained.

So, the expulsion was in some ways a blessing, because it meant we could avoid the impossible task of dismantling everything we had and starting from scratch, with a new status, different relations with the municipality, the government, etc.

More and more of us were realising that the situation had been untenable for the past two or three years, and that it was psychologically, politically, and materially difficult to extricate ourselves. It was like a big ship that we'd suddenly decided to get rid of and convert to rowing boats. The ship eventually sank before we could convert it. So ultimately it was a good thing that it sank.

Dr Rony Brauman, MSF France, President of Board of Directors, 1982-1994; MSF France Foundation/CRASH, Director of Studies since 2000 (in French).



We stayed for some time. And then, at one point, we left Darfur because the operations were getting smaller and smaller. It was the time when the government was talking about localisation, nationalisation, etc. Basically, they wanted to make it clear that the age of international aid (when international NGOs were present and protected the staff) were over. The process of 'Sudanising' the country involved taking back control, as it was becoming near impossible to get permits for expats in the country, etc. We were witnessing a slow deterioration. Initially, we were still getting one or two expats in, etc. Then, we were only entitled to occasional visits, which were spaced further and further apart. And then – and it's important to point this out – the Sudanese staff were powerless to stand up to the Khartoum authorities in every respect. Utterly powerless. So, we were under no illusion there, either. We were allowed to provide basic medical services, but humanitarian action was out of the question. So, the scope of possibilities got smaller and smaller, until we had to face the facts: it was impossible to work there.

Bruno Jochum, MSF Switzerland/OCG, Programme Manager 2005-2006, Director of Operations 2006-2011 (in French).

CHRONOLOGY OF EVENTS

1989-2009

The main purpose of this chronology is to help the reader by reconstructing MSF's actions and public statements in regional and international news reports of the period. It is intended as a tool for this specific document, and not as an academic reference.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
1989	Start of UN's Operation Lifeline Sudan (OLS) in South Sudan.		<u>MSF Belgium</u> surreptitiously left Sudan after loss of 2 MSF France staff in shooting down of plane and issues with GoS following staff death in hiking accident.	
1990s			<u>MSF Belgium</u> in OLS without being registered by GoS.	
2000			<u>MSF Belgium</u> withdraws from OLS.	
2001		Creation of Sudan Liberation Movement (SLM) to bring together local non-Arab groups in Darfur: Furs, Zaghawa and Masalit.		
2002		July 2002 Start of Sudan and South Sudan peace process.		
2003 February 2003		February 2003 Violent hostilities in Darfur between forces of GoS and SLM. Start of GoS-supported Janjaweed militia's scorched earth policy.		
March 2003	21 February 2003 <u>Amnesty International</u> calls urgently for commission of inquiry in Darfur as situation deteriorates.	March 2003 <u>SLM</u> attacks on Darfur towns.		

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2003 April 2003		24 April 2003 SLA (former SLM) and newly created JEM (Justice & Equality Movement) defeat GoS army in North Darfur capital El Fasher.		
	28 April 2003 Amnesty International calls for inclusion of Darfur in human rights monitoring set up under Sudan peace process and, again, for independent international commission of inquiry to be sent to Darfur to investigate deteriorating situation.			
June 2003	25 June 2003 International Crisis Group calls on GoS & Intergovernmental Authority on Development (IGAD) to address issue of Darfur.		June 2003 - MSF France/OCP informed of heavy fighting in North Darfur. - Surge of Sudanese refugees seeking healthcare in <u>MSF Belgium/OCB</u> clinics in Eastern Chad.	
July 2003	1 July 2003 Amnesty International warns of “looming” crisis in Darfur, calling for: - national commission of inquiry into abuses in region - protection of civilians in Darfur by GoS - integration of human rights monitoring in Darfur into IGAD peace process.		July 2003 <u>MSF France/OCP</u> first requests to access Darfur denied by GoS.	
August 2003		11 August 2003 Non-state actors accuse Janjaweed of killing 300 in North Darfur.		

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2003 August 2003			Mid-August 2003 <u>MSF Belgium/OCB</u> team in Chad first exploration mission on Chad/Sudan border after UNHCR reports sudden arrival of thousands of Sudanese refugees.	
September 2003		2 September 2003 <u>UNHCR</u>, "65,000 Sudanese refugees arrived in Chad." 3 September 2003 Ceasefire signed by GoS & SLM immediately broken.	10 September 2003 <u>MSF Belgium/OCB</u> team in Chad call HQ for help to assist thousands of Sudanese refugees.	
	15 September 2003 <u>The Greater Darfur Special Initiative for future development projects in Darfur</u> announced by UNSG Special Envoy for Humanitarian Affairs & UN Resident and Humanitarian Coordinator in Sudan.	15 September 2003 Agreement signed by GoS & SPLM/SPLA allowing "free and unimpeded" humanitarian access to 20% of Darfur territory.		16 September 2003 <u>MSF Belgium/OCB PR</u>: Thousands of Sudanese refugee victims of a humanitarian catastrophe. MSF sending psychologists to address issue of sexual violence, "a common tool of war in Sudan."

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2003 September 2003	Late September 2003 <u>UNHCR</u> appeals for US\$16.6 million in urgent funds to avert humanitarian disaster on Chad-Sudan border.		17 September 2003 - <u>MSF Belgium/OCB</u> operations start on Chad/Sudan border (Birak and Tine in Iriba District). - <u>MSF Spain/OCBA</u> and <u>MSF Holland/OCA</u> joint exploratory mission on the Sudan/Chad border. - <u>MSF France/OCP</u> awaiting Darfur access authorisation. Late September 2003 - <u>MSF Holland/OCA</u> programme in Adre starts, soon joined by <u>MSF France/OCP</u> team. - <u>MSF Spain/OCBA</u>: no opportunity for operations.	<u>MSF Belgium/OCB website</u>: 'Humanitarian drama on Sudan-Chad border.' This article first appeared in Belgian newspaper <i>De Morgen</i> on 16 August 2003. 19 September 2003 <u>MSF Belgium/OCB PR</u>: 'In Chad, MSF supplies follow long path to Sudanese refugees.' 23 September 2003 <u>MSF Belgium/OCB PR</u>: 'MSF readies itself in Abéché for refugee intervention.'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2003 October 2003	14 October 2003 UN Humanitarian Coordinator for <u>Sudan</u>: - humanitarian access hampered by GoS restriction on travel permits. - a humanitarian clause for unimpeded access to all vulnerable populations and protection of vulnerable civilians and humanitarian personnel should be added to ongoing ceasefire negotiations.		Mid-October 2003 - MSF France/OCP first exploratory mission in North Darfur. - <u>MSF Holland/OCA</u> first exploratory mission in West & South Darfur; witness direct results of violence; conviction that “a big crisis” is to come.	1 October 2003 <u>MSF Belgium/OCB Website</u>: 'Chad: MSF provides health care for Sudanese refugees.' 20 October 2003 <u>MSF Belgium/OCB PR</u>: 'Hundreds of Sudanese live in 'Hotel Africa', Italy - a derelict railway station in the centre of Rome.' 2 November 2003 <u>Draft report</u> by Liesbeth Schockaert (<u>MSF Belgium/OCB</u>) describing violence in Darfur and dire situation of refugees in Chad, based on refugee accounts collected in Chad and Italy; criticised for lack of robust data; release embargoed by Dirops until operations in Darfur secured.
November 2003	November 2003 OCHA: Darfur facing worst humanitarian crisis since 1988 and no humanitarian access in some cases.			

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2003 November 2003	14 November 2003 <u>All Africa/IRIN (UN)</u> : 'Concern grows over deteriorating situation in Darfur.'			26 November 2003 <u>MSF Holland/OCA</u> 'Comms Strategy Darfur.'
December 2003	9 December 2003 - UNSG Kofi Annan: insecurity leaves over a million people in Darfur beyond reach of humanitarian aid. - Under-SG for Humanitarian Affairs, <u>Jan Egeland</u> : "The humanitarian situation in Darfur has rapidly become one of the worst in the world."	December 2003 - Renewed militia attacks in Darfur cause renewed displacement into Chad. - 100,000 refugees estimated in Chad (UNHCR).	December 2003 - <u>MSF France/OCP programme set up</u> in Nyala, South Darfur - growing influx of refugees attracted by MSF presence; deterioration in health conditions.	Late November 2003 - <u>MSF Belgium/OCB</u> , <u>MSF France/OCP</u> and <u>MSF Holland/OCA</u> agreement on Darfur communication strategy: Q&A and off the record briefings to journalists. - Public release of <u>MSF Belgium/OCB</u> 2003 report on Darfuri refugees in Chad no longer considered.
		15 December 2003 <u>Members of Sudan's Parliament from Darfur</u> appeal for international intervention to stop killings and displacement.		

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2003 December 2003	16 December 2003 <u>US State Department</u> spokesman Richard Boucher: “deeply concerned over the rapidly deteriorating humanitarian and security situation in the Darfur region of western Sudan.”			17 December 2003 <u>MSF PR</u> : ‘MSF refugee crisis in eastern Chad worsens.’ 23 December 2003 <u>MSF Holland/OCA article</u> : ‘Chad dispersion makes care for refugees difficult.’
2004 January 2004	9 January 2004 <u>UNHCR PR</u> based on interviews with Darfuri refugees in Chad, describing increase in militia attacks on Sudanese villages bordering Chad, emphasising MSF’s public passivity in releasing similar information from unpublished MSF Belgium/OCB Chad report.	January 2004 - Massive <u>Sudanese Army</u> offensive in West Darfur. -Massive influx of refugees from Darfur into eastern Chad.	January 2004 <u>MSF Belgium/OCB team</u> in Sudan: - re-register MSF Belgium/OCP in North Sudan - assess needs in North Darfur. 14 January 2004 - <u>GoS</u> to relocate IDPs from Nyala Intifada camp to Belel camp, 20 km from city centre and in conflict zone.	

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 January 2004			- Opposing forced displacement, <u>MSF France/OCP</u> close Intifada clinic, refuse to inform IDPs on transfer, as requested by HAC & OCHA, & refuse to open clinic in Belel. - <u>MSF Holland/OCA</u> to work in Belel. Mid-January 2004 <u>HAC</u> warning to <u>MSF France/OCP</u> coordinator in Sudan, for “lack of collaboration with the government in Nyala.”	15 January 2004 - <u>MSF France/OCP PR</u> 'MSF concerned for displaced following forced closure of camps by Sudanese authorities.' - Postponement of MSF “factual” and “comprehensive” press release, based on information from all MSF operational sections in Darfur. - Letter from <u>MSF France/OCP emergency coordinator</u> in Nyala to regional governor explaining MSF opposition to IDPs transfer from Nyala to Belel. 22 January 2004 <u>MSF Belgium/OCB, MSF France/ OCP, MSF Holland/ OCA agreement:</u> - communication on Darfur with no mention of MSF in wider region. - <u>briefing paper</u> 'Darfur-Sudan – A War behind Closed Doors – Conflict in Darfur Rages Against Backdrop of Sudan Peace Process' to 'trusted' journalists.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 January 2004				- briefing paper 'Refugees in Eastern Chad - Urgent Assistance & Protection Required' to NGOs and humanitarian agencies, not to journalists. 26 January 2004 MSF Belgium/OCB PR on Sudanese air attacks on civilians in Chad, witnessed by MSF teams, cancelled due to possible risks for teams in Darfur. 29/30 January 2004 MSF Belgium/OCB PR, 'Chadian civilians killed and injured by aerial bombings' finally issued. Content and distribution strategy challenged by <u>MSF USA</u> for putting MSF field teams at risk.
February 2004	3 February 2004 <u>Amnesty International</u> PR: 'Sudan: Massive abuses of human rights and international humanitarian law in Darfur.'	Early February 2004 Within few days, 80,000 IDPs in Mornay, blocked by heavy fighting.	30 January 2004 <u>MSF France/OCP</u> team: - authorised to work in Mornay on condition of silence. - witnessed results of scorched earth strategy between Zalingei and Mornay. First half of February 2004 <u>MSF France/OCP</u> makeshift team without medical doctor, ensuring surgery & post-operative procedure with poor means in blocked Mornay.	

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 February 2004	10 February 2004 OCHA PR: 'Sudan: UN welcomes announcement of increased access to Darfur.' 12 February 2004 UN Special Envoy Tom Eric Vraalsen in Sudan at request of UN Emergency Relief Coordinator Jan Egeland to call for "humanitarian ceasefire" in Darfur.	13 February 2004 N'Djamena denies any involvement in Darfur war.		5/6 February and 9/11 February 2004 MSF International HART & MSF Operational managers' meetings. with ambassadors to UN and UN and USA officials in New York and Washington, D.C. 9 February 2004 MSF Belgium/OCB communications officer to MSF communications network: - MSF name still not to be used to denounce what's happening in Darfur. - MSF "on the record" reporting stories of refugees in Chad to journalists.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 February 2004	17 February 2004 <u>Amnesty International</u> report 'Too many people killed for no reason': - human rights violations in the region - reiterating earlier messages on access, human rights monitoring, and commissions of enquiry.		After 17 February 2004 Delivery by GoS first authorisations to facilitate deployment of international aid in Darfur: - travel permits for MSF new staff. - <u>MSF Holland/OCA</u> to start working in Nyala and assess Garsila.	17 February 2004 <u>MSF International PR</u> , 'Massive aid urgently needed in Darfur'
March 2004			Early March 2004 After many negotiations and active lobbying, <u>MSF Belgium/OCB</u> gets travel permits to Darfur. Full registration in Sudan obtained in June 2004.	26 February 2004 <u>MSF France/OCP PR</u> on deteriorating situation in Darfur and urgent need for massive international aid to be deployed.
				10 March 2004 <u>MSF International PR</u> , 'Alarming malnutrition found in Darfur, Sudan - increased humanitarian response urgently needed'.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 March 2004	12 March 2004 <u>USAID</u> officials at US House of Representatives denounced: - GoS “mounting ‘scorched earth policy’ to crush rebellion in Darfur through large-scale human rights abuses and obstruction of humanitarian access.” - obstruction of NGO Darfur travel permits part of deliberate GoS strategy to restrict humanitarian presence. 19 March 2004 <u>UN Humanitarian Coordinator</u> in Sudan, Mukash Kapila, to BBC on conflict in Darfur: - characterised by scorched earth policy. - comparable in character, if not scale, to 1994 genocide in Rwanda. 25 March 2004 <u>ICG</u> report ‘Darfur Rising: Sudan’s New Crisis’: Call for international response with humanitarian aid, protection, respect of IHL, recognition of interlinking of [North & South Sudan] contexts in political process.			

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 March 2004	31 March 2004 <u>EU Parliament resolution</u> calling on Sudanese Government to: - protect citizens in villages. - ensure IDPs are in safe location, with access to services, livelihood, and assistance. • stop policy of chasing Darfurians away from rural homes towards Chad and urban centres in Darfur. <u>EU Parliament</u> criticised “delays and obstruction by GoS to access by humanitarian aid workers”, in violation of humanitarian aid neutrality.			31 March 2004 <u>Voices from the Field</u>, MSF website, ‘Loneliness and distress in Darfur’ by Jean-Sébastien Matte & Coralie Lechelle.
April 2004	April 2004 Amnesty International: documentation of extrajudicial executions, deliberate and indiscriminate violence on civilians and systematic rape in Darfur. 2 April 2004 <u>Human Rights Watch</u> report on Darfur: - Darfur in flames: atrocities in Western Sudan - GoS strategy of forced displacement targeting non-Arab ethnic communities - army indiscriminately bombing civilians. - GoS forces and militias systematic destruction of villages, and brutal raids against Fur, Masalit and Zaghawa - GoS complicit in crimes against humanity.	April 2004 - Peace talks underway in Chad. - <u>UNSG and GoS</u> negotiations on visa delays and customs problems hindering humanitarian access. - Pressured by international community, <u>GoS</u> provides some access to Darfur.	April 2004 MSF First exploratory missions in North Darfur: El Fasher, Kebkabyia, Serif Umrah. <u>MoU</u> signed by end of April.	April 2004 <u>MSF ICB and ExCom</u> decision not to organise official commemoration of genocide in Rwanda and to stay away from commemorative events with political connotations.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 April 2004	3 April 2004 - <u>UNSG Kofi Annan</u> spokesman expresses UNSG and Heads of all UN agencies, funds and programmes' deepest concern over serious human rights violations and humanitarian crisis in Darfur, with devastating impact on human security of thousands of civilians. - <u>New UN Undersecretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Jan Egeland</u> to UNSC: "a sequence of deliberate actions has been observed that seem aimed at achieving a specific objective: the forcible and long-term displacement of the targeted communities, which may also be termed 'ethnic cleansing'." 6 April 2004 Start of <u>UN fact-finding mission</u> on human rights situation in Darfur. 7 April 2004 <u>10th anniversary of genocide of Rwandan Tutsis</u>: idea of possible similar tragedy in Darfur surfacing on international agenda - <u>UNSG Kofi Annan</u> urged international community to act, including by force, to rescue civilians in Darfur, not to repeat same mistake as in Rwanda, but did not use the term genocide.			

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 April 2004	- <u>US President George W. Bush</u> condemns atrocities in Darfur, asks access for humanitarian relief, states that GoS should cooperate fully in “war against terrorism.”	8 April 2004 - <u>Third ceasefire</u> signed by GoS and non-state actors, to guarantee safe passage for humanitarian aid to Darfur, free prisoners of war, and disarm Janjaweed militias. - 120 <u>AU observers</u> to monitor.		16 April 2004 <u>MSF France/OCP Deputy Emergency Programme Manager Mercedes Tatay</u> interviewed by MSNBC: - does not think that word genocide should be used to describe this conflict. - a very effective military strategy is ongoing, but she would not define it as “ethnic cleansing.”
	20 April 2004 <u>Human Rights Watch</u>, “The UN Commission on Human Rights must reinstate human rights monitoring in Sudan and strongly condemn abuses in Darfur.”	20 April 2004 8 experts from UN Human Rights <u>Commission</u> blocked in Khartoum for days are given access to Darfur.		
	21 April 2004 - <u>Head of WHO</u>: “time is running short” for the close to a million civilians driven from homes.			

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 April 2004	- Amnesty International: use of systematic rape by government allied Janjaweed militias. - <u>US House of Representatives & Senate resolutions condemn GoS.</u> 23 April 2004 <u>UN Commission on Human Rights resolution</u>: concern about scale of reported abuses in Sudan's Darfur region agreement to appoint its own investigator. 27 April 2004 USAID head, Andrew Natsios: "There is very little time left. If we do not have this resolved by the end of June, we are going to face a catastrophic situation by the fall." 28 April 2004 - <u>UNSG Kofi Annan</u> press conference: would await report of two missions sent to Sudan to monitor the situation, "to avoid having the situation there become another Rwanda."	27 April 2004 <u>GoS</u> refuses visas to 28 USAID agents.		23 April 2004 - MSF's directors of operations agree: - to focus on calling for improved and increased assistance - that "beyond a consequence of international pressure, the slightly improved recent MSF access to Darfur could be because it was no longer possible to witness "whatever was being concealed in the past." - <i>Libération</i>, 'An extraordinary intensity of barbarism,' interview with MSF former field coordinator in Mornay, Coralie Lechelle. 28 April 2004 <u>MSF France/OCP PR</u>, 'Measles and Malnutrition Increasing in Sudan's Darfur Region.' No mention of violence.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 April 2004	- <i>The Washington Post</i> (USA) editorial: Khartoum's denial of UN access to Darfur and continuing violation of 8 April ceasefire calls into doubt whether it can be trusted to honour an imminent peace agreement that would resolve the country's other major conflict, the civil war in the South.			29 April 2004 MSF Holland/OCA 'Strategy Document for Advocacy on the Situation in Darfur', highlighting possible limits of agreed MSF international advocacy strategy: - not mentioning security while calling for more assistance might promote a false perception of the crisis. - not being specific on needs for an international presence while calling for increased security might imply that GoS was responsible for security. - not mentioning ethnic character of violence against civilians might be incomplete and weaken speaking out messages and credibility.
May 2004		May 2004 - Over 1 million IDPs and 120,000 refugees in Chad (UN). - Arab League fact-finding mission to Darfur.	May 2004 - MSF basic health care in 11 locations in Darfur. - <u>MSF Belgium/OCB</u> able to staff and start programmes in El Fasher and Kabkabiya in North Darfur.	Early May 2004 - <u>MSF movement</u> to maintain strategy agreed by dirops in April: avoid catastrophe in Darfur by maintaining and developing operationality at all costs, and by raising awareness for more assistance.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 May 2004	7 May 2004 Acting UN High Commissioner for Human Rights presents report of fact-finding mission in Darfur: - GoS and Arab proxy militia have responded with a “reign of terror” of massive human rights violations which “may constitute war crimes and/or crimes against humanity.” - a seemingly ethnically based rebellion met with an ethnically based response.	6 May 2004 Sudanese Minister of Information: NGOs like MSF, working inside Darfur, made no statements about genocide occurring. Therefore, NGOs don’t think there is genocide in Darfur.		- Epicentre preliminary results of survey on malnutrition and retrospective mortality in Mornay and Zalingei: population of Darfur suffered significant violence and received almost no assistance. 3 May 2004 MSF USA General Director, Nicolas de Torrente, letter to US House of Representatives’ Committee on International Relations declining invitation for MSF Emergency Coordinator in Darfur to testify in a hearing titled: ‘Ethnic Cleansing in Darfur: A New Front Opens in Sudan’s Bloody War.’

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 May 2004	9 May 2004 - <u>Sweden's Foreign Minister</u> describes Darfur situation as "resembling to a genocide." - <u>AU/EU/USA</u> international team of observers in El Fasher, capital of Western Darfur, to prepare 8 April ceasefire monitoring. 10 May 2004 <u>American Committee for Refugees</u> urges US government to act in Darfur, otherwise "President Bush may be found wanting in the eyes of history for failing to rise to the awful spectre of this genocide in the making."			11 May 2004 <u>MSF France/OCP Deputy Legal Advisor, Fabien Dubuet</u>, internal memo on legal qualification of Darfur situation: - Violence witnessed by MSF teams in Darfur can be qualified as war crimes and crimes against humanity. - MSF does not think there is an ongoing genocide as impossible to say that all violence is committed "with the intention to destroy, in whole or in part, a national, ethnic, racial, or religious group." - "Ethnic cleansing" of no use since not a legal definition and consists of acts of violence that may be war crimes and crimes against humanity.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 May 2004	12 May 2004 Acting UN <u>High Commissioner for Human Rights</u>, Bertrand Ramcharan, and WFP Director James Morris testify before UNSC: pressure to increase action Darfur. 15 May 2004 <u>The New York Times</u> (USA) editorial from ICG President, former Australian Foreign Minister & R2P architect Gareth Evans: time for vigorous external intervention inexorably approaching, and case for military intervention grows stronger every day. 20 May 2004 UN OCHA: more than 2 million people affected by Darfur conflict.	17 May 2004 Janjaweed militia attack villages across border in Chad, threaten to destabilise relations between Chad & Sudan. 20 May 2004 Start of lifting of visa restrictions and more access for humanitarian workers to Darfur.	Mid-May 2004 <u>MSF Spain/OCBA</u> and <u>MSF Switzerland/OCG</u> start registration process in Sudan.	20 May 2004 MSF USA PR: 'On the Verge of Mass Famine in Darfur' 24 May 2004 <u>MSF Holland/OCA Emergency Coordinator</u> Ton Koene, presentation at UN Arria Formula meeting, partly based on Epicentre survey: - dire humanitarian situation in Darfur - inadequate humanitarian response and obstacles to humanitarian access.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 May 2004	26 May 2004 <u>UNSC</u>: - “deep concern over the ethnic violence in Darfur” - call for immediate deployment of international monitors.	27 May 2004 - North Sudan and South Sudan sign peace agreements - leaders call on GoS and armed opposition to “seize this momentum to reach a political solution” in Darfur. 28 May 2004 - 120 AU/EU/USA/GoS/NSA/Chadian mediators/observers monitor ceasefire in Darfur. - Deployment of 300 guards considered if parties cannot protect international observers.		
June 2004	3 June 2004 <u>USAID</u> chief, Andrew Natsios: 1 million people could die in Darfur if aid is not brought.		June 2004 Start of <u>MSF Belgium/OCB</u> programme in Kebkabyia.	5 June 2004 <u>MSF France/OCP Deputy Emergency Program Manager Mercedes Tatay</u> to <i>Le Monde</i>: would prefer talk of “emergency” regarding Darfur situation.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 June 2004	6 June 2004 ICC announces opening of investigation into alleged war crimes in Darfur. 11 June 2004 <i>The New York Times</i> (USA), interview with US Secretary of State Colin Powell: • "Government of Sudan did provide support to militias." - Ask GoS to grant "immediate access to humanitarian workers, stop fooling around with holding up travel permits." - "There are at least a million people who are desperately in need, and many of them will die if we can't get the international community mobilised and if we can't get the Sudanese to cooperate with the international community. And it won't make a whole lot of difference after the fact what you've called it." 17 June 2004 UNSG Kofi Annan: cannot "at this stage" describe the situation in Darfur as "genocide or ethnic cleansing yet."	6 June 2004 Sudanese Deputy MoFA: ICC announcement could hamper progress in the negotiations and might foster NSA intransigence. 11 June 2004 The GoS announced that 162 suspects were to appear in front of a Sudanese Special Criminal Tribunal to "substitute" to ICC in trying war crimes in Darfur.		15 June 2004 MSF/Epicentre Report, 'Health assessment in emergencies: Murnei Zalingei, West Darfur, Sudan' by Evelyn Depoortere.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 June 2004	23 June 2004 <u>Physicians for Human Rights</u> report: "Genocide occurring in Darfur. There is a clear intention to eradicate non-Arab families." 25 June 2004 <u>UNSG Kofi Anan</u>, about genocide: "We must act and stop arguing about what right term to use."			21 June 2004 <u>MSF France/OCP</u> report, 'Emergency in Darfur, Sudan: No Relief in Sight,' based on main results of Epicentre survey and accounts from IDPs in Mornay. June 2004 In a meeting in Darfur, <u>UN Under-Secretary-General for Humanitarian Affairs</u>, Jan Egeland, addressed issue of genocide. Sudanese authorities invoke Western propaganda and claim figures in MSF report are fake. Threat to expel MSF France/OCP coordinator not carried out. 25 June 2004 - <u>MSF France President Jean-Hervé Bradol</u> on MSF France website interview "We are looking at a second catastrophe." - <u>MSF France President, Jean-Hervé Bradol</u> to <i>Le Monde</i>: "The accusations of genocide are misplaced. In no case was there a desire to exterminate entire villages or a particular ethnic group. There is no need to use this inaccurate term to describe the ferocious repression carried out by the government in the region." 25-27 June 2004 <u>MSF IC</u>: - regret that "no genocide" statement delivered without any prior discussion at IC, where principles should be discussed.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 June 2004	Late June 2004 Increase in international human rights organisations pressure to stop violence in Darfur. 30 June 2004 US Secretary of State Colin Powell, after short visit to Sudan: "based on the evidence that is available", violence in Darfur "doesn't meet the tests of the definition of genocide." - "it is not Rwanda 10 years ago; it is Sudan now." - "if it was a genocide, we would certainly increase international pressure." - USA wants to see GoS "break the back of the Janjaweed and to provide full humanitarian support to these people in need" in Darfur.	30 June 2004 Sudan MoFA, Mustafa Ismail: Sudan will send more government forces to provide security, ease restrictions on humanitarian groups and speed up negotiations with rebel groups.		- recurring behaviour by MSF France president - statement perceived as a break of dirops April 2004 agreement not to take position on genocide issue. Late June 2004 A few days after "no genocide" statement, MSF communications to adjust messaging/speaking out to avoid being perceived as supportive of GoS: guidance given on how to respond to media, including specific recommendations for "Islamic media." 30 June 2004 French daily <i>Libération</i>: 'MSF lifts the veil on the horror.'
July 2004	1 July 2004 WHO call for large-scale international aid operation using military logistics, to prevent 10,000 deaths in Darfur in next month.			Throughout July 2004 Debate between MSF GDs on relevance of using genocide term.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 July 2004	7 July 2004 <u>USA proposal for UNSG draft resolution:</u> - arms and travel embargo on Janjaweed militia - within 30 days of approving measure, UNSC to consider sanctions against “other perpetrators of atrocities in Darfur”, meaning GoS as open supporter of Janjaweed.	3 July 2004 After UNSG Kofi Annan’s visit, <u>GoS</u> says it will allow AU observers to enter Darfur.		7 July 2004 <u>MSF France Board President Jean-Hervé Bradol</u> press conference: - concerns regarding Sudanese plan for so-called “voluntary” return of more than one million IDPs from Darfur - risk of health catastrophe - recall of WFP difficulties to work properly (one in four malnourished children). 9 July 2004 <u>MSF Belgium board of directors’</u> recommendation: - MSF to call for more assistance, “without taking any political position”, and - MSF to continue documentation to develop analysis of situation. 12 July 2004 <u>MSF websites.</u> While the Netherlands took over EU presidency, MSF Holland General Director, Austen Davis, criticised lack of an EU reaction to Darfur crisis including aid.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 July 2004	14 July 2004 Foundation of <u>Save Darfur Coalition</u> during Darfur Emergency Summit in New York City, organised by US Holocaust Memorial Museum, American Jewish World Service and Nobel Peace Prize winner, Elie Wiesel. 16 July 2004 <u>US Secretary of State Colin Powell</u>: - does not think there is “a problem of a Rwandan nature” in Darfur. - complains about too many people wasting time on discussing “whether it’s genocide or not”, instead of “making sure to load the humanitarian pipeline.” - team of US experts talking to refugees from Darfur in Chad. - members of Congress considering “whether additional congressional action is appropriate.” 19 July 2004 <u>Amnesty International</u> report ‘Sudan, Darfur: Rape as a weapon of war’: hundreds of testimonies of women raped, abducted and forced into sexual slavery by Janjaweed. <u>Human Rights Watch</u> briefing paper: they obtained copies of government documents whose contents sharply contrast with the Sudanese government’s repeated denials of support to the Janjaweed.”	19 July 2004 <u>Khartoum</u> says that HRW declarations are false, and their objective is to push the UN to impose sanctions on Sudan.		

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 July 2004	22 July 2004 <u>US House of Representatives</u> resolution: - atrocities in Darfur are genocide. - call on US Government to label the violence with this “appropriate” term. 26 July 2004 <u>US Holocaust Memorial PR</u>: ‘United States Holocaust Memorial Museum declares ‘genocide emergency’ in Sudan.’ 27 July 2004 <u>US State Secretary, Colin Powell</u>: international military action in Darfur is “premature.” 30 July 2004 <u>UNSC resolution</u> endorsing deployment of international monitors, including protection force envisioned by the AU to Darfur under AU leadership.	26 July 2004 <u>De Standaard</u> (Belgium), interview of Sudan MoFA Mustafa Osman Ismael: rejects term “genocide” to qualify situation in Darfur, instead talking about “a humanitarian crisis caused by fighting, through no fault of our own.” 27 July 2004 <u>GoS</u> decrees “political and strategic general mobilisation”, releases 49 Islamist opponents to “unite the home front, against all foreign intervention.” 30 July 2004 <u>Khartoum</u> considers UNSC resolution a declaration of war.		26 July 2004 After MSF International Council President, Rowan Gillies, return from Darfur, MSF PR warning that “the desperate condition of the people there is not improving despite greater access to the area and more agencies and aid workers arriving.” 27 July 2004 <u>MSF France/OCP Emergency Programmes Manager Thierry Allafort-Duverger</u> to French daily <i>Le Figaro</i>: - “If we felt that a genocide was underway, as doctors we would be useless and leave the country”. - stigmatises “propagandist distortion that can only harm relief efforts”. - calls for increasing logistical means to deliver aid to IDPs.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 August 2004	5 August 2004 <u>UN/GoS</u> agreement to disarm Janjaweed and improve security for IDPs in next 30 days. 9 August 2004 <u>EU</u> team back from Darfur says violence could not be described as genocide but stresses scale of massacres. 10 August 2004 Based on discussions with officials and refugees in Chad, US Senate Republican <u>Majority Leader</u>, Bill Frist states genocide is taking place in Darfur. 14 August 2004 <u>UN weekly report</u> on humanitarian situation in Darfur: increase in sexual abuses, particularly rape of women in Darfur camps close to El Fasher.	14 August 2004 - 150 Rwandan soldiers from the AU Protection Force deployed in Darfur. - <u>GoS</u> reaffirms opposition to peace-keeping forces and claims to be able to restore stability in Darfur: deployment of 9,000 policemen and presentation of 11 possible safe zones to receive displaced persons. - <u>GoS</u>, first acknowledgement of human rights violations in Darfur and provides UN Commission on Human Rights with list of 30 Janjaweed, presumed guilty of violations.	August 2004 <u>MSF Spain/OCBA</u> and <u>MSF Switzerland/OCG</u> start operations in Darfur.	

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 August 2004	18 August 2004 <u>UN estimation</u>: nearly 1.5 million people affected by current conflict in Darfur. 22 August 2004 <u>UNSG Special Envoy for Sudan to Financial Times</u>: not enough observers in Darfur to verify GoS fulfilment of UN commitments. 23 August 2004 AU-sponsored peace talks between GoS and Darfur NSA in Abuja amid disagreements over possible deployment of peacekeeping force in Darfur. 24 August 2004 - <u>UNSC</u> strong support to AU for efforts to resolve humanitarian crisis in Darfur and call on GoS and other parties to cooperate. - <u>ICRC</u> to organise largest airlift since Iraq crisis to supply aid to Darfur population. 26 August 2004 <u>Sudanese negotiator at AU Peace talks</u>: Sudan will not heed UNSC ultimatum on Darfur, due at end of August, and favours solution through peace talks.			20 August 2004 'Genocide and MSF' discussion paper by Kate Mackintosh, <u>MSF Holland/OCA, Humanitarian Affairs Department</u>

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 August 2004	31 August 2004 <u>UNSG, Kofi Annan, report situation in Darfur UNSC:</u> - Despite signs of goodwill and some improvements, GoS fails to honour commitment to solve Darfur crisis. - Recommendation to increase international presence in Darfur based on UN plan proposed to the African Union.			
September 2004	8 September 2004 USA proposes resolution to UNSC authorising expansion of AU forces in Darfur. 9 September 2004 - Based on <u>US State Department survey</u> in refugee camps in Chad in July-August 2004, US Secretary of State Colin Powell to US Senate Foreign Affairs Commission: "genocide has been committed in Darfur." - <u>US White House</u>: genocide in Darfur, according to US State Department investigation and other information.			1 September 2004 - <i>Alternatives Internationales</i> (France), 'Genocide, a Word with Many Meanings,' Op-ed by Rony Brauman, MSF France Foundation - <i>Survie, Billets No. 128</i> (France): 'Humanitarian, You Say?' by François-Xavier Verschave, MSF accused of "burying crimes against humanity under humanitarian thinking."

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 September 2004	16 September 2004 EU Parliament Resolution: crimes against humanity, war crimes, and human rights violations committed in Darfur could constitute genocide. 18 September 2004 UNSC Resolution 1564: "determining that the situation in Sudan constitutes a threat to international peace and security and to stability in the region." 20 September 2004 UN sends genocide inquiry team of Special Advisor on prevention of genocide Mendez and UNHCHR Arbour to Darfur. 28 September 2004 US Secretary of State Colin Powell: now sure that what is happening in Darfur is genocide.			14 September 2004 <i>Le Monde</i> (France), 'From one genocide to the next?' Column by MSF France President Jean-Hervé Bradol. Opposing "legal" definition of genocide in favour of "historical definition," which does not qualify situation in Darfur as genocide. 15 September 2004 MSF Website: 'Despite heavy mobilization of aid in Darfur, the situation remains fragile, and assistance must continue'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 September 2004	30 September 2004 <u>UNHCHR & UNSG special advisor on prevention of genocide report to UNSC:</u> "crimes against humanity, war crimes, and violations of the laws of war have probably occurred on a large and systematic ."			
October 2004				1 October 2004 - <i>Le Monde</i> (France), 'Genocide, Upping the Stakes,' by Rony Brauman, MSF France Foundation: elaborates on ICTY precedent ruling that there was genocide in Srebrenica in 1995. - <i>The Lancet</i> 'Violence and Mortality in West Darfur, Sudan (2003-2004): Epidemiological evidence from Four Surveys." by MSF & Epicentre: based on results of several Epicentre surveys and IDP accounts collected in various sites in Darfur. 5 October 2004 Pro-government <i>Sudan Vision</i> 'Médecins Sans Frontières challenges US Darfur genocide claim', praising MSF statement that "government troops and militias had committed massacres, but not genocide." 18 October 2004 <u>MSF France Foundation</u> organises a "conflicting debate on the definition of genocide and the broader application of the 1948 convention."

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2004 October 2004		28 October 2004 <u>Sudanese President Omar al-Bashir</u> strong statement that NGOs true enemy in Darfur, talk of "plot against Darfur."		
November 2004	9 November 2004 Two short-term agreements signed in Abuja: - no-fly zone over NSA-held areas of Darfur. - commitment to unrestricted humanitarian access.			1 November 2004 <u>MSF Holland/OCA report</u> , 'Persecution, Intimidation, and Failure of Assistance in Darfur.' - includes accounts from IDPs in camps in Darfur and extracts from Epicentre survey. - to aid understanding of magnitude and depth of suffering and failure to address problems - violence rather than disease or malnutrition leading cause of death for over 5 years.
				18 & 19 November 2004 - <u>MSF Movement internal conference in Geneva on "dilemmas and MSF Speaking out"</u> , based on MSF Speaking Out Case Studies on the genocide of Rwandan Tutsi. - representatives from whole movement

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2004 November 2004	19 November 2004 UNSC resolution 1574: - supporting "the decisions of the African Union to increase its mission in Darfur to 3,320 personnel and to enhance its mandate." - calls on all parties to "cooperate fully with the International Commission of Enquiry established in early October by the UNSG." 22 November 2004 Oxfam: EU must act to stop violence in Darfur; one of last hopes for tough action to press parties to stop continued violence and insecurity in Darfur.			- discussion on relevance of MSF defining genocide, specifically on Darfur. - MSF IC President, Rowan Gillies, letter to UNSC posted on MSF website, highlighting serious health impact of ongoing massive displacement, precarious living conditions, food shortages in Darfur. 26 November 2004 MSF Belgium Website, 'Renewed violence in North Darfur state forces MSF to evacuate from health centre,'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2005 January 2005	25 January 2005 Report of International Commission of Inquiry on Darfur to UNSG: recommend UNSC "immediately refers the situation of Darfur to the International Criminal Court (ICC)."			31 January 2005 MSF Holland/OCA advocacy strategy on Sexual and Gender-Based Violence (SGBV) response in Darfur.
March 2005	24 March 2005 UNSC resolution 1590 establishes <u>United Nations Mission in the Sudan (UNMIS)</u>. 29 March 2005 UNSG Kofi Annan off the record meeting with INGOs: - "Be united" in stance towards the GoS. - NGOs discussed urgent need for further action by UNSC – including targeted sanctions and referral of Darfur situation to ICC.			8 March 2005 MSF Holland/ OCA PR & report/briefing paper release, 'Rape and Sexual Violence Ongoing in Darfur, Sudan' 29 March 2005 MSF International Council President, Rowan Gillies in statement (not directly read during the meeting with UNSG Kofi Annan), distances MSF from UNSG and INGO position. Statement posted on MSF USA website.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2005 March 2005				Late March 2005 <u>MSF Holland/OCA Briefing paper on rape</u> distributed at INGO meeting with UN Deputy General Secretary for Humanitarian Affairs on Darfur, Jan Egeland, who will later use it to brief Sudanese and international officials.
April 2005	31 March 2005 UNSC resolution 193 deciding to refer situation in Darfur beginning 1 July 2002 to ICC.		1 April 2005 <u>MSF France/OCP</u> Update: Security incidents increased in Darfur.	
May 2005	26 May 2005 <u>EU and NATO</u> to bring logistic support to AU forces in Darfur.			6 April 2005 <i>The New York Times</i> 'The Pope and hypocrisy' Op-ed by Nicholas Krystof: - mentions <u>MSF Holland/OCA</u> report on rape in Darfur. - Paraphrases <u>MSF Holland/OCA Director of Operations Kenny Gluck</u>, "the aid effort is sustaining victims so they can be killed with a full belly," to argue need for security force to stop violence.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2005 May 2005	28 May 2005 <u>UNSG</u> Kofi Annan visit to Kalma camp in Darfur: - challenged by displaced people with accounts of rape and murder of civilians. - media and international stakeholders' interest in MSF Holland/OCA report, "The Crushing Burden of Rape" reactivated.		30 May 2005 <u>MSF Holland/OCA Coordinator in Sudan</u> Paul Foreman, arrested, questioned and under house arrest. 31 May 2005 <u>MSF Holland/OCA Coordinator in Darfur</u>, Vincent Hoedt, arrested in Nyala, transferred to Khartoum, questioned and under house arrest with Paul Foreman.	31 May 2005 - MSF Holland/OCA PR (relayed by <u>MSF Movement</u>), 'MSF shocked by arrest of Head of Mission in Sudan – charged with crimes against the state.' - <u>MSF Holland/OCA PR (relayed by MSF Movement)</u> 'Second arrest in Sudan; Dutch coordinator for MSF in Darfur held this morning.' - <u>MSF Holland/OCA communication and lobbying strategy</u> to push for charges against Paul and Vincent to be dropped. Decision to be "hard-hitting and high-profile towards the Government of Sudan." - <u>MSF Holland/OCA Website</u>: 'High Commissioner for Human Rights concerned over arrest of MSF head in Sudan.'

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2005 June 2005	14 June 2005 UNSG Special Representative to Sudan, Jan Pronk, expects charges against MSF members in Soudan to be dropped within hours; in vain.		5 June 2005 <u>Letter from MSF Holland/OCA to Prosecutor General</u> – Ministry of Justice to appeal charging Paul Foreman and Vincent Hoedt for crimes against the State.	1 June 2005 <u>Sudanese authorities</u> “memorandum of charges” against Paul Foreman and Vincent Hoedt, charging individuals, not “MSF itself or its charitable work being rendered for interest of humanity and Sudanese community.” 14 June 2005 MSF Holland/OCA Draft PR, ‘Médecins Sans Frontières Welcomes Dropping of Charges against its Representatives in Sudan.’” 17 June 2005 <i>The Sudan Tribune</i>, ‘Aid groups to meet war crimes prosecutor on Darfur’ including photograph of MSF nurse in a refugee camp in Darfur. <u>MSF Holland/OCA letter to editor</u> asking for rectification to avoid misimpression of MSF involvement in collaboration with ICC.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2005 July 2005	29 July 2005 <u>UN High Commissioner for Human Rights</u> report 'Access to Justice for Victims of Sexual Violence.' - Follow-up to promised improvements from GoS during UNSG Kofi Annan's visit in early June. - Steps taken by GoS fail to investigate allegations of sexual violence and "to end impunity for these crimes and thus contribute to their prevention."			27 July 2005 <u>MSF Belgium/OCB Coordinator</u> in Darfur, Dr Nathalie Civet to <u>UN Arria Formula</u>: - Perpetuation of violence, precariousness of humanitarian response, based on MSF programmes in Darfur. - GoS constant pressure on displaced for them to relocate. - Changing nature of conflict increases insecurity.
August 2005				3 August 2005 <u>MSF International PR 'Médecins Sans Frontières</u> alarmed about ongoing violence in Darfur, Sudan' summarises Arria Formula presentation using data from draft of MSF intersectional report on Darfur.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2005 August 2005				11 August 2005 <u>MSF France/OCP</u> asked for story of experience of MSF Holland/OCA account collector for 'The Crushing Burden of Rape' report to be withdrawn from MSF international website, for fear information be used by investigators on Darfur, such as ICC.
September 2005	20 September 2005 <u>AU</u> to extend and strengthen its force's mandate in Darfur until 31 December; decision follows GoS refusal to replace AU troops with UN force. 28 September 2005 - <u>Under-SG for Humanitarian Affairs, Jan Egeland</u> , threatens to suspend humanitarian aid in Darfur because of insecurity. - INGOs ask for increased security for humanitarians, more resources for AU forces and deployment of UN helicopters to ensure movement.	September 2005 Further splits in NSA groups and accumulating attacks fuelled insecurity in Darfur.		
November 2005				November 2005 <u>MSF Intersectional report</u> , launched in April, still uncompleted. Now thinking of using case study of a single location rather than global overview of Darfur situation.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2006				
May 2006		5 May 2006 Signature of Abuja Agreement by GoS with a faction of the SLA. However, rejected by JEM and a rival faction of the SLA.		
September 2006	September 2006 Save Darfur Coalition, supported by intellectuals and celebrities, arouses US and international public opinion.		11 September 2006 <u>MSF France/OCP</u> team violently attacked on Zalingei-Nertiti road, area under GoS control.	
	13 September 2006 UNSG Kofi Annan begging GoS to accept deployment of UN force.			
	14 September 2006 <u>Nobel Peace Prize winner</u> Elie Wiesel and actor George Clooney informally brief the UNSC on Darfur.			
October 2006			29 October 2006 <u>MSF Switzerland/OCG</u> team witness attack on Seleah where several dozen men, women and children killed, and town emptied.	Early October 2006 <u>MSF Holland/OCA</u> teams treat victims of wave of extreme violence in Muhajariya. Intended strong PR cooled by authorities' warning of legal consequences.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2006 November 2006				12 November 2006 MSF Website 'MSF Provides Assistance to 50,000 Newly Displaced in South Darfur.' 16 November 2006 - MSF Switzerland/OCG PR 'Civilians in West Darfur Deprived of Assistance as Attacks Intensify' describes increasing attacks in Jebel Moon locality. - MSF Website, Opinion piece by Rowan Gillies, MSF International Council President, 'Who is really Feeling the Pressure over Darfur?'
December 2006		23 December 2006 Sudan President al-Bashir accepts principle of UN-AU force though evasive on deployment of 20,000 blue helmets planned by outgoing UNSG Kofi Annan.		
2007 January 2007	5 January 2007 Darfur top of new UN Secretary-General Ban Ki Moon's agenda.			January 2007 MSF France CRASH report 'A Critique of MSF France/OCP Operations in Darfur October 2003-October 2004'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2007 January 2007	28 January 2007 At <u>AU summit</u> in Addis Ababa, 6 INGOs (not MSF) warn about humanitarian situation in Darfur.			28 January 2007 <i>Newsweek</i> (USA), 'Africa: War on the Rescuers,' MSF France Coordinator in Darfur, Jean-Guy Vataux: during 11 September 2006 attack on Zalingei-Nertiti road, MSF staff "subjected to a serious sexual assault." Information not previously divulged.
March 2007	20 March 2007 French <u>Urgence Darfur</u> call for international armed intervention in Darfur.			23 March 2007 - <i>Libération</i> (France), 'An Appeal for Darfur, Killings and Demagogy,' by MSF France Board President Jean-Hervé Bradol, and MSF France CRASH, Fabrice Weissman. - MSF France Board President Jean-Hervé Bradol to AFP: no relief organisations in Darfur supports Save Darfur's appeal for armed intervention.
April 2007				27 April 2007 Françoise Bouchet-Saulnier, Fabien Dubuet, <u>MSF France Legal Department</u>, 'Legal or Humanitarian Testimony? History of MSF's Interactions with Investigations and Judicial Proceedings.'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2007 May 2007	May 2007 <u>French MoFA</u> Bernard Kouchner proposes to create humanitarian corridor from Chad to assist populations in Darfur, including with military security. 19 May 2007 <i>The Guardian</i> (UK) 'Not on Our Watch - How Hollywood Made America Care about Darfur: Cannes Premiere Is Latest Event to Be Used to Draw Attention to African Crisis.'			May 2007 <u>MSF USA General Director</u> Nicolas de Torrente declines proposal from George Clooney's representative to organise an awareness- and fundraising event calling for armed intervention in Darfur during Cannes film festival for MSF. 31 May 2007 <u>MSF Website</u>, "'Safe Humanitarian Corridors" in Darfur: A Dangerous Military and Humanitarian Muddle,' Interview with MSF France/OCP Programme Manager Dr Denis Lemasson.
July 2007	31 July 2007 UN Resolution 1769 authorising deployment of United Nations African Mission in Darfur (UNAMID).			
August 2007				1 August 2007 <u>MSF communications departments Q&A</u> on MSF position on UNAMID.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2007 October 2007	15 October 2007 <u>EU</u> approves deployment of European force on Chad/CAR border with Sudan. October 2007 <u>French NGO L'Arche de Zoé</u> members arrested for having tried to evacuate children they presented as orphans, victims of conflict in Darfur.			October 2007 <u>MSF France CRASH</u> Rony Brauman to French media: - L'Arche de Zoé influenced by prevailing discourse of associations such as Urgence Darfur. - "Moral responsibility" of French intellectuals supporting discourse on genocide.
December 2007	31 December 2007 <u>UNAMID</u> struggles to secure material and human resources.			
2008 January 2008	January 2008 - <u>UN</u> convoy of more than 20 "clearly marked" vehicles protected by South African peacekeepers fired on while on its way to western Darfur. - <u>France</u> increases troops and helicopters in Chad to help EUFOR.		9 January 2008 <u>UNAMID</u> troops demand access to <u>MSF Holland/OCA</u> clinic in Kalma camp to investigate on reported rape cases and names of victims treated by MSF. MSF refuses.	

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 January 2008			25 January 2008 <u>MSF Holland/OCA Coordinator</u> complained to UNAMID: - troops demanding access to MSF clinic not acceptable. - requesting confidential information from health workers inappropriate.	
February 2008	February to May 2008 Olympic Games in China and 24th anniversary of genocide of Rwandan Tutsi: supporters of Save Darfur campaign to put Darfur crisis under the spotlights.	February 2008 Sudanese authorities and militias increase strategies to dismantle Darfur camps, including Kalma, and forcibly relocate displaced people.		Early February 2008 MSF Holland/OCA briefing paper 'Lives Enclosed – a Look Inside Kalma Camp South Darfur, Sudan': impact of conflict on health of people living there.
	10 February 2008 <u>Sudan/UN</u> agreement on "how the 'hybrid' force in Darfur is to operate."			13 February 2008 MSF Switzerland/OCG PR, 'Aerial Bombings and Attacks Lead Thousands of Civilians to Flee to Chad.'
	14 February 2008 <u>President of the International Olympic Committee</u> , Jacques Rogge, signs letter in aid of Darfur.			

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 February 2008	20 February 2008 <u>US President George W. Bush</u> calls to "put an end to" the Darfur conflict.			29 February 2008 <u>MSF France/OCP Website</u> , reopening of a mother and child healthcare clinic in Zalingei.
March 2008		10 March 2008 <u>Sudan</u> admits its forces' involvement in attack on peacekeepers in Darfur: attack result of a "shared mistake"; UN should have informed of convoy's movements.		
April 2008	8 April 2008 <u>US presidential candidate Hillary Clinton</u> calls on George W. Bush to boycott opening ceremony of Beijing Olympic Games unless China significantly changes in stance on Tibet and Darfur.		April 2008 <u>HAC</u> informed about certain <u>MSF France/OCP</u> former projects being funded by American Jewish Health Service via MSF USA.	
May 2008	11 April 2008 <u>Nobel Peace Prize laureate Wangari Maathai</u> pulls out of Olympic torch relay in solidarity with Darfur victims.			May 2008 <u>MSF France/OCP Website</u> , 'Surviving in the Chaos: Stories from Darfur,' stories collected in health facilities in Zalingei, Nertiti and Kutrum and in IDP camps of Zalingei (West Darfur) and Bulbul (South Darfur).

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008				
May 2008	28 May 2008 <u>US presidential candidates (Clinton, McCain, Obama) joint statement:</u> - "We Stand United on Sudan" - "United Resolve to End the Darfur Genocide."			
June 2008	16 June 2008 <u>ICC Prosecutor Luis Moreno Ocampo</u> asks judges to issue arrest warrants for 2 Sudanese senior officials responsible for crimes in Darfur: Ahmad Muhammad Harun, former interior minister now minister of humanitarian affairs, and Ali Muhammad Ali Abd-Al-Rahman, a Janjaweed commander.		June 2008 False rumours about <u>MSF Holland/OCA</u> team in Goz Beida (Chad) being evacuated by EUFOR troops.	June 2008 <u>MSF France/OCP</u> acceptance of AJWS funds used as pretext for expulsion of <u>MSF Holland/OCA</u> Coordinator. <u>MSF Holland/OCA</u> to not comment publicly on this expulsion. June 2008 <u>MSF France/OCP</u> prepares answers to media questions or possible ICC requests. 30 June 2008 <u>MSF Holland/OCA</u> memo: 'Summary of Analysis and Response to HAC Investigation and Expulsion of HoM from South Darfur.'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 July 2008	8 July 2008 <u>7 UN/AU peacekeepers</u> killed in militia attack in North Darfur, rumours circulating on imminent ICC indictment of Sudan President Omar al-Bashir: seen by UN as warning from Khartoum of what could happen in case of “wrong decisions” by international community. 14 July 2008 <u>ICC prosecutor Luis Moreno Ocampo</u>: - presents evidence to ICC judges of genocide allegations in Darfur against Sudanese president, Omar al-Bashir. - requests that arrest warrant be issued. - judges have 2 to 3 months to decide.	14 July 2008 <u>Sudan President al-Bashir</u> on Sudanese television: ICC has no jurisdiction in Sudan and prosecutor’s accusations are “false.”		8 July 2008 <u>MSF Holland/OCA letter</u> to Sudanese Media Centre: MSF Holland/OCA received no funding from Jewish World Service for work in Darfur or elsewhere in Sudan. 11 July 2008 - <u>MSF International Internal note</u> about MSF position on arrests warrants by ICC in Sudan: MSF to limit participation in proceedings before ICC. - <u>MSF Liaison with UN</u>, Fabien Dubuet’s message to MSF Sudan Programme Manager: strongly recommends suspending all teams’ movements, to regroup staff and keep low profile for next 4 days. 17 July 2008 <u>MSF Holland/OCA Q&A</u> in readiness for media questions about MSF position on ICC arrest warrants.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 July 2008	30 July 2008 UNSC resolution extending UNAMID mandate by one year. Rejection of Russian and Chinese request for resolution to consider freeze on ICC prosecution of al-Bashir.	Second half July 2008 <u>Sudanese forces'</u> offensive in Jebel Marra (Tawila, Shangil Tobaya) in North Darfur. 23 July 2008 Khartoum ready to set up special courts to try those responsible for human rights violations in Darfur. Arab League to monitor trials together with UN and AU.	Second half July 2008 <u>MSF Spain/OCBA</u> teams in Tawila and Shangil Tobaya attacked by armed men in compounds. 24 July 2008 Sudanese newspaper <i>Akhir Lhaza</i>: - accuses MSF France/OCP of conspiracy against President of Sudan - states that MSF supports ICC indictment of President al-Bashir - mentions MSF France's alleged links with French MoFA Bernard Kouchner - statement finally retracted, but MSF must provide HAC with clarification of position on ICC decision.	30 July 2008 MSF International Council President Christophe Fournier: 'MSF's position Regarding the International Criminal Court's Prosecutor's Case Presentation against the President of Sudan.'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 August 2008	4 August 2008 <u>AU President</u> criticises ICC request for arrest warrant against Sudanese president and asks UNSC to discuss resolution to postpone procedure.			2 August 2008 <u>MSF Spain/ OCBA PR</u>, 'MSF Evacuates Teams After Series of Assaults on Staff in North Darfur - 65,000 People in Tawila and Shangil Tobaya Left Without Medical Assistance.'
September 2008			26 August 2008 Armed attack against <u>MSF Holland/OCA</u> teams in Kalma camp. Late September 2008 <u>Sudanese authorities</u> order MSF to suspend Plumpy'Doz distribution in Darfur, alleging abnormal levels of aflatoxin. Despite negative results of MSF-commissioned counter-expertise, MSF not authorised to use Plumpy'Doz.	26 August 2008 <u>MSF Website</u>, 'MSF Evacuates 49 Wounded from Kalma Camp, Darfur, Sudan.'
October 2008			October 2008 <u>MSF Holland/ OCA</u> requested to remove mental health programme from technical agreement proposal. <u>MSF Holland/ OCA</u> refused.	30 September 2008 MSF inter-desk meeting to set up common reaction on security incidents.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 October 2008	15 October 2008 ICC Pre-Trial Chamber request from prosecution to submit additional supporting material for Omar al-Bashir arrest warrant by 17 November 2008.		16 October 2008 HAC letter to MSF Holland/OCA announcing suspension of activities due to lack of technical agreement, immediately lifted until end October. Access to medical facilities and medical cargo blocked. October 2008 <u>MSF France/OCP:</u> - same constraints and restrictions as MSF Holland/OCA on programmes and staff - told by HAC to close home visitors program.	2 October 2008 <u>MSF International Website,</u> 'Ongoing Violence in Chad Jeopardizes MSF's Humanitarian Assistance to Population.' Mid-October 2008 MSF movement internal discussions on mitigation of risks for certain MSF documents to be used in legal procedure. MSF Legal Advisor to find out if any further MSF information in hands of ICC or lawyers of the accused, possibly compromising testifying victims' safety. 20 October 2008 MSF Inter-section memo, 'Darfur and the ICC Arrest Warrant for President Bashir – Analysis of the Operational Environment.'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 October 2008		22 October 2008 <u>Sudanese Media Centre Website</u>, GoS legal procedures to halt 6 INGOS projects in Darfur, including MSF Holland/OCA.	26 October 2008 <u>HAC letter to MSF France/OCP</u> posing conditions to endorsement of technical agreement for Zalingei: - suspension of Home Visitor Programme - reduction of international Staff to 2 per location - handover of all assets to MoH at project closure.	22 October 2008 - <u>MSF Holland/OCA</u> to prepare a communication reactive line for media requests. - <u>MSF directors of operations</u> to send MSF international high-level delegation to discuss with Sudanese authorities about insecurity and administrative blockages. 27 October 2008 <u>MSF International Website</u>, 'Sudanese Authorities Threaten to Suspend MSF Activities in South Darfur.' 30 October 2008 <u>MSF Holland/OCA Director of operations Arjan Hehenkamp's letter to Head of HAC</u> reaffirming MSF's position with regards to ICC.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 November 2008			10 November 2008 <u>Sudanese Media Centre Website</u>, 'Sudanese Official Terms Aid Agency's Work as Intelligence Gathering': - MSF update presented by HAC as intent to hide truth and to give impression that HAC hinders MSF activities. - "so-called mental health programme was mostly an intelligence-gathering activity which had nothing to do with health." 17 November 2008 <u>MSF France/OCP</u> Coordination team meeting with head of HAC: - suspension of home visiting and mental health activities.	3 November 2008 - <u>MSF International Council President</u> Christophe Fournier letter to GoS requesting urgent meeting to discuss issues concerning MSF humanitarian work in Sudan. - Message from <u>MSF Coordinators in Sudan</u> to RIOD asking for high-level delegation meeting with GoS to be postponed to January 2009, along with information package and threat of intersectional public communication. 7 November 2008 <u>MSF Website</u>, 'Suspension Withdrawn, but MSF Instructed to Close Mental Health Programmes in South Darfur, Sudan.'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2008 November 2008			- no authorisation to use Plumpy'Doz; <u>MSF France/OCP</u> team implicitly told to "give up the issue."	20 November 2008 <u>MSF Programme Managers</u> letter to directors of operations recommending: - to abstain from requesting institutional funds as long as MSF still negotiating its presence in Darfur - to launch a joint evaluation of all MSF programmes in Sudan, to assist in negotiations with Sudanese authorities. December 2008 <u>MSF France/OCP's communication on Darfur's review:</u> - general reduction in MSF working space in Darfur. - deterioration of MSF public voice on Darfur crisis - real interest in having intersecting communication on important issues.
December 2008				
2009 January 2009			Mid- January 2009 <u>MSF Holland/OCA</u> base in Muhajariya destroyed by attack and part of team evacuated. Skeleton team remaining to provide basic service in untouched clinic.	

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2009 February 2009	25 February 2009 ICC sets Wednesday 4 March 2009 as date for a decision to issue arrest warrant for President al-Bashir or not.		17 February 2009 HAC informs MSF that dates for high-level delegation meeting not suitable. Told to try again in mid-March.	12 & 13 February 2009 MSF Directors of Communication & Fundraising draft position paper on MSF relations with ICC, sticking to July 2008 MSF International President Christophe Fournier's 3-point message: - MSF respects ICC but never comment on judicial decisions. - MSF specific policy of refraining from cooperation with ICC and independence from judicial instances. - MSF continues to help people in Darfur despite difficulties. 18 February 2009 MSF Holland/OCA Website, 'South Darfur: MSF Team Returns to Provide Health Care to the People Affected by Heavy Fighting in Muhajariya.' 20 February 2009 Fabien Dubuet, MSF International Liaison to UN, requests support from Permanent Representative of Sudan to UN after MSF high-level delegation meeting with GoS cancelled.

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2009 March 2009			1 March 2009 HAC orders to MSF France/OCP and MSF Holland/OCA Coordinators, along with coordinators of 6 other NGOs, to leave 10 sites before 4 March, “due to credible security threats.”	March 2009 <u>Sudanese Minister for Humanitarian Affairs</u>, Ahmed Haroun, to help MSF obtain visas for high-level delegation meeting in Khartoum. 2 March 2009 - <u>MSF Executives</u> analyse main INGOs’ forced evacuation from Darfur as pressure from GoS on international community and ICC, in view of 4 March 2009 possible arrest warrant for President al-Bashir. - <u>MSF Liaison to UN</u> Fabien Dubuet to MSF Executives: according to UN, GoS targets organisations “with a history of speaking out.” 3 March 2009 - <u>MSF field teams</u> in Darfur ask for press release about forced evacuation be less political and more medical for security reasons. - <u>ICRC</u> advice to MSF: - not to criticise GoS “for taking security measures” - to focus on humanitarian concerns.

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2009 March 2009	4 March 2009 <u>ICC arrest warrant</u> for Sudanese President al-Bashir.		4 March 2009 - <u>MSF Holland/OCA</u> Coordinator in Sudan summoned by HAC and informed that MSF Holland/OCA expelled from Sudan. - <u>MSF France/OCP</u> director of operations requesting explanation, sharply asked, "do you also want MSF France/OCP to be expelled?" 5 March 2009 - Letter from Sudanese authorities to <u>MSF France/OCP</u> in Khartoum announcing expulsion of MSF French section from Sudan. - Expulsion of 11 other INGOs. - <u>President al-Bashir</u> accuses INGOs of being biased and collaborating with ICC and denouncing Western "neo-colonialism."	4 March 2009 - <u>MSF International Website</u>, 'MSF Seriously Concerned for the People of Darfur Left Without Healthcare Following an Order to Remove International Staff from Relief Projects.' - MSF International PR, 'Dutch Section of MSF Expelled from Darfur, Leaving Hundreds of Thousands Without Critical Medical aid.' MSF completely independent from ICC and do not provide information. - <u>UN and many states</u> strongly criticise GoS over expulsion of MSF section. - <u>MSF HART</u> multiple meetings with diplomatic actors to secure support in further negotiations with GoS. 5 March 2009 - MSF PR, 'MSF Strongly Protests the Expulsion of a Second Section from Darfur, Sudan.': Major medical programmes forced to halt activities; people of Darfur held hostage to political and judicial agendas – MSF calls on GoS to repeal its decision and allow vital assistance to the people of Darfur to resume. - New MSF attempt with ICRC help to ensure high-level meeting with GoS. 6 March 2009 <u>MSF RIOD & ExCom</u> agreement on: - need to cooperate on Sudan Case - MSF to stand as one to prevent GoS from playing on divisions.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2009 March 2009				2-9 March 2009 - <u>TV5 Monde</u> (France), <u>MSF France Board President Marie-Pierre Allié</u>: expulsion is out of the blue and disrespectful. MSF, as independent humanitarian organisation, feels as being treated like criminals. - <u>LCI</u> (France), <u>MSF Belgium General Director Meinie Nicolai</u>: "They're trampling on our independence by hinging our future on a political matter." 8 March 2009 <u>MSF intersectional agreement</u> draft: - "Principles defining humanitarian space for MSF in Sudan." - To be used as basis for further negotiations with GoS. 9 March 2009 - <u>MSF coordinators in Sudan, MSF UK Executive Director and MSF France/OCP Director of Operations</u> plea for focusing on "re- establishing a different relationship with the government of Sudan." - <u>Ambassador of an Arab state to UN</u> confirms to MSF that GoS feeling threatened by INGOs' potential to report against them. Advises MSF to rebuild confidence with GoS by avoiding public communication.

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2009 March 2009			11 March 2009 MSF France/OCP and MSF Holland/OCA international staff evacuated from Sudan. 12 March 2009 Abduction of 5 MSF Belgium/OCB staff from MSF compound by armed men. 2 immediately released. 13 March 2009 MSF Holland/OCA considers legal procedure such as appealing against expulsion and asking GoS for compensation for confiscated assets. Mid-March to mid-April 2009 MSF Holland/OCA and MSF France/OCP teams' efforts to close programmes in North Sudan, enduring administrative harassment, extortion of funds, lootings, threats and, for some, physical restraint, refusal of exit visas.	10 March 2009 MSF International Council President Christophe Fournier letter to Sudan Minister of State for Humanitarian Affairs on MSF policy of not sharing information with international tribunals. 11 March 2009 MSF International PR, 'Concern and Confusion Following Teams' Expulsion from Darfur.' 12 March 2009 MSF International PR, 'MSF Confirms Abduction of Three International Staff in Serif Umra, Darfur, Sudan.' 14 March 2009 MSF International PR, 'Médecins Sans Frontières Kidnapped Staff Released in Darfur, Sudan.' Mid-March 2009 Draft Op-Ed on Darfur expulsion and MSF and ICC by Fabrice Weissman (MSF France Foundation/CRASH) circulated in MSF Movement.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2009 March 2009	16 March 2009 <u>Sudan President Omar al-Bashir:</u> "Darfur will be NGO-free within the year."		24 March 2009 Noting deterioration of security, <u>MSF ExCom</u> decides to suspend all MSF operations in North Sudan. Sections not expelled to stay.	16 March 2009 <u>MSF RIOD</u> acknowledges MSF failure to distinguish within this mess and need for lessons to be learnt when taking public position. 19 March 2009 <u>MSF OCs</u> remaining in Sudan reject MSF France PR on conditions of expulsion for using language that is "too harsh." 20 March 2009 <u>MSF Internal Memo</u>, MSF UK Executive Director Marc DuBois: 'Is Expulsion the Wrong Word?' 24 March 2009 <u>MSF ExCom</u> to abstain from communicating on decision to stop operations before high-level meeting with Sudanese authorities planned on 29 March. 25 March 2009 <u>MSF Holland/OCA, Humanitarian Affairs Department</u> Kate Mackintosh, internal paper, 'More Thoughts on MSF, Protection, and International Justice.' 27 March 2009 - <i>The New York Times</i> (USA), Op-ed by MSF International Council President Christophe Fournier, 'Punishment or Aid': "Humanitarian assistance is not compatible with punishing war criminals."

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2009 March 2009				- MSF France Board of Directors: - weakness of MSF communication toward Arab world - MSF France's expulsion linked to France's strong support of ICC - momentum of reaffirmation on sovereignty since MSF France expelled from Niger.
April 2009				Early April 2009 <u>MSF International Communication Coordinator</u> asks for Op-ed on MSF and ICC not to be proactively pushed for publication. Another Op-ed being prepared, as well as one specifically for Arabic media. 8 April 2009 <u>MSF France CRASH</u> public debate on MSF and ICC and difference between legal and humanitarian "témoignage"/ testimony. 17 April 2009 <u>Al Jazeera</u>, 'Today's Talk,' 25-minute interview of <u>MSF France Director of Operations</u> Thierry Durand criticised: • by some in MSF France for being too complacent with GoS • by other OCs for not having been announced. 22 April 2009 <u>MSF Holland/OCA and MSF France/ OCP PR</u>, 'Harassed and At Risk: The Plight of Humanitarian Aid in Northern Sudan.'

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2009 April 2009				23 April 2009 - <u>MSF International Website</u>, 'MSF Struggles to Provide Meaningful Aid Following Limited Expulsion in Darfur, Sudan.' - <u>ICB endorsing 17 April RIOD decisions</u>: - o focus MSF action on acute emergencies, assist population's needs. - o international negotiator named to continue talks with GoS. 28 April 2009 MSF ICB request that MSF ICC expert group review, clarify and strengthen MSF's current external and internal positions and policies on ICC.
May 2009		7 May 2009 <u>GoS</u> to welcome new aid group in Darfur and allow non-expelled organisations to expand activities.		8 May 2009 <u>MSF reactive line</u> for media on GoS statement, highlighting ongoing discussions with Sudanese authorities to continue to deliver needed emergency medical aid. 14 May 2009 <u>MSF Communications Directors</u> review of MSF communication on Darfur in preceding months.

	International	Sudan / Darfur / Chad	MSF Operations in Sudan	MSF Negotiations and Public Statements
2009				
May 2009				MSF France and MSF Holland Communications Directors ask why 3 sections still in Darfur did not relay post-expulsion press releases.
June 2009				8 June 2009 MSF ExCom Meeting: MSF's communication on expulsion (adopting a reactive line) was well done overall, although eventually expelled sections had different communication from those staying.
October 2009				13 October 2009 MSF ExCom meeting: North Sudan – where are we 6 months post-expulsion? 23 October 2009 MSF ICB asks 5 OCs “to come to a commonly agreed strategy for negotiations and operations in Darfur that will describe the needs that have to be addressed by MSF and the way we can best organise ourselves to address them.”

The MSF Speaking Out Case Studies is a series of studies from Médecins Sans Frontières (MSF) that openly examine and analyse the organisation's actions and decision-making process during complex humanitarian interventions focusing on dilemmas surrounding speaking out.

The methodology aims at establishing the facts and setting out a chronological presentation of the positions adopted at the time. It enables the reconstruction of dilemmas, constraints and controversies without pre-judging the quality of the decisions made.

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