

Review of the UK Border Agency August 2012 *Operational Guidance Note (OGN)* on Sudan on behalf of the Independent Advisory Group on Country Information (IAGCI)

Prepared by Elizabeth Williams (Asylum Research Consultancy – ARC) and Peter Verney (Sudan Update), October 2012

Background to the authors

Elizabeth Williams – Asylum Research Consultancy (ARC)

As a specialist Country of Origin Information (COI) researcher, Elizabeth has over five years experience of conducting COI research to support individual asylum and human rights claims and for UK Country Guidance cases. Asylum Research Consultancy (ARC) was set up in October 2010 in order to continue to provide a case-specific COI research service (following the closure of the Immigration Advisory Service) and to undertake research, advocacy and training to improve the quality of refugee status determination, and in particular, the production and use of COI. ARC also produces a free bi-monthly COI Update which provides notification of new UK Country Guidance cases, new UKBA COI publications and developments in the top refugee-producing countries including Sudan, which can be viewed with other recent publications and projects on ARC's [website](#).

Peter Verney (Sudan Update)

Peter Verney is a specialist in Sudanese current affairs who has worked on publications about Sudan since 1980. These include materials produced by Anti-Slavery International and Minority Rights Group. He is the author of reports on oil, slavery, music and minorities, and has been editor at the briefing service Sudan Update since 1990. In the 1990s he was a member of the Sudan Analysts' Forum convened by the School of African and Oriental Studies (University of London) and the Foreign and Commonwealth Office. In the mid-1990s he wrote the annual critiques of the US State Department reports on Sudan for the US Lawyers' Committee for Human Rights. In 2005 he was an adviser to the House of Commons parliamentary committee on Darfur, and a member of the European Coalition on Oil in Sudan. Since 1999 he has worked on more than 1000 Sudanese asylum cases as a Sudan country expert witness, interviewed over 300 asylum applicants, and given evidence in court at more than 50 asylum hearings, including AA, AH and HGMO (2006). He maintains extensive contacts among the Sudanese community, as well as with academics, journalists and aid workers dealing with Sudan.

Scope of the review

The reviewers understand that Operational Guidance Note (OGN) on Sudan is a policy document, not a research product and that UKBA decision makers are clearly instructed to read OGNs alongside COI Service reports.

The scope of this review is *not* to comment on the policy guidance in the OGN but rather to comment on:

1. To what extent do OGNs refer to the most up to date information produced by the COI service?
2. To what extent do OGNs give an indication of the range of relevant material that should be considered by officials?

1. To what extent do OGNs refer to the most up to date information produced by the COI Service?

None of the 123 references contained in the OGN refer to reports produced by the Country of Origin Information (COI) Service. However, as the Sudan OGN was published in August 2012, it pre-dates the current COI Service report of 11 September 2012. As the previous COI Service report on Sudan was published in April 2010, it is therefore not surprising that no COI Service report on Sudan is cited in the OGN, especially as the OGN emphasises that readers must consider claims with the most up to date and relevant country of origin information.

Whilst it may be desirable that the OGN refers to country information that is also included in the COIS report for consistency, it is considered more important that the OGN presents up to date, relevant, reliable and accurate COI that is representative of the current situation in Sudan.

Whilst it is understood that OGNs are only updated periodically, it is noted that the most recent source cited in the OGN is dated 30th May 2012, whilst the OGN was issued in August 2012. It is therefore suggested that when OGNs are issued, that they include the most up to date information available at the time of publication, to ensure their currency as far as possible. In the event that OGNs are reissued but the COI content is not updated, it is suggested that this is clearly indicated, so that users are aware of the cut-off point of the COI material, as is set out in COI Service reports.

It may be useful to note whether the sources cited in each section of the OGN are also cited in the September COI Service report. Whilst not all of the individual reports cited in the OGN are included in the COI Service report, those which are not are mainly from sources from which other publications have been included in the COI Service report:

UN News service [sources 22; 65]
Reuters [source 25]
Amnesty International (news) [sources 33 and 34]
Sudan Tribune [sources 35; 37; 50; 66; 67]
IRIN [sources 38; 59]
Human Rights Watch (news) [sources 41; 105; 106]
The Guardian [47]
UNHCR (news) [source 53]
BBC [62; 71; 72]
Library of Congress (country profile) [source 120]
UN Report of the Secretary General [source 76]

Those sources included in the OGN but not in the COI Service report (at all) are:

Congressional Research Service [source 23]
The World Today [source 36]
Time [source 48]
Miraya FM [source 73]
European Sudanese Public Affairs Council [source 84]
International Federation for Human Rights [source 100]
Agence France Presse [source 103]
UNAIDS [source 121]
Medecins Sans Frontieres [source 122]

As these are mainly news sources, it is not surprising that given the different publication/preparation dates that the same sources have not been selected for inclusion in the OGN and COI Service reports. Whether the inclusion of these sources is considered to affect the range of relevant material that should be considered by officials will be addressed in the next section.

2. To what extent do OGNs give an indication of the range of relevant material that should be considered by officials?

The OGN does not attempt to address all of the issues as have been set out in the COI Service report on Sudan (for example there is no section on Women). This question has therefore been addressed only with respect to each main category of claims included in the OGN.

2. Country assessment

This section directs users to the relevant COI Service country of origin information material, but also to the Foreign and Commonwealth Office (FCO) country profile and also the latest FCO Annual Report on Human Rights, although the link provided for the latter report is incorrect and should be: <http://fcohrdreport.readandcomment.com/>

It would be interesting to note why these specific reports are recommended for background reading, given that the COI Service report on Sudan provides a much more comprehensive overview (which in turn makes reference to the FCO profile)?

2.3 Actors of protection and 2.4 Internal relocation

Limited COI is presented in either of these sections and that which is included is from a number of annual reports covering 2011; The U.S. Department of State, Amnesty International, Human Rights Watch, the UK Foreign and Commonwealth Office and Freedom House. Whilst these might not be the most current of sources, given that these sections are understood to be generally applicable to all main categories of claim and not profile-specific (and which in any case mainly raise the state as the agent of persecution), it is considered adequate to provide a general overview of the security forces in Sudan and the human rights abuses they commit as is set out in these annual reports.

3.6 Civilians from South Sudan

In addition to setting out citizenship entitlements to civilians from South Sudan it is suggested that it is relevant to include information on the discriminatory and arbitrary adjudication of nationality applications in Juba as this may increase the risk of statelessness. This is addressed in a Refugees International Field Report, [South Sudan Nationality: Commitment now avoids conflict later](#), 29 May 2012 (included in paragraph 31.22 and 31.23 of the Sudan COI Service report)

One paragraph in this section [3.6.10] includes COI on the human rights and humanitarian situation in South-Sudan. It is suggested that it would be useful to include additional information on the situation specific to the situation of persons relocating from Sudan to South Sudan, although no such information is included in the COI Service report and it is outside of the scope of this review to suggest relevant material. However, if there are no plans to publish a distinct COI Service report or OGN on South Sudan then it may be useful for both products to address this issue.

3.7 Members or associates of the SPLM/N

In addition to documenting the arrest and detention of SPLM-N members, it has also been recently reported that a member of the SPLM-N has been charged with 5 counts against the state and faces the death penalty. See Amnesty International, [Activist and teacher faces death penalty: Jalila Khamis Koko](#), 25 September 2012.

It is also worth noting that whilst the OGN identifies ‘Members or associates of the SPLM/N’ as a main category of claim, there is not a corresponding section in the COI Service report, which instead has a section entitled ‘South Kordofan/Blue Nile-based groups and government opponents’. For ease of reference it is suggested that these sections are consistent.

3.8 Civilians fleeing the insecurity and violence in the southern states of Sudan, including Blue Nile, Southern Kordofan and Abyei

It is considered that this section provides adequate material on the range of issues to be considered in relation to the security and humanitarian situation in Blue Nile, Southern Kordofan and Abyei.

3.9 Members or associates of Darfuri rebel groups

It is considered that this section provides adequate material on the range of issues to be considered in relation to the treatment of perceived Darfuri opposition groups.

3.10 Members of non Arab ethnic groups from the Darfur states

It is considered that the selection of material for this main category of claim reports an overly positive picture of the situation in Darfur. For example, paragraph 3.10.6 cites the following excerpt from a February 2012 New York Times article:

3.10.6 [...] More than 100,000 people in Darfur have left the sprawling camps where they had taken refuge for nearly a decade and headed home to their villages over the past year, the biggest return of displaced people since the war began in 2003 and a sign that one of the world’s most infamous conflicts may have decisively cooled. Whilst the many thousands going home are only a small fraction of Darfur’s total displaced population, they are doing so voluntarily, United Nations officials say, offering one of the most concrete signs of hope this war-weary region has seen in years. [...]

However, as set out in the following excerpts of the COI Service report, this article has come under heavy criticism from Eric Reeves:

30.08 An article from Eric Reeves entitled ‘Obduracy at New York Times: Refusal to Acknowledge Errors or Problems in the Representation of Realities in West Darfur’, dated 15 April 2012 highlighted several dispatches from Radio Dabanga in April 2012 which reported —...terrifyingly high levels of violence [against civilians in Darfur] that persist in most of West Darfur, as well as in the other Darfur states.|| The article further noted that: —Rape continues in epidemic proportions. Residents of displaced persons camps are constantly brutalized, subject to extortion, and killed.|| [36h] [...]

30.10 The above referenced article by Eric Reeves dated 15 April 2012 also challenged claims made by the New York Times (NYT) in a report dated 26 February 2012 by Jeffrey Gettleman, (entitled ‘A Taste of Hope Sends Refugees Back to Darfur’) which alleged large scale returns to Darfur had taken place, citing figures provided by the United Nations of more than 100,000 returnees. [26c] The report from Eric Reeves challenged the —errors [and] ... problems in the reporting from Nyuru [West Darfur, by

the NYT]]]; the failure of the NYT to recognise —... how deeply problematic it is to use self-interested UNAMID sources...]] and the implication that —... massive returns of refugees from eastern Chad [had taken place]] [36h], on which point, the article continued:

—This is simply not the case, as Radio Dabanga has conclusively demonstrated on the basis of interviews with the leaders of all twelve Darfuri refugee camps in eastern Chad and with the Chad representative of the UN High Commission for Refugees. Moreover, the NYT seems unaware that the total Darfuri refugee population living in eastern Chad outside the camps is unlikely to exceed 20,000. UNHCR reports a total registration in the twelve camps as a highly stable 282,000.

—... The February 26 dispatch from the NYT declares, on the basis of what is seen at this single location, that we have ‘a sign that one of the world’s most infamous conflicts may have decisively cooled’ ... The global implications of this adverb ‘decisively’ are in fact disturbingly presumptuous, given the high levels of ongoing violence being reported near Nyuru. Many will have cringed when the NYT correspondent then goes on to quote an ecstatic UNAMID official, Dysane Dorani, speaking about a Darfur recognized by no Darfuris with whom I have communicated: ‘It’s amazing. The people are coming together. It reminds me of Lebanon after the civil war.’]] ... Such self-serving rapture, let us be clear, comes from a senior official in an operation that has failed miserably by any reasonable peacekeeping standards, certainly in fulfilling its primary mandate of civilian protection.]] [36h]

This category of claim would be improved by including COI detailing inter-communal violence. For suggested sources see the sub-section of the COIS Service report ‘Inter-communal violence’ from paragraph 8.17 onwards.

If the OGN cites the European Sudanese Public Affairs Council [source 84], then it should make clear that this is a lobbying body for the current Sudanese government. Similar caution and clarity should be applied when referring to the ESPAC director, Dr David Hoile. The OGN should recognise that the role of this body is to deflect blame from the Sudanese government and present it in the best possible light. It should avoid giving the impression, however unwitting, that this is anything other than a public relations exercise.

3.11 Members of opposition groups and perceived government critics, including students, journalists and human rights defenders

Whilst this section provides an adequate overview of the treatment of perceived government critics, it requires updating. As the most recent source published in this section dates from May 2012, no information is included in the OGN on the crackdown on protestors and demonstrators in Khartoum, Darfur and beyond which began in June 2012. This is well addressed in the section of the COI Service report ‘June-July 2012 protests’ from 16.22 onwards (also see our review of the COI Service report for suggested sources on the treatment of protestors in Darfur).

3.12 Prison conditions

This section provides a balance of State, UN and international NGO human rights reporting on the detention conditions in Sudan which corroborate harsh conditions and the widespread practice of torture. The section could be improved by including additional information on pre-trial detention, for example from the African Centre for Justice and Peace Studies, in a publication entitled [Report on Pre-trial Justice in Sudan](#), 12 June 2012 as is cited at paragraph 14.06 onwards in the COI Service report on Sudan.

4.3 Minors claiming in their own right

No COI is included in this section despite the extensive human rights abuses committed against minors as is set out in the COI Service report on Sudan.

4.4 Medical treatment

This section provides very limited COI, most of which is outdated. For example paragraph 4.4.4 cites a 2011 Medecins Sans Frontieres (MSF) activity report, which thus fails to document that MSF was forced to suspend most of its medical activities in Jebel Si, North Darfur in May 2012. Paragraph 4.4.3 provides some basic health indicators and statistics on state spending on health care and HIV prevalence rates from a 2004 U.S. Library of Congress country profile. It is suggested that it would be more relevant to include current information on access to treatment. In addition to providing more up to date information, it is suggested that this section make reference to the regional variation in access to medical facilities and to the provision of mental health care as has been recommend in our COI Service report review.

It is also interesting to note why the following paragraph as included in the Sudan COI Service report is not also included in the OGN given that it appears to be guidance to decision makers:

27.35 Requests by officials for information on the availability of treatment for specific medical conditions should be made to COI Service for consideration for referral to project MedCOI 2. The UK, with 10 other European Union member states plus Norway and Switzerland, now makes use of the services of the 'MedCOI' team in the Netherlands and Belgium. This team obtains its information from qualified medical doctors and other experts working in countries of origin; any information received in response to a new enquiry - on case specific medical availability - is reviewed by a medical doctor before it is forwarded to COI Service.

5. Returns

No COI is included in this section which addresses the treatment of refused asylum seekers on return to Sudan. The OGN therefore fails to include the recently published report from Waging Peace, '[The Danger of Returning Home](#), September 2012', or the other relevant COI on this issue as included in the COI Service report from paragraph 32.05 onwards. Given that in general reporting on the surveillance, interrogation and treatment of returnees tends to be limited owing to the difficulties and sensitivities of on-going monitoring, it is considered that when testimonies are available and have been taken by reputable organisations, that they provide compelling evidence and should be included in the OGN. This is especially the case given the relevance of this information to all returning asylum seekers, irrespective of their particular profile.