

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

1. Please provide information or reports of attacks in southern Sudan, including dates and those involved:

- (i) Abu Jabra Oil Field, November 2006**
- (ii) Defra Oil Field, October 2007.**
- (iii) Rahaw Oil Field, December 2007**

2. Malaysia is not a signatory to the 1951 Refugee Convention. However, could a person have applied for asylum in Malaysia in 2008?

3. Please provide information on the treatment of failed asylum seekers who return to Sudan.

RESPONSE

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Abu Jabra Oil Field (November 2006)

On Sunday 26th November 2006, the National Redemption Front attacked the Abu Jabra oil field which is located near the border of the states of Southern Kordofan and South Darfur

Rebels from troubled Sudan's western Darfur region have attacked an oilfield in Kordofan in a rare eastwards extension of their campaign against the central government in Khartoum, writes Nassir Shirkhani.

The National Redemption Front (NRF) said its fighters had seized the **Abu Jabra** oilfield on the edge of South Darfur and Southern Kordofan on Sunday. The field is operated by China National Petroleum Corporation.

"The government garrison guarding the oilfield was totally destroyed," the NRF said.

However, the Sudanese military said it had repelled the attack and was in full control of the field.

An official spokesman said the rebels had attempted to attack the Shaarif oilfield as well but the "armed forces were alert following the Abu-Jabrah attack and prevented this" ('Darfur rebels extend range in attack on oilfield' 2006, *Upstream*, 1 December – Attachment 1).

On the following day, the *Sudan Tribune* reported that Sudanese army forces had forced the rebels to withdraw and had regained control of the field. A military spokesman had rejected claims that the oil field had been totally destroyed and that army officers and soldiers had surrendered;

The NRF, a rebel alliance that opposes the May peace agreement, also claimed to have shot down a military helicopter and captured a "substantial amount of weapons, ammunitions, anti-aircraft missiles and military vehicles."

But the government forces denied this, saying the rebels had tried to extend Darfur's violence to other parts of Sudan but had failed.

"To put it simply, they did not achieve what they were looking for," the military spokesman said.

The NRF stronghold has traditionally been in Northern Darfur, and its conducting a strike on the border South Darfur and Southern Kordofan shows a considerable leap in range.

...

Sunday's raid on the oil field came amid heightened violence in Darfur, where pro-government janjaweed militia have been accused by the United Nations of forcing 60,000 people to flee their homes this month.

After the Abu Jabra attack, South Darfur officials accused Minni Minnawi, the one rebel chief who signed the May peace accord and subsequently took a government position, of having ceded terrain to the NRF to facilitate attacks.

But the NRF's head of strategic planning, Abdullahi el-Tom, denied this, telling The Associated Press saying his group had occupied Minnawi's territory in South Darfur by force ('Sudan rebels attack Kordofan oilfield' 2006, *Sudan Tribune*, 27 November, <http://www.sudantribune.com/spip.php?article18927> – Accessed 5 May 2009 – Attachment 2).

The National Redemption Front (*jebhat al-khalas al-watani*, NRF) was formed in June 2006, and comprised three Darfur rebel groups that had not signed the Darfur Peace Agreement of May that year (see Founding Declaration of 30th June – Attachment 3). These groups were the Justice and Equality Movement (JEM), elements of the Sudan Liberation Movement/Army, and the Sudan Federal Democratic Alliance. The group began to split towards the end of the year following a number of co-ordinated military attacks on Government of Sudan forces, capturing significant quantities of weapons and vehicles.

Further information concerning these events and analysis of the key figures associated with the groups is available in a number of sources, including an internationally sponsored report for the Small Arms Survey by Tanner, Victor & Tubiana, Jerome 2007, *Divided They Fall: The Fragmentation of Darfur's Rebel Groups*, July, e.g. pp. 53-58, http://www.smallarmssurvey.org/files/portal/spotlight/sudan/sudan_publications.html - Accessed 6 May 2009 – Attachment 4).

Defra Oil Field (October 2007)

On Tuesday 23rd October 2007, members of the Justice and Equality Movement attacked the Greater Nile Petroleum Operating Company (CNPOC) Defra oil field, in which casualties were inflicted and five hostages were kidnapped;

JEM said it attacked Sudan's Defra oil field on Tuesday, killing 20 government soldiers and taking two foreign hostages, one Canadian, the other Iraqi. The government denied any such attack.

Tugud told Reuters no harm would come to the hostages, saying they were in "secure hands". But he said the insurgent group was not ready to announce what it planned to do with them.

A spokesman for Sudan's Ministry of Energy and Mining on Thursday denied there had been an attack on Defra, saying: "There is no problem there. Everything is secure."

Sudan is highly sensitive about reports that risk damaging its hugely opaque oil industry, a vital source of revenue for the country.

A spokesman from China's embassy in Khartoum said he could confirm an attack happened in the region and that some people were "abducted by JEM". He added: "We are studying the situation. I can't comment further." ('Darfur rebels vow more attacks on Sudan oil fields' 2007, *Reuters*, 25 October, <http://www.reuters.com/article/latestCrisis/idUSL25761873> - Accessed 5 May 2009 – Attachment 5).

JEM issued a one week deadline for it to withdraw from Sudan and stated that it would continue to target Chinese oil interests in Sudan, as these were seen to support the military activities in Darfur;

"The latest attack is a message to the Chinese companies in particular," said Mohamed Bahr Hamdeen, the head of the rebel group in the Kordofan region. "The Chinese companies are the biggest investors in the Sudanese oil industry."

Chinese Foreign Ministry spokesman Liu Jianchao confirmed rebels had surrounded a Chinese oil field in Sudan and said he hoped both sides in the fighting "will realize a comprehensive cease-fire and settle the Darfur issue through dialogue."

"We hope that relevant parties in Sudan can take concrete measures to ensure the safety of life and property of people in Sudan," Liu told reporters in Beijing.

Sudanese media said the kidnapped workers were a Canadian and an Iraqi national, but Hamdeen described them as an Iraqi and Egyptian working for the Schlumberger oil services company, a U.S.-based firm that helps oil and natural gas companies extract hydrocarbons.

The Sudanese military implicitly confirmed Thursday that the attack on Defra had taken place, but denied it was a rebel victory or had any impact on Sudan's oil output ('Darfur rebels attack Chinese-run oil field in attempt to broaden war against Sudan government' 2007, *Associated Press*, 26 October – Attachment 6).

As 135 Chinese engineers arrived in the country, the JEM leader in the following month asked China to withdraw its peacekeepers

Rebels would not allow the Chinese into areas controlled by their forces, Jem leader Khalil Ibrahim told the news agency Reuters following the arrival of the engineers.

'Oil for blood'

"We oppose them coming because China is not interested in human rights. It is just interested in Sudan's resources," he said.

"We are calling on them to quit Sudan, especially the petroleum areas."

Mr Ibrahim did not say whether he would target the Chinese engineers.

"I am not saying I will attack them. I will not say I will not attack them," he said.

"What I am saying is that they are taking our oil for blood."

The Chinese engineers are tasked with building roads and bridges and dig wells ahead of the deployment of the joint peacekeeping force planned for January.

The rebels have said they would not object to peacekeepers from any country other than China.

But on Friday, Sudanese President Omar Al-Bashir said his country would only accept non-African troops from Pakistan or China.

A month ago the Jem attacked Sudan's Defra oilfield in the Kordofan region, run by a Chinese-controlled consortium, the Greater Nile Petroleum Operating Company.

Jem said at the time that the Chinese company had one week to leave Sudan ('Sudan: Darfur rebels spurn Chinese force' 2007, *BBC*, 24 November – Attachment 7).

The five hostages were subsequently released through the United Nations in November.

The Associated Press report cited above also refers to another attack near Kordofan earlier in the year, however no other reports of that attack have been found in a search of the sources consulted.

Rahaw Oil Field (December 2007)

The Justice and Equality Movement (JEM) claimed responsibility for an attack on the Chinese oilfield of Rahaw, South Kordofan region, on Tuesday 11th December 2007

"Our attack is another attempt at telling Chinese companies to leave the country," Ashr said.

The Rahaw facility run by China's Great Wall company produces 35,000 barrels a day and is located northwest of the Hajlil field which JEM attacked on October 23, according to Ashr.

Sudapet.

Five oil workers were also kidnapped in that incident.

The rebel group had warned it would target foreign oil companies and Chinese firms in particular because Beijing supplies arms to Khartoum. Kordofan lies to the east of the war-ravaged region of Darfur.

Khartoum has not yet confirmed the attack.

Ashr said two JEM fighters based in Kordofan had been killed. He also spoke of "several dead and wounded" among the government protection forces.

"We have seized vehicles, artillery and we totally control the facility," he said.

"We are implementing our threat of attacks against foreign companies, particularly Chinese ones, and we will continue to attack," he warned.

"Our goal is for oil revenues to go back to the Sudanese people and that is a strategic plan of our movement," Ashr added ('Darfur rebels say they attacked Chinese-run oilfield in Sudan' 2007, *Energy Daily*, 11 December,

http://www.energy-daily.com/reports/Darfur_rebels_say_they_attacked_Chinese-run_oilfield_in_Sudan_999.html - Accessed 5 May 2009 - Attachment 8).

Associated Press reported statements by the JEM leader Khalil Ibrahim that the attack had taken place on International Human Rights Day "to highlight human rights violations in war-torn Darfur";

Two rebels were killed and several injured in the attack, Ibrahim said. He claimed many more government forces were killed and injured but he had no specific figures.

U.N. security reports in the area confirmed there was an incident in Heglig early Tuesday. There were unconfirmed reports of three Sudanese army fatalities, the U.N. said.

The Sudanese army called the rebel claims baseless.

"We are doing these attacks because China is trading petroleum for our blood," Ibrahim told The Associated Press by telephone. "We are calling on the international community to help us keep China out of Sudan."

Darfur rebels, along with many international rights activists, accuse China of indirectly funding Khartoum's war effort in Darfur by massively investing in Sudan's oil industry. Sudan's government receives large royalties for the estimated 500,000 barrels that are pumped each day, and observers consider that up to 70 percent of that cash goes to the military.

...

Ibrahim said a large number of vehicles, weapons and ammunition were seized in the attack, which occurred in the Heglig area of Sudan's Kordofan region, which lies just east of Darfur and about 435 miles southwest of the capital, Khartoum.

Ibrahim said a Chinese oil company called The Great Wall was operating in the area. An official with China National Petroleum Corp., said it had a subsidiary called Great Wall Drilling Co. and the company has a project in Sudan, but it had not received any report of an attack.

A Sudanese army statement said reports of a rebel takeover were "baseless" and that the oil field was "stable."

The military said about 20 rebels on two trucks tried to attack Al Rahaow camp outside the Dukhra oil field in south Kordofan, but one of the trucks overturned at the camp entrance and the other sped away ('Sudan: Darfur rebels claim attack in oil field' 2007, *Associated Press*, 11 December - Attachment 9).

However, the size and nature of the attack in December was disputed. A *Sudan Tribune* report of 11 December recorded that:

In a statement to SUNA, the spokesman of the Sudan Armed Forces denied that any oil well was seized. He further said that the security was stable in the oil region and the report was false and far from truth.

He said a group of 20 persons tried to attack al-Rahaw camp outside Dakhirah well in South Kordofan State. He added that the assailants jacked a vehicle belonging to a Chinese company after forcing the driver to hand it over to them.

The vehicle rolled over at the gate of the camp and the rebels escaped using another car they were driving, the military statement said ('Sudanese army denies rebel attack oil field' 2007, *Sudan Tribune*, 12 December, <http://www.sudantribune.com/spip.php?article25134> - Accessed 5 May 2009 - Attachment 10).

In a report a week after the unconfirmed attack, Stratfor expressed doubt of the JEM ability to launch two almost simultaneous attacks, one at the Kaikang oil block, the location of the Defra oil field, and another 400 miles away, which was one carried out against a convoy near the border with Chad, and confirmed by the Sudanese army ('Darfur rebels "win major victory" 2007, *BBC News*, 16 December, <http://news.bbc.co.uk/2/hi/africa/7146908.stm> - Accessed 5 May 2009 - Attachment 11).

Stratfor's report concluded that the ability of JEM to disrupt oil production whilst actually engaged elsewhere was 'exaggerated'

The oil facility that JEM alleges it attacked is situated at the Defra oil field in the country's Kaikang oil block, which is operated by the Chinese-led Greater Nile Petroleum Operating Co. (GNPOC) consortium. If, as claimed, the attack shut down the field's pumping station, 50,000 barrels per day would have been taken off line.

While the JEM and SLA-Unity clashes with the Sudanese armed forces have been confirmed independently of JEM, the JEM claim to have attacked the Defra facility has not been separately verified. GNPOC could not confirm that the incident occurred, and Chinese authorities have not mentioned it ('Sudan: Darfur rebels claim simultaneous attacks' 2008, Stratfor, 19 December, http://www.stratfor.com/analysis/sudan_darfur_rebels_claim_simultaneous_attack - Accessed 6 May 2009 – Attachment 12).

2. Malaysia is not a signatory to the 1951 Refugee Convention. However, could a person have applied for asylum in Malaysia in 2008?

According to the *Malaysian Immigration Act 1959/1963*, Malaysia only distinguishes between two categories of migrants – documented or legal migrants and undocumented or illegal migrants. It is not a signatory to the 1951 Refugee Convention or 1967 Protocol. The UNHCR summarised the general situation for illegal migrants in Malaysia in an extended statement of March, 2005;

Any person who enters or remains in Malaysia illegally is liable to prosecution under the Immigration Act 1959/ 63 (Act 155), which may result in indefinite detention without judicial scrutiny, corporal punishment in the form of whipping with a rotan cane across the buttocks or back, fine and deportation. The vast majority of persons of concern to UNHCR fall into the category of "illegal immigrants" under Malaysian law, which provides no legal method to differentiate those in need of international protection from other migrants. Thus, asylum seekers and refugees alike are at constant risk of arrest, detention, prosecution, imprisonment, caning and deportation, which in some cases resulted in refoulement in the past (UN High Commissioner for Refugees 2005, 'UNHCR's views on the concept of effective protection as it relates to Malaysia – March 2005', 31 March <http://www.unhcr.org.au/pdfs/Malaysia.pdf> – Accessed 21 December 2005 – Attachment 13).

In its most recent annual survey, the United States Committee for Refugees and Immigrants noted that

The Government had no procedure for granting asylum or registering refugees. UNHCR handled all refugee status determinations in Malaysia and issued plastic, tamperproof cards to those it recognized as refugees. UNHCR gave Myanmarese Rohingyas temporary protection as a group, interviewing asylum seekers to establish their ethnicity.

UNHCR performed individual status determinations for non-Rohingya asylum seekers under its mandate. Rohingya refugees UNHCR recognized *prima facie* were not eligible for resettlement. If the authorities arrested and detained them, UNHCR gave them full interviews and those that passed were eligible.

As UNHCR had no presence at the border, most asylum seekers had to travel to Kuala Lumpur for determinations. UNHCR conducted mobile registration exercises in areas with high concentrations of refugees, but these did not meet the need.

...

Refugees with UNHCR cards were usually safe from arrest by regular police, although RELA still detained them. Police still arrested asylum seekers occasionally, as they did not always recognize the letters UNHCR issued asylum seekers. Refugees were subject to prosecution under the 1959 Immigration Act, which made no distinction between refugees and illegal immigrants. Amendments to the Immigration Act in 2002 provided for up to five years' imprisonment, along with whipping up to six strokes, and fines of 10,000 ringgit (\$3,020) for violations.

The Federal Constitution extended its protections for individual liberty to all persons, but created an exception whereby the 24 hours allowed authorities to bring a detainee before a magistrate became two weeks in the case of an alien detained under the immigration laws.

Freedom of Movement and Residence

Refugees and asylum seekers recognized by UNHCR enjoyed some freedom of movement, although police sometimes held refugees with UNHCR cards until they paid bribes of 200 to 500 ringgits (about \$60 to \$145). Authorities arrested those without cards while they were moving about and during house-to-house or workplace raids (United States Committee for Refugees and Immigrants 2008, World Refugee Survey 2008 – Malaysia, 19 June – Attachment 14).

3. Please provide information on the treatment of failed asylum seekers who return to Sudan.

A 2008 Research Response provides information concerning the treatment of failed asylum seekers returning to Sudan (RRT Research & Information 2008, *Research Response SDN32851*, 4 February, Q6 – Attachment 15).

In 2007, Sadiq Adam Osman, a Darfuri asylum seeker was returned to Khartoum from the UK and was tortured by Sudanese officers but subsequently escaped. The Aegis Trust (who had assisted his escape) questioned the Home Office policy of returning individuals in Sadiq's circumstances;

Campaigners say his case is unique in that it is very rare for a returned asylum seeker to emerge to tell their stories of torture. Some say it could constitute the most important challenge yet to the Home Office policy of deporting Darfuris to Khartoum - claiming it is a perfectly safe place for them to be returned to.

Sadiq's story suggests otherwise and, disturbingly, bears many common features, not only with Darfuri asylum seekers in the UK but with others, too. For two years, the Home Office has returned Darfuri asylum seekers from the UK despite warnings from the UN and human rights organisations.

When Sadiq was sent back in early February, it was the first time he had been in Sudan since 2004, when he fled the violence orchestrated by the government-backed Janjaweed Arab militia.

He was worried because he had already been jailed and, he says, tortured as a teenager in 1990. Since the more recent explosion of violence, he had supported his brother, a rebel fighter, but, he said, did not take up arms himself.

He said he decided to flee after his mother and another brother were killed when their village was attacked by the Janjaweed and Sudan's air force ('Sudan: I was expecting to die' 2007, *Guardian*, 28 March – Attachment 16).

The most recent UK Home Office *Operational Guidance Note* outlines the need for careful evaluation of asylum claims, given that conflict in Darfur has not ended;

3.7.3.5 All JEM members or affiliates, at any level of involvement, may be subject to adverse interest by the Sudanese authorities following the JEM attack on Khartoum [May 2008] and internal relocation may not be an option in many cases depending on factors such as, for example, whether the claimant is likely to be known to the authorities.

3.7.3.6 Conclusion. While a nominal peace agreement was signed in May 2006 between the Khartoum government and the SLM/A, JEM was not party to the agreement and fighting between the various rebel factions and the government-backed forces in Darfur continues.⁷⁶ Leading members of the SLM/A, or affiliates considered to be 'intellectual' are likely to be subject to persecution in the Darfur states or Khartoum (further guidance on risk categories is given in *HGMO* below). For such cases, a grant of asylum will be appropriate. There is no evidence, however, that low/mid-level activists or affiliates of the SLM/A, who fear persecution in Darfur, are at risk of adverse attention from the authorities in Khartoum or elsewhere in Sudan. A grant of asylum solely on the basis of SLM/A membership is therefore not likely to be appropriate.

...

3.8.10 The authorities' reaction to political opponents from Darfur does not differ significantly from the abuse and reactions meted out to other political opponents. The Sudanese authorities focus on people who are politically active and high-profile opponents of the regime i.e. human rights activists, journalists, students etc. irrespective of their ethnicity or regional background. The security service has a dedicated tribal branch that monitors intellectual and politically active Darfurians and opponents of the regime from other parts of the country. The arrests that are made are highly targeted and torture is commonplace in Sudanese prisons and detention centres.⁸⁵

3.8.11 Sources confirmed that Darfurians had been arrested in recent years, for example, on suspicion of collaboration with rebel groups, although there were relatively few reports of arrests and persecution of people from Darfur living in Khartoum until the JEM attack. Almost all the reported arrests and/or other persecution have involved people who are either high-profile human rights activists or opponents of the regime. Arrests and other types of persecution of people from Darfur living in Khartoum do not seem to occur on the grounds of their regional or ethnic background alone. It cannot be ruled out that persecution and arrests take place but are not reported. However, given the international presence in Khartoum and the fact that several national human rights organisations operate relatively freely in the capital, the scope of such abuse is unlikely to be extensive. Nor is there anything to indicate that there is a general under-reporting of cases of persecution of persons from Darfur who are staying in Khartoum (UK Home Office 2009, *Operational Guidance Note – Sudan*, April – Attachment 17).

In March 2009, media sources reported the death of another failed asylum seeker who was murdered by Sudanese security forces (no information has been found on the background of the victim. A search for the UK Asylum and Immigration and Appeal Tribunal decision has also proved elusive);

Adam Osman Mohammed, 32, was gunned down in his home in front of his wife and four-year-old son just days after arriving in his village in south Darfur.

The case is to be used by asylum campaigners to counter Home Office attempts to lift the ban on the removal and deportation to Sudan of failed asylum-seekers. Next month, government lawyers are expected to go to court to argue that it is safe to return as many as 3,000 people to Khartoum.

But lawyers for the campaigners will tell the Asylum and Immigration Tribunal that people who are returned to Sudan face imprisonment, torture and death. Mr Mohammed, a non-Arab Darfuri, came to Britain in 2005 seeking sanctuary from persecution in Sudan, where he said his life was in danger. The village where he was a farmer had been raided twice by the Janjaweed, the ethnic Arab militia, forcing him and his wife and child to flee their home.

His family in Britain told The Independent that Mr Mohammed witnessed many villagers being killed and became separated from his wife during a second attack on the village a few weeks later. He escaped to Chad before making his way to the UK in 2005.

But last year his appeal for asylum was finally turned down and he was told that he faced deportation. In August last year he was flown to Khartoum under the Home Office's assisted voluntary return programme, in which refugees are paid to go back to their country of origin. He stayed in Khartoum for a few months and then, when he believed it was safe, he travelled to Darfur to be reunited with his family.

Mohamed Elzaki Obubeker, Mr Mohammed's cousin and chairman of the Darfur Union in the UK, said: "The government security forces had followed him to another village, Calgoo, where his wife and child had sought help. They came to the village to find him and then targeted him. They shot him in front of his wife and son" ('Sent back by Britain. Executed in Darfur' 2009, *The Independent*, 17 March - Attachment 18).

List of Sources Consulted

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UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

International News & Politics

BBC News <http://www.bbc.co.uk>

The Economist <http://www.economist.co.uk>

Non Government Sources

UNHCR Refworld <http://www.refworld.org>

International Crisis Group <http://www.crisisgroup.org/home/index.cfm?>

Strategic Forecasting Inc. <http://www.stratfor.com>

Region Specific Links

All Africa.com <http://allafrica.com>

Africa Confidential <http://www.africa-confidential.com/home>

Africa Research Bulletin <http://www.blackwellpublishing.com/journal.asp?ref=0001-9844>

Sudanese On Line <http://www.sudaneseonline.com>

Sudan Tribune <http://www.sudantribune.com>

IRIN News <http://www.irinnews.org>

Search Engines

Clusty <http://clusty.com/>

Webcrawler <http://www.webcrawler.com>

Google Scholar <http://www.google.com>

Databases

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

MRT-RRT Library Catalogue

List of Attachments

1. 'Darfur rebels extend range in attack on oilfield' 2006, *Upstream*, 1 December. (FACTIVA).
2. 'Sudan rebels attack Kordofan oilfield' 2006, *Sudan Tribune*, 27 November, <http://www.sudantribune.com/spip.php?article18927> – Accessed 5 May 2009.
3. 'Founding Declaration of Darfur's National Redemption Front' 2006, *Sudan Tribune*, 30th June, http://www.sudantribune.com/article.php3?id_article=16455 – Accessed 6 May 2009.
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7. 'Sudan: Darfur rebels spurn Chinese force' 2007, *BBC*, 24 November. (CISNET Sudan CX188806)
8. 'Darfur rebels say they attacked Chinese-run oilfield in Sudan' 2007, *Energy Daily*, 11 December, http://www.energy-daily.com/reports/Darfur_rebels_say_they_attacked_Chinese-run_oilfield_in_Sudan_999.html - Accessed 5 May 2009.
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15. RRT Research & Information 2008, *Research Response SDN32851*, 4 February.
16. 'Sudan: I was expecting to die' 2007, *Guardian*, 28 March. (CISNET Sudan CX174622)
17. UK Home Office 2009, *Operational Guidance Note – Sudan*, April.
18. 'Sent back by Britain. Executed in Darfur' 2009, *The Independent*, 17 March. (FACTIVA)