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**СИТУАЦИИ В ОБЛАСТИ ПРАВ ЧЕЛОВЕКА, ТРЕБУЮЩИЕ ВНИМАНИЯ  
СО СТОРОНЫ СОВЕТА**

**Добавление**

**Доклад, подготовленный Специальным докладчиком по вопросу о положении в области прав человека в Судане, о положении дел с осуществлением рекомендаций, составленных Группой экспертов, учрежденной Советом по правам человека в резолюции 4/8, для правительства Судана в соответствии с резолюцией 6/34\* Совета по правам человека**

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\* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад содержится в приложении к резюме и распространяется в том виде, в котором он был получен, на языках представления, т.е. только на арабском и французском языках. Приложение к докладу распространяется в том виде, в каком он был получен, только на языке представления.

## Резюме

В резолюции 6/34 Совет просил Специального докладчика обеспечить принятие эффективных последующих мер и активизировать выполнение оставшихся краткосрочных и среднесрочных рекомендаций, изложенных в первом докладе Группы экспертов, учрежденной Советом по правам человека в резолюции 4/8<sup>1</sup>, посредством открытого и конструктивного диалога с правительством Судана, с учетом заключительного доклада Группы экспертов<sup>2</sup> и ответов правительства на него, а также включить информацию на этот счет в ее доклад на девятой сессии Совета.

Специальный докладчик работала в направлении обеспечения принятия эффективных последующих мер и активизации эффективного выполнения рекомендаций посредством диалога с правительством. Она оценила меры, принятые правительством Судана с целью выполнения рекомендаций, составленных Группой экспертов, и представляет Совету по правам человека, по возможности, максимально подробное описание и анализ положения дел в области осуществления.

Основываясь на полученной информации, Специальный докладчик заключает, что, хотя некоторые рекомендации были осуществлены, некоторые другие рекомендации находятся лишь на начальном этапе осуществления, в то время как выполнение ряда других рекомендаций так и не было начато, по крайней мере по состоянию на сегодняшний день. Специальный докладчик сожалеет, что некоторые краткосрочные рекомендации вообще не были затронуты правительством, а в ряде других случаев представленная информация их не касалась. Специальный докладчик вновь заявляет, что конечная цель осуществления правительством рекомендаций, составленных группой, должна заключаться в конкретном улучшении положения в области прав человека на местах в Дарфуре.

Специальный докладчик призывает правительство Судана принять все необходимые меры для осуществления без дальнейших задержек рекомендаций, составленных Группой экспертов, более конструктивно взаимодействуя с Советом по правам человека, Организацией Объединенных Наций и международным сообществом. Ей хотелось бы поблагодарить доноров за их щедрость при предоставлении средств на любую необходимую в этой связи техническую помощь со стороны Организации Объединенных Наций.

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<sup>1</sup> A/HRC/5/6.

<sup>2</sup> A/HRC/6/19.

Специальный докладчик рекомендует Совету по правам человека продолжать процесс обзора в соответствии с показателями оценки осуществления, разработанными Группой экспертов, до тех пор пока все рекомендации не будут выполнены в полном объеме. С учетом того факта, что срок выполнения краткосрочных и среднесрочных рекомендаций истек 20 июня 2008 года и что правительству Судана следует продемонстрировать бóльшую приверженность процессу совместного взаимодействия в целях содействия эффективному выполнению рекомендаций в соответствии с просьбой Совета по правам человека, Совет может также пожелать изучить вопрос о том, какие дополнительные меры необходимы для конкретной защиты и поощрения прав человека населения суданского района Дарфур.

## Annex

# REPORT PREPARED BY THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN THE SUDAN ON THE STATUS OF IMPLEMENTATION OF THE RECOMMENDATIONS COMPILED BY THE GROUP OF EXPERTS MANDATED BY THE HUMAN RIGHTS COUNCIL IN RESOLUTION 4/8 TO THE GOVERNMENT OF THE SUDAN FOR THE IMPLEMENTATION OF HUMAN RIGHTS COUNCIL RESOLUTION 4/8 PURSUANT TO HUMAN RIGHTS COUNCIL RESOLUTION 6/34

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### Appendix

Status of implementation of recommendations compiled by the Group of Experts mandated by Human Rights Council resolution 4/8 as per A/HRC/5/6

## Introduction

1. Arising out of its deep concern over the ongoing violations of human rights and international humanitarian law in Darfur, the Human Rights Council adopted without a vote at its fourth regular session, on 30 March 2007, resolution 4/8 on the follow-up to decision S-4/101 of 13 December 2006 adopted by the Council at its fourth special session on the situation of human rights in the Darfur.
2. In its resolution 4/8, the Council decided to convene a group of seven mandate holders to ensure the effective follow-up and to foster the implementation of resolutions and recommendations on Darfur as adopted by the Council, the Commission on Human Rights and other UN human rights institutions, as well as to promote the implementation of relevant recommendations of other UN human rights mechanisms, taking into account the needs of Sudan in this regard, to safeguard the consistency of these recommendations and to contribute to the monitoring of the human rights situation on the ground. The Group of Experts was presided over by Sima Samar, Special Rapporteur on the situation of human rights in the Sudan, and was composed of Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, Radhika Coomaraswamy, Special Representative of the Secretary-General for children and armed conflict, Yakin Ertürk, Special Rapporteur on violence against women, its causes and consequences, Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders, Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons, and Manfred Nowak, Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment. Mr. Kälin served as Rapporteur for the Group of Experts.
3. In resolution 6/34, the Council requested the Special Rapporteur on the situation of human rights in the Sudan to ensure effective follow-up and to foster the implementation of the remaining short-term and the medium-term recommendations identified in the first report of the Group of Experts (A/HRC/5/6) through an open and constructive dialogue with the Government of the Sudan, taking into account the final report of the Group of Experts (A/HRC/6/19) and the replies of the Government thereon, and to include information in this regard in her report to the Council at its ninth session.
4. In its resolution 7/16, the Council urged the Government of the Sudan to continue and intensify its efforts to implement the recommendations identified by the Group of Experts, in accordance with the specified time frames and indicators. The Council invited relevant United Nations bodies and agencies, including the Office of the United Nations High Commissioner for Human Rights, to continue providing support and technical assistance to the Sudan for the implementation of the recommendations of the Group of Experts, and calls upon donors to

continue providing financial and technical assistance and required equipment for the improvement of human rights in the Sudan and to continue to provide support for the implementation of the Comprehensive Peace Agreement.

5. The present report is submitted pursuant to resolution 6/34. It contains a review by the Special Rapporteur of the efforts by the Government of the Sudan to implement the recommendations of the Group of Experts on Darfur compiled, on the basis of information received from the Government in written and oral form and from other sources, including United Nations and African Union agencies, bodies and programmes with operational competence in Darfur.

6. Using the indicators put forward in the Group's report to the Council of 8 June 2007 (Annex to A/HRC/5/6), the Special Rapporteur provides an assessment of the Government's activities to implement recommendations to be achieved over the short and medium-term as well as the degree of impact reported from the ground in Darfur. Accordingly, the present report focuses on developments in Darfur between the adoption of Council resolution 6/34 in December 2007 and July 2007. In the appendix to the report, the Special Rapporteur presents a more detailed review of the current status of implementation of the recommendations.

## **I. METHODS OF WORK**

7. The Special Rapporteur continued to follow the methodology used by the Group of Experts in its work.

- a. To cooperate and work in a transparent manner with the Government of the Sudan and other relevant partners of the international community;
- b. To identify obstacles to the implementation of previous recommendations;
- c. To differentiate short-term from medium-term recommendations with a view to assisting the Government of the Sudan to implement fully the recommendations identified and to keep the victims of past and ongoing human rights violations of human rights and humanitarian law in central focus, with the aim of reducing such violations in the future.

8. In line with the indicators specified, this report focuses on the state of implementation on two levels: On the one hand, it examines to what extent the Government of the Sudan has undertaken recommended activities. This assessment is based on information provided and documentation submitted by the Government. On the other hand, the report analyses information received from UNAMID, UNMIS, UN agencies and other organizations which are operational in Darfur with a view to identifying whether and to what extent any tangible impact on the ground

is being reported. This methodology permits the group to conclude, in relation to each recommendation, whether (i) it was fully implemented (i.e. all recommended activities were carried out and, as a result, the situation on the ground has been reported to have improved accordingly); (ii) significant activities were undertaken and tangible impact has been reported from the ground; (iii) activities were undertaken but little or no practical impact has been reported; (iv) initial steps towards implementation were undertaken; or (v) there was no implementation at all. While this report synthesizes the findings of the Special Rapporteur, the appendix sets out in detail information received from the Government and other sources as well as the Special Rapporteur's assessment for each of the recommendations contained in the first report of the Group of Experts to the Council (A/HCR/5/6).

9. The report first describes the activities undertaken by the Special Rapporteur since December and then summarizes the findings of the Special Rapporteur as to the present status of implementation for each of the four main clusters of recommendations identified, namely: (a) human rights protection; (b) humanitarian access, including protection of humanitarian workers from harassment and attacks, and facilitating access to civilians, including those displaced; (c) accountability and justice; (d) monitoring of implementation of recommendations. The report ends with the Special Rapporteur's main conclusions and recommendations.

## II. ACTIVITIES

10. The Special Rapporteur wrote to the Government of the Sudan on 23 January 2008 requesting an official visit to Sudan to gather first hand information on the human rights situation in the country and engage in a constructive dialogue with the Government on human rights concerns. The Special Rapporteur sent another letter on 7 February 2008 proposing a tentative programme for the visit including a meeting with the Inter-ministerial committee to discuss status of implementation of the Group of Experts on Darfur recommendations. The Government of the Sudan accepted her proposed dates 28 February to 10 March 2008 for the visit.

11. The Special Rapporteur contacted the human rights components of UNAMID and UNMIS to gather information from concerned UN agencies, bodies and programmes operational in Darfur. The present report reflects information received from those sources in addition to information provided by the Government of the Sudan. The Special Rapporteur has sought to ensure as far as possible that the information was based on first hand observations, careful verification and wherever appropriate interagency corroboration. The Special Rapporteur is grateful to all those who submitted information on the current status of implementation of recommendations according to the time frame and indicators specified by the Group of Group of Experts on Darfur.

12. In a letter dated 8 February the Permanent Representative for the Sudan to the UN in Geneva informed the Special Rapporteur that the Ministry of Justice had agreed to continue cooperation in the same method adopted with the Group of Experts on Darfur through dialogue and exchange of concerns and information with the Special Rapporteur. He informed that the Minister of Justice had established an inter-ministerial committee, headed by Mr. Zumrawy, to be the focal point to deal with concerns of the Special Rapporteur. He reported that the committee had held several meetings and was ready to meet with the Special Rapporteur in Khartoum. At the request of the Government, prior to the Special Rapporteur's arrival the complete set of recommendations and key topics for discussion were submitted to the ACHR in Khartoum.

13. On 9 March during her visit to Sudan the Special Rapporteur held a meeting with the Inter-ministerial committee in Khartoum to discuss status of implementation of the Group of Experts on Darfur recommendations. At that meeting the Government stated that due to the short period of time following the report in December 2007, it was unable to discuss the status of implementation with her. They provided statistical information, in Arabic, on the status of investigation and prosecution of cases on violence against women and children in North, South and West Darfur for the period September 2007-January 2008. Information on prosecutions of members of the armed forces under Article 149 of the Criminal Act was also provided at the meeting. The inter-ministerial committee agreed to send a complete progress report, in English, to the Special Rapporteur by 25 May 2008. On 28 April 2008 the Special Rapporteur sent a letter requesting a visit to Sudan 29 June to 13 July 2008 and recalling the Government's agreement to send a progress report by 25 May 2008. On 3 June 2008 the Special Rapporteur informed the Government that the agreed deadline of 25 May 2008 had passed and encouraged the Government to send the progress report as soon as possible to ensure that all relevant information on the human rights situation would be reflected in her review. The Government's progress report was submitted to the Special Rapporteur on 26 June 2008 on the eve of her departure to Sudan.

14. The Government of the Sudan submitted a report to the Special Rapporteur on 10 July 2008 on status of implementation of the recommendations. On 11 July the Special Rapporteur held a meeting with the inter-ministerial committee in Khartoum to discuss the status of implementation and clarify outstanding issues. The Government engaged in a dialogue with the Special Rapporteur on the different aspects of the human rights situation but the Government did not provide any information in oral form on the status of implementation of the recommendations. According to the Government the written information was comprehensive.

15. The Special Rapporteur appreciates the information provided by the Government of the Sudan in written form. However, she regrets that despite her best efforts the dialogue with the

inter-ministerial committee in Khartoum was not very informative specifically on the recommendation of the Group of Experts on Darfur.

### **III. STATUS OF IMPLEMENTATION OF RECOMMENDATIONS**

#### **A. Human rights protection of civilians**

##### **1. Protection of the civilian population, including internally displaced persons**

16. Regarding the protection of the civilian population, the group of Group of Experts had proposed that the Government of the Sudan issue and enforce clear orders to the armed forces and any militias under Government's control that it is prohibited to make civilians or civilian objects (including cultivated land and livestock) the target of attacks or to launch indiscriminate attacks (including burning of villages and aerial bombardments); that such attacks can amount to war crimes and crimes against humanity, that suspects, including bearers of command responsibility, will be investigated and brought to justice, and that any immunities would be waived (recommendation 1.1.1) and enforced (see section C. Accountability and Justice below). The Government informed that the new Armed Forces Act was approved at the end of 2007. The Act includes a chapter on the principles of International Humanitarian Law which illustrates the protection of civilians and war crimes. The chapter also emphasizes individual responsibility and provides for mechanisms of accountability and formation of military courts. The National Commission of Humanitarian Law at the Ministry of Justice is preparing the required studies for the adoption of the Arab Model Law for war crimes and crimes against humanity, endorsed by the Sudan and other Arab countries at the meeting of Arab Ministries of Justice on 6/4/2008. The basic draft of the law was prepared by the legal branch of the Arab League. The National Commission of Humanitarian Law is also drafting a Combating mines Act 2008 pursuant to article 9 of the Ottawa agreement. The Government informed that a workshop was held in El Fashar for police officers, armed forces, prosecutors and judges on international humanitarian law principles, protection of civilians during conflict and safeguards pertaining to arrest and detention. Implementation began in October 2007 when the Government indicated that it had issued and circulated rules to enforce discipline in the Sudanese Armed Forces.

17. The information received indicates that the orders and strengthened legal framework has not had any impact so far as attacks on civilians and civilian objects by Government forces or allied militia continued. UN sources indicate that from January to July 2008 there were indiscriminate Government aerial bombardments of civilian towns specifically in West and North Darfur. The attacks resulted in the displacement of thousands of people and the death of hundreds of civilians and widespread destruction of property and livestock. In the Northern corridor of West Darfur, the Government embarked on a major military campaign using armed

militias and Sudan Armed Forces (SAF) ground troops, supported by SAF air assets to regain control of areas that were seized by the armed group, Justice and Equality Movement (JEM). In its campaign, the Government failed to discriminate between civilians and armed groups combatants. Civilian villages in the area were also subjected to repeated attacks and looting and the burning of their homes by armed militia aligned with the Government. In April and May 2008, the Government shifted focus to North Darfur. Ten civilian villages including cultivated land were subjected to aerial bombardments in violation of the principle of distinction. The Special Rapporteur is concerned at the reports received of continuing attacks against civilians or civilian objects and launching of indiscriminate attacks including aerial bombing. The attacks led to killings, widespread looting and destruction of civilian property, including hundreds of houses, the theft and killing of large numbers of livestock, as well as the displacement of thousands of people.

18. With regards to (recommendation 1.1.2) control and disarm the militia and to control and downsize the PDF, Border Intelligence Guard, Central Reserve Police, Popular Police or Nomadic Police. The Government reported that on 5 June 2008, in South Darfur, a joint committee of armed forces, security and police at the camp of Domaia, 15km west of Nyala, completed the procedure of handing over the light and heavy weapons of 174 fighters from the Peoples Forces Movement, headed by Gamal Eldeen Ali Abdalla. Accordingly the group evacuated the sites it dominated in the regions of North Eltaina and Khor Banga. Reports indicate that the militia, the PDF, Border Intelligence Guard, Central Reserve Police, Popular Police or Nomadic Police continue to commit violations and no efforts have been taken to control or disarm them.

19. Despite some action taken by the Government to prevent and protect the civilian population against attacks (recommendation 1.1.3), the civilian population in Darfur was reported to remain largely unprotected against such attacks. As of July 2008, there were 4.27 million people affected people in need of assistance, of which, 2.5 million are internally displaced. An additional 250,000 Darfurians sought refuge in Chad. Displacement is still ongoing, 150,000 people were displaced in the first four months of 2008 and 780,000 since the signing of DPA, 5 May 2006. The affected population throughout Darfur is vulnerable to risks associated with displacement, lack of basic services and lack of protection. UN agencies, bodies and programmes operational in Darfur documented several attacks by SLA/MM, militia groups and other armed elements, on IDP camps. The proliferation of weapons, the presence of armed elements residing or in some cases responsible for security inside the camps along with the increased divisions along tribal affiliations added to the insecurity felt by IDPs in Darfur. The UN documented consistent accounts of harassment, intimidation, and sexual and physical assaults on IDPs particularly female IDPs by armed militias, often dressed in military uniform from Arab nomadic groups. IDPs continued to be vulnerable and exposed to violence as a result

of deliberate attacks by Government forces and rebel groups. In some cases, IDPs found themselves caught in the middle of fighting between warring factions. Violations included direct attacks on IDP camps, blockade of camps perceived to be hostile to the Government, intimidation and physical assaults. In addition, several cases of arbitrary detention and ill treatment of IDPs by Government security forces were documented over the reporting period. Tribal clashes also have resulted in civilian casualties.

20. On 10 May 2008 rebels of the Darfurian Justice and Equality Movement (JEM) launched an unprecedented attack on the Omdurman district of Khartoum. Government forces stopped the rebel attack in the eastern part of Omdurman near the river Nile. According to official sources, over 30 civilians died in the attacks, but the circumstances of most of killings of civilians remain unknown. Eye-witness accounts indicated that at least six civilians were killed deliberately by JEM fighters during an attack on a brick factory. JEM further attacked civilian targets, such as the main Omdurman local Government office, a police station of regular police forces who were not participating in the armed conflict between JEM and Government forces, and the branch of a bank in Omdurman market. The number of casualties caused by these attacks is unknown. It is likely that the number of casualties was limited because most office and Government buildings were empty as the attack occurred on a weekend. The main material damage to buildings attacked by JEM appeared to have resulted from rocket-propelled grenades fired at the buildings, and there were also numerous bullet holes probably caused by rifle shots.

21. The Government provided information about efforts to prevent child recruitment and highlighted concerns about the use of child combatants by JEM (Recommendation 1.1.4). The National Assembly adopted the new Sudan Armed Forces Act during its regular session on 5 December 2007. The Act makes illegal recruitment of persons below the age of 18 into the Armed Forces and provides criminal penalties for those who recruit children under the age of 18 years or provide false information for enlistment/recruitment of a person below eighteen years of age. The provisions are an improvement on the earlier Armed Forces Act but fall short of international law and standards. For example, provisions criminalising recruitment of child soldiers do not apply to the enlistment or recruitment of children into rebel forces who are known to use child soldiers widely. In addition, the crime of recruiting child soldiers is subject to a statute of limitations 10 years after the offence. The Armed Forces Act causes further concern, since military courts are permitted jurisdiction over civilians with regards to acts of genocide and war crimes, and Article 34 of the Act provides immunity to soldiers for acts committed in an official capacity. Furthermore, the death penalty is maintained for crimes that are not amongst the most serious.

22. According to information received from the Government the number of IDPs who returned voluntarily to their original villages in 2008 included: 132,222 in South Darfur to the villages of

Jumiza arbaa, Kassar, Buram, Hiloog and Marla; 135,242 people in North Darfur to the villages of Abu Zeraga, Fatabarnu, Kalkel and Shagra; and 155,066 in West Darfur to the villages of Arkum, Gokar, Artala, and Bendas.

23. According to information received from the Government 2300 police were deployed to North Darfur state, 2500 police were deployed to South Darfur and 2600 police were deployed to West Darfur to protect IDP camps. The police are said to have established stations in the camps and carry out regular patrols around the camps as well as escorting women groups out of the camps while collecting fire wood (recommendation 1.1.5).

## **2. Protection of women against violence**

24. The Government provided information on criminal cases of violence against women in South and North Darfur, involving accused who are members of the regular forces (armed forces and police). The 4 cases from South Darfur (period 2006-2008) included crimes of art. 142 and 149, 3 persons were sentenced and 1 accused from the armed forces had not been arrested yet. The 8 cases from North Darfur (period 2006-2008), 5 were sentenced, 2 were due to appear in court on 22/6/08 and 24/6/08 and 1 accused from the armed forces had not been arrested yet. These commendable efforts to combat impunity through investigation, prosecution of perpetrators and compensation must continue.

25. The definition of rape needs to be amended as well as looking into evidentiary requirements for the prosecution of sexual crimes however no significant action has been taken to date (recommendation 1.2.8). Application of the existing law, have in some instances amended charges of rape to adultery. The 'reversal of charge' has become an effective threat to victims accessing justice in cases of rape. The problem of misinterpretation of the law has not been limited to defence lawyers, in the absence of a statutory interpretation of the Evidence Act 1993, in cases of rape, judges' interpretation of the law has also not been clear.

26. Increased efforts are needed to seriously address these crimes as women and girls, particularly the displaced, continue to be raped and subjected to other forms of sexual violence especially when they venture outside the confines of the IDP camps to undertake income generating activities. There have been a few cases where perpetrators of rape have been prosecuted, however in the majority of cases the authorities are still not responding appropriately. More effort is required to ensure that every case reported to the authorities is promptly responded to through effective investigation, prosecution and compensation. Only when victims see successful cases being brought to court will they have confidence in the criminal justice system and more cases will be reported to the police.

27. Steps were taken by the Government to ensure that women who experienced sexual violence have access to medical care, regardless of whether they choose to report their case to the police or not. This has been fully implemented with the authorities disseminating, promoting compliance with the rules for implementation of Criminal Circular No.2, and state committees monitoring compliance. Training is ongoing to ensure that the message is communicated to all parts of Darfur (recommendation 1.2.6).

28. Gender and family protection units in Northern and Southern Darfur have received women police who will investigate gender-based crimes. The Special Rapporteur was provided with a list of names of police women transferred to different sites in Darfur, as well as the names of women who joined the child and family protection units. The new Unit now comprises the Prosecution office, Judiciary, Ministry of Social Welfare, doctors and psychosocial specialists. Additionally, the new unit comprises a specialised Prosecutor for children, a child custody centre and a juvenile court. The Government informed that 35 police women have been deployed in Northern State to work in the camps of Abu Shouk and Zam Zam and units of women and child protection in the central and southern sectors. In Southern Darfur 33 police women have been deployed in the camps of Itash, Alstraif, Alsalam and Sagli as well as in the localities of Nyala, Gadas, Idelfrsanm, Rehaid Alberdi, Kas and Aldiain. Lists of names, rank and location were provided to the Special Rapporteur. In North Darfur 27 social workers were said to have been trained by the unit to combat violence against women on the effects of incidents on victims (recommendation 1.2.7).

### **3. Children and armed conflict**

29. The Child Act 2008 (bill) has been submitted to parliament. The bill defines a child as a person who has not yet reached the age of 18 and it has revoked signs of maturity as a criterion for defining a child adopted by the previous Act. It also prohibits FGM and raised the age of criminal responsibility. It also dedicates a section for juvenile trial, formation of special prosecutor and courts. It also elaborated on means of reform and rehabilitation. The bill also provides better guarantees for children with disabilities (recommendation 1.3.2). By the initiative of the National Council for Child Welfare NCCW, UNICEF in partnership with Save the Children-Sweden commenced training of Sudan Armed Forces (SAF) officers in Khartoum and Darfur states (recommendation 1.3.3).

### **4. Protection against summary executions, arbitrary detention, disappearances, torture**

30. Government security apparatus continued to commit human rights violations including arbitrary arrests, arbitrary detention, torture and ill-treatment of detainees. Individuals targeted included community leaders, and people perceived to have ties with rebel movements. Abuses by

rebel groups and armed militias have also been received. The UN has records of some 450 detainees, most of them civilians of Darfurian origin, who have been arrested in connection with the JEM attack 10 May 2008. The actual number of arrests carried out may be much higher than the over 500 individual cases it has been able to record. Large numbers of civilians appear to have been arrested arbitrarily on the basis of their ethnic origin or perceived affiliation with JEM, and are held without access to the legal support. Families have not been informed where their relatives are being held, raising fears that detainees have been subject to enforced disappearance. There is allegation that detainees may be tortured or ill-treated in detention. Reports of excessive use of force during arrests and of ill-treatment in police and NISS detention have been received. Several reports from released detainees indicate that numerous detainees suffered serious health problems in detention as a consequence of torture or ill-treatment, or due to exposure to sun and lack of access to food or water in detention. While the Government has insisted that no detainees are tortured and those charged would be given access to lawyers. No information was provided to the Special Rapporteur on concrete measures taken with a view to upholding the rights of the detainees. Detainees were often not informed of the reasons for their arrest or charged with an offence and denied legal counsel (recommendation 1.4.1, 1.4.2, 1.4.3).

31. The Government has not granted access for UNMIS Human Rights to places of detention in Khartoum-relevant for Darfur related detainees as there are transfers to the capital (either for trial or interrogation.) Human rights monitors were granted limited access to Government detention facilities in West and South Darfur. No action was taken to reform the NISS in accordance with the INC. A large number of cases of harassment, arrest and detention by NISS has been documented and violations of rights of detainees especially those in the custody of MI and NISS. (recommendation 1.4.3, 1.4.4, 1.4.5).

## **5. Protection of witnesses and victims**

32. No information was provided by the Government on measures taken to protect witnesses and victims against violence, reprisals and harassment by third parties. Access for human rights monitors was impeded by the authorities on some occasions. The deteriorated security situation, carjacking and banditry targeting UN assets combined with logistical limitations as well as intimidation by Government security apparatus hindered the ability of human rights monitors to document cases of violations and to gain access to victims and witnesses. Government clearance for flights to undertake missions have in some cases been delayed, and in some instances denied, further impeding the monitoring work of human rights officers.

33. There were reports that Human Rights Defenders working on Darfur-related issues in Khartoum were subjected to intimidation and harassment by the NISS, and in some cases arbitrary arrests. Among the hundreds of civilians arbitrarily detained following the 10 May

rebel attacks on Omdurman were Khartoum-based Darfurian lawyers, journalists and political activists. Among them was Barood Sandal Rajab, a lawyer, a prominent member of the Popular Congress Party and also the Secretary-General of the Darfurian Lawyers Committee. He was arrested from his home on 12 May by NISS officers and continued to be detained without charge and without contact with the outside world at the time of finalising this report. Barood Sandal Rajab had previously been detained three times between 2003 and 2006 because of his political and human rights activities. Journalists who publicly expressed views critical of Government policy in Darfur were harassed and intimidated, and at least two journalists were arbitrarily arrested by the NISS in May 2008 and reportedly humiliated and ill-treated because of the views they had expressed in connection with the JEM attacks on Omdurman.

## **B. Humanitarian access**

### **1. Protection of humanitarian workers from harassment and attack**

34. The number of security incidents affecting humanitarian workers and their assets has increased dramatically in 2008 in comparison to previous years. As of 27 July, 11 humanitarian staff members have been killed in 2008, compared to five during the first seven months of 2007. In the same period of 2008, 183 humanitarian vehicles have been hijacked, compared to 85 during the first seven months of 2007. During these hijackings, 146 humanitarians were abducted so far in 2008 compared to 106 in the first seven months of 2007. Armed men assaulted 87 humanitarian premises so far in 2008, compared to 50 in the period January to July 2007.

35. Humanitarian access in Darfur remains severely constrained, with access rates to the 4.25 million conflict-affected populations just above 70% according to UN security standards. One of the solutions to offset the serious access constraints has been the increased use of local community workers and volunteers. The number of humanitarian workers in Darfur has increased over the past year from 12,300 to some 17,100, mainly due to this trend. However, a number of NGOs are finding it increasingly difficult to cope with the implications of legal or other challenges by former employees, incentive workers or volunteers. The most serious challenge for many NGOs is that the concept of volunteers for non-profit organizations has not been recognized under Sudanese labour law and, as a result, NGO volunteers are treated as if they are full employees for 'profit' organizations after they have completed three months of 'employment'. Ongoing court-cases over pay for volunteers might force some NGOs with limited resources to decrease their operations. White Government aircraft were spotted in Darfur posing a security threat to UN and humanitarian operations (recommendation 2.1.3).

## **2. Facilitating access to civilians, including those displaced**

36. On 22 September 2007, the Government of the Sudan finalized the General Directory of Procedures (GDP) for NGOs operating in northern Sudan, based on the March 2007 Joint Communiqué, including special provisions for Darfur based on the Moratorium. The GDP, available in English and Arabic, outlines in detail all necessary requirements and may also be valid for southern Sudan if no other specifications are in place. Two joint committees, a High Level Committee and a Joint Tripartite Joint Committee involving Government, UN and NGOs, have been established to follow up on the implementation of the Joint Communiqué. In addition, OCHA trained Government officials and NGO personnel on the GDP, and installed a database at the Joint Procedures Centre (JPC).

37. On 22 January 2008, the Government of the Sudan extended the Darfur Moratorium until 31 January 2009. The Moratorium facilitates a series of fast track procedures to facilitate the humanitarian operations in Darfur. As the former Moratorium expired on 31 January 2008, HAC granted a one month grace period to allow NGOs to complete their paperwork. However, various forms of harassment as well as access denials by different parties to the conflict continued to constrain humanitarian operations in Darfur.

### **C. Accountability and justice**

38. The Government did not provide any information to the Special Rapporteur on action taken to combat impunity (recommendation 3.1). According to information received there was no implementation of the recommendation. Where investigation committees were established, their findings were not made public. No legal action was taken against the perpetrators including those with command responsibility or compensation provided to the victims.

39. Legal immunities for armed state agents continued to be enshrined in law. The new Police Act touches on immunity of police personnel in its Article 45: “1) No criminal procedures shall be taken against any Policeman, who committed any act which is deemed to be an offence, during or because of executing his official duties and he may not be tried except by a permission issued by the Minister of Interior or whoever authorizes. 2) The State shall bear the payment of the compensation or the blood money (Diyya) for any police man in case he committed an act which is considered a crime during or because of his official duty. 3) Any Policeman who faces any legal procedures, which require placing him under legal custody, shall be confined to the police barracks, pending the decision on procedures; and the regulations, shall specify the placing him to confinement”. The Government confirmed that the Act gives police personnel procedural immunity which shall be lifted automatically at the request of the aggrieved persons. It also provides for accountability procedures in cases of transgressions (recommendation 3.2).

40. The Government of the Sudan informed the Special Rapporteur of its refusal to accept the competence of the International Criminal Court (ICC) to investigate cases in Sudan. Sudan has not cooperated with the ICC. (recommendation 3.3).

41. Some progress was made to review of national law pursuant to the interim national constitution and bill of rights, and harmonization of laws with Sudan's obligations under international human rights law. The Armed Forces Act and Police Act were reformed, although the Armed Forces Act does not fully comply with international human rights principles. On 7 June 2008 Parliament passed the Election Act 2008. The Act allocated 40% of seats for proportional representation to enable a better representation for small parties and regional groups. 60% of the seats designated for the geographical constituents. 25% of seats were allocated for women who may also compete for other seats. The Act also provides for establishment of the Electoral Commission. On 19 June 2008 the Council of Ministers approved the UN Convention on the Rights of Persons with Disabilities and referred it to Parliament for ratification. Other bills have been prepared and presented to Parliament. However the National Security Act has not been reformed in accordance with the Interim National Constitution (recommendation 3.5).

#### **D. Monitoring of implementation of recommendations**

42. Discussions are underway between UNAMID, UNMIS and the Government's Advisory Council on Human Rights on the establishment of a National Human Rights Forum. An Independent National Human Rights Commission has not been established. Despite repeated requests, human rights monitors in Khartoum had no access to detention facilities and were unable to maintain regular dialogue with prosecutors or access investigation records (recommendation 4.1, 4.2, 4.3, 4.7).

43. No standing invitation extended to special procedures. The Special Rapporteur on the situation of human rights in the Sudan was invited by the Government to undertake two country visits to Sudan in March and July 2008. The Representative of the Secretary General on IDPs, the Special Rapporteur on Freedom of Expression and Special Rapporteur on the right to Food have requested to visit the Sudan. Dates for the missions have not yet been agreed. In May 2008 the Government extended an invitation to Special procedures of the African Commission for Human and Peoples Rights to visit Sudan in August 2008. The regional mechanisms accepted the offer however dates have not yet been agreed upon. Between July 2007 and July 2008, 15 communications were sent from special procedures of the UN to the Sudan. The communications concerned a range of alleged human rights violations including adequate housing; arbitrary detention; freedom of expression; human rights defenders; torture; and summary executions. The communications concerned 289 individuals, 8 of which were women. The Government replied to

one of the communications to inform that several detainees had been released and one person remained in detention (recommendation 4.4).

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

**44. The Special Rapporteur concludes that effective implementation of recommendations by the Government of the Sudan has been slow. The Government needs to engage fully in an open and constructive dialogue on concerns and take concrete steps to improve the human rights situation.**

**45. As regards activities undertaken by the Government to implement recommendations the Special Rapporteur notes that in only a few areas were necessary steps taken fully or to a significant degree to have a tangible impact. In more cases activities were undertaken but little or no tangible impact has been reported or only initial steps were taken towards implementation. In regards to some of the recommendations no implementation was reported at all.**

**46. The information provided on the human rights situation from UNAMID, UN agencies, bodies and programmes with operational competence in Darfur and other relevant sources reflects an extremely critical situation which requires action. The information available does not confirm the Government's assessment of the impact on the ground of activities undertaken so far.**

**47. In particular, the Special Rapporteur assesses the status of implementation of the recommendations contained in the report (A/HRC/5/6, annex) as follows (for details see the appendix to this report):**

- Full implementation (i.e. all recommended activities were carried out and, as a result, the situation on the ground has been reported to have improved accordingly):  
Recommendations 1.2.1., 1.2.6.**
- Significant activities were undertaken and tangible impact has been reported from the ground: Recommendations 4.6**
- Activities were undertaken, but little or no tangible impact has been reported from the ground: Recommendations 1.1.1, 1.1.4, 1.1.5, 1.2.2, 1.2.4, 1.2.5, 1.2.7, 1.3.1, 1.3.2, 2.1.1, 2.1.4, 3.4,**
- Initial steps towards implementation were undertaken: Recommendations, 1.2.8, 1.2.9, 1.3.3, 2.1.2, 2.2.1., 2.2.2, 3.1, 3.2, 3.5, 4.1, 4.2, 4.3, 4.4, 4.7**

- **No implementation at all: Recommendations 1.1.2, 1.1.3, 1.2.3, 1.2.9., 1.4.1, 1.4.2, 1.4.3, 1.4.4, 1.4.5, 1.5.1, 1.6.1, 1.6.2, 2.1.3, 2.2.3, 3.3, 4.5, and 4.8.**

48. **The Special Rapporteur, while acknowledging the activities undertaken by the Government of the Sudan is concerned that reports received from the ground clearly indicate that with very few exceptions these efforts still have not yet lead to an improvement of the situation of human rights in Darfur.**

49. **The Special Rapporteur acknowledges that full implementation of certain recommendations, may be complex and tangible impact could take time, especially where recommended activities were undertaken only recently. The 12 month period for implementation of all recommendations, short and medium-term ended on 20 June 2008. The Special Rapporteur notes that in certain specific instances the feasibility of full implementation could have been affected by the absence of sufficient resources and technical assistance. However several recommendations which were prioritized as short-term and could have been implemented within a short term time frame, as they did not require lengthy administrative processes or additional resources, have not yet been implemented. The Special Rapporteur reiterates that the lack of resources cannot justify any acts of violence against the civilian population or the lack of action to prevent such acts.**

50. **The Special Rapporteur recalls the Council's consensus on the serious situation of human rights in Darfur and the need to focus on implementation of existing recommendations to enhance the human rights situation.**

51. **The Special Rapporteur recommends that the Council continue the process of reviewing the implementation of recommendations until such time as there is full implementation, or at least significant activities, and tangible impact has been reported from the ground. In recognition of the fact that the timeframe for implementation of the recommendations elapsed on 20 June 2008 and the Government of the Sudan still needs to effectively implement the majority of recommendations requested by the Human Rights Council, the Council could ask the Government why it has been unable to implement the recommendations and also consider what further action is required to concretely protect the human rights of people in the Darfur region of the Sudan.**

## Appendix

### STATUS OF IMPLEMENTATION OF RECOMMENDATIONS COMPILED BY THE GROUP OF EXPERTS ON DARFUR AS PER A/HRC/5/6

#### 1. HUMAN RIGHTS PROTECTION

##### Protection of the civilian population, including IDPs

###### **Recommendation 1.1.1**      *Short-term*

Issue and enforce clear orders to the armed forces and any militias under Government's control that it is prohibited to make civilians or civilian objects (including cultivated land and livestock) the target of attacks or to launch indiscriminate attacks (including burning of villages and aerial bombardments); that such attacks can amount to war crimes and crimes against humanity, that suspects, including bearers of command responsibility, will be investigated and brought to justice, and that any immunities would be waived.

*Indicators: Orders issued and widely disseminated. Number of such attacks reported that are attributable to Government forces or any allied militia.*

##### **Response of the Government of the Sudan on Recommendation 1.1.1**

Written information submitted to the Special Rapporteur on 10 July 2008

On 2 July 2008 the ACHR, National Committee for the International Humanitarian Law, in collaboration with UNAMID Human Rights convened a workshop in El Fasher. The workshop targeted police officers, armed forces, prosecutors and judges. It focused on international humanitarian law principles, protection of civilians during conflict and safeguards pertaining to arrest and detention.

##### **Information Received from Other Sources on Recommendation 1.1.1**

(a) Land and air attacks by Government forces against civilians

Between January and July 2008, the Government of Sudan conducted aerial bombardment throughout Darfur. Many of the air strikes impacted in civilian populated areas. Information

received indicates that the air strikes resulted in the displacement of thousands of people and the deaths of hundreds of civilians and widespread destruction of property and livestock. In the Northern corridor of West Darfur, the Government embarked on a major military campaign using armed militias and Sudan Armed Forces (SAF) ground troops, supported by SAF air assets to regain control of areas that were seized by the armed group, Justice and Equality Movement (JEM). In its campaign, the Government failed to discriminate between civilians and armed groups combatants in violation of international humanitarian law. Villages in the area were also subjected to repeated attacks and looting and the burning of their homes by armed militia aligned with the Government.

In April and May 2008, the Government shifted focus to North Darfur. Ten civilian villages including cultivated land were subjected to aerial bombardments in violation of the principle of distinction. UN sources indicate that there were twenty one separate incidents of aerial bombardment in the first three weeks of July 2008. The air strikes were carried out by the Government of Sudan (GoS) with Antonov aircrafts and MIG fighter jets. Reportedly, the strikes impacted in the vicinity of civilian communities and allegedly resulted in the deaths of 12 persons, including five women and two children. The UN received further reports that civilian objects, in particular cultivated lands and livestock, were also destroyed.

#### Northern Corridor, West Darfur

On 8 February 2008, the towns of Sirba, Silea and Abu Suruj were attacked by government allied militia and Sudanese army ground forces supported by helicopters and Antonov planes. The attacks resulted in the deaths of at least 100 people including women, children and the elderly, the displacement of at least 30,000 people and widespread destruction and looting of civilian property. They also left the three towns badly damaged by fire.

##### (i) Saraf Jidad, 7, 12, 24 January 2008

On 7, 12, 24 January, Saraf Jidad (50 km northwest of El Geneina) was repeatedly attacked by armed militias resulting in the death of 26 civilians including three women. In the 12 and 24 January attacks, the militias were supported by the Government aerial bombardments. Four people were reportedly killed in the 12 January attack while five others including three men and one woman were injured. The attackers also looted animals and burned down shops and huts. Due to security restrictions on movement imposed by the Government in the northern corridor of West Darfur, many of the injured were unable to access medical treatment in El Geneina hospital. Government sources reported the incident as a clash between nomads and members of the JEM in Saraf Jidad over livestock theft. However, community leaders claimed that JEM forces were not present in the village during the attack.

(ii) Abu Suruj, 8 February 2008

On 8 February, Abu Suruj town was attacked by militiamen backed by SAF forces in a convoy of about 100 vehicles. According to witnesses, the attackers shot indiscriminately at civilians forcing most of the inhabitants to flee to the nearby mountains. The ground forces were supported by two helicopter gun ships and two Antonov planes which dropped bombs on the outskirts of the town around the villages of Melmelle and Shabab Ardo. Shops and houses were looted and many others were burned down. At least 30 civilians were killed including one woman; one mentally disabled man who was found shot in the vicinity of his home, ten elderly people, among them a blind 75-year-old woman who burned alive inside her house, and three minors. Most of the inhabitants reportedly fled to neighbouring Chad and to the Jebel Moon area.

(iii) Sirba, 8 February 2008

The town of Sirba, 50km north of El Geneina was attacked on the morning of 8 February by militiamen and later Sudanese army ground forces. The attack was marked by indiscriminate shooting, looting and widespread destruction of houses and personal property. Prior to the attack, two military helicopters and one white Antonov plane were seen hovering over the area. At least forty-five civilians including ten women and at least three elderly persons were reportedly killed. Eyewitnesses and victims reported that at least ten girls and women, between the ages of 9 and 18 years, were raped. Five documented incidents out of six occurred on the first day of the attack. One occurred on 9 February.

(iv) Silea, 8 February 2008

The attack on Silea followed the same pattern as those on Sirba and Abu Suruj. It was led by the militia and supported by SAF ground forces and it began on the evening of 8 February and continued until the next day. Various eyewitness accounts reported that the attackers on the ground were backed by helicopter gun ships and Government Antonov planes which dropped several bombs in different locations of the town. The attack was also marked by indiscriminate shootings, wanton destruction of property and widespread looting. Four IDP women and five children were killed during the attack. There were also reports that Government Antonov planes bombed several locations in the eastern part of Jebel Moon believed to be the SLA (SLA/AW) controlled areas. Several civilians were killed as result of the aerial bombardment.

(v) Jebel Moun, 18, 19, 22 February 2008

On 18, 19 and 22 February, SAF launched attacks on several villages in the Jebel Moun area (approximately 80 km northeast of Geneina), targeting JEM and SLA/AW strongholds. The SAF

carried out extensive aerial attacks in the area using helicopter gun ships, Antonov planes and MIG fighters. The attacks began on the morning of 18 February when bombs were dropped near the Aro Sharow IDP camp, near Jebel Moun. The bombardments continued the next day and were followed by ground attacks by Government troops in other parts of the area. There were reports of clashes between the SAF and JEM/SLA forces in different locations which forced the SAF to subsequently retreat to Silea. On 22 February, the SAF resumed its aerial offensive with continuous bombing of selected targets in the area from morning until sunset. Sudanese army ground troops along with allied militia groups were also reported to have attacked the village of Guzminu, 10 km north of Silea. Five villages are reported to have been partially destroyed by fire, at least 20 civilians were killed and a further reported 1000 were displaced.

(vi) Fanga, (North Darfur), 1 February 2008

An eyewitness reported that on 1 February, at approximately 1700hrs, a Government Antonov bombed Um Hos Mountain, close to Faki village, in Fanga area. The witness described the Um Hos area as mountainous, with many small farms which were destroyed during the attacks. According to other civilians interviewed by human rights monitors, the Government Antonov plane dropped six bombs at a time. After the bombings on Um Hos Mountain, six further bombs were reportedly dropped on Jabal Taib (approximately 20 km Southwest of Tawila).

(vii) Madu and Mou, (North Darfur), 29 March 2008

On 29 March, Government antonov bombarded Medo village, North East of El Fasher killing one child and injuring four others. The village water well was destroyed in the attack.

(viii) Buram, (South Darfur), 4, 5,8 April 2008

On 4 and 5 April, two Salamat villages, Kibawo, and Umkaradees, south west of Buram were attacked by government police officers from Buram, using 4 land cruisers vehicles mounted with heavy machine guns, killing six Salamat civilians and injuring numerous others. According to witness, on 8 April, Kibaw, a Salamat village near Tulu, Buram, was attacked by some 200 men from Habbania, riding pickup trucks mounted with machine guns. Reportedly, twenty-nine Habbania militia men were killed and two Habbania leaders, including the Commissioner of Buram were taken as hostages. The Commissioner was on an official mission to Tulus, he was released on the same day, after Salamat leaders informed him about the attack, and presented wounded Salamat civilians to him.

(ix) El Fasher, (North Darfur), 6 April 2008

On 6 April, soldiers from the Sudanese Border Guards Unit attacked El Fasher market. The attack resulted in the death of a 17 year old boy. The soldiers were reportedly unhappy about the delay in the payment of their salaries. The incident began when the soldiers left their headquarters and headed towards the market area shooting indiscriminately at civilians. They besieged the market and looted the property of shop owners. According to eyewitnesses, some Government police officers stationed at the market fled upon seeing the soldiers while others stood by and watched. In the aftermath of the attack, the Wali of North Darfur acknowledged that the police were late in arriving at the scene and were therefore not able to prevent the attacks on civilians. The soldiers reportedly continued their rioting the next day and attempted to break into a local bank.

(x) Amkhabesha, Amhawaim and Amhabila, (South Darfur), 9 April 2008

On 9 April, Amkhabesha village was attacked by armed men wearing military uniforms. The attackers reportedly shot indiscriminately, killing one 28 year old Dajo tribesman. The attackers also looted cattle and household goods before setting the village on fire. Amhabila village, located 8 km South of Amhawaim and Amkhabesha village, was attacked on the same day and time as the two other villages. The IDPs interviewed by human rights monitors reported hearing gunshots and loud screaming and then observed a group of armed men wearing military uniforms enter the village on horses and camels. Reportedly, the attackers also opened fire indiscriminately within the village. Although there were no casualties, the IDPs reported widespread looting and part of the village was reportedly burnt down.

(xi) Jebel Marra, (South Darfur), 9, 10 April 2008

On 9 and 10 April, according to eye witness accounts, a Government Antonov plane bombarded the Jebel Marra area, killing six civilians including two students.

(xii) Thur, (East-West Darfur), 11 April 2008

On 11 April, the Government launched both air and ground attack against SLA/AW forces in Thur, 15km south east of Nertiti-Jebel Marra in response to an ambush on Government police escort by SLA/AW forces supported by Arab militias. Reportedly, one bomb hit a house which was completely destroyed, the government also reportedly bombed a nomad camp south west of Thur killing sixteen cows and injuring a 10 year old shepherd. The attack followed an ambush on a government convoy escorting truck carrying money for salaries in Zalingei in which nineteen government soldiers were killed.

(xiii) Helif, (North Darfur), 29 April 2008

On 29 April, Government Antonov planes bombarded Helif village, North Darfur, killing a 50 year old Medob woman and her 2 month old grandchild, and injuring an eight month old baby. Witnesses reported that six of the bombs fell inside the village, one of which did not detonate.

(xiv) Um Sidir, (North Darfur), 1 May 2008

On 1 May, three civilians were killed and sixteen injured after the Government launched an air strike 20-30 meters from the water point in Um Sidir village, North Darfur. The injured were evacuated to El Fasher by UNAMID. Two men who escorted the injured were arrested by Government at the El Fasher airport, but were released 18 days later. The two men, who posed as civilians as they volunteered to escort their relatives turned out to be associated with SLA/MM.

(xv) Ein Bisharo and Hatan villages, (North Darfur), 4 May 2008

On 4 May a Government antonov plane attacked Ein Bisharo village, killing three children, and seriously injuring a fourth. The deceased were two brothers aged eight and twelve, and their infant sister, aged two. The bombs, which were four, reportedly detonated near the hut with the children. A SAF commander residing in the village reported that an 'Antonov', flying at a low altitude approached from the North, passed the village, returned from the South and then dropped the bombs on the village. The commander further stated that the rationale for the bombing is unknown, particularly since the area is under Government control.

(xvi) Shegeg Karo, (North Darfur), 4 May 2008

On 4 May, Government aerial bombardment of Shegeg Karo resulted in the death of 12 people, including six children, and injured a further thirty-one. During a verification trip to the area on 9 May, UN observed four piles of shrapnel and bomb craters approximately 20-30 meters away from one another, with two of close proximity to a burnt area, which had previously been the village's market place. Representatives from both UNDSS confirmed three of the four craters resulted from three small bombs, but could not authenticate one larger crater.

(b) Attacks by SLA/MM<sup>3</sup>

(xvii) Kassib, (South Darfur), 17 March 2008

On 17 March, the village of Kassib was attacked by armed elements believed to be members of SLA/MM. The attackers were heavily armed and they came on horses and in vehicles mounted with heavy machine guns. They reportedly shelled the market from three different directions and shot indiscriminately at civilians inside the market. They also looted shops and set houses on fire. The attacks resulted in the deaths of eight civilians, the injury of three others. Three men alleged to be SLA/FW commanders were reportedly abducted.

(xviii) Sanya Affendu, 10 April 2008

On 10 April, Sanya Affendu, which is predominantly Birgit, was attacked by SLA/MM, after cattle belonging to civilians in Ladob were looted, and after SLA/FW attacked Zaghawa people in the Um Safati area. Many Zaghawa civilians who had been displaced during the attacks on Um Safati joined the SLA/MM in the attacks against Birgit villages. Other Zaghawa civilians from Seleah also took part in the attacks. SLA/MM confirmed carrying out the attacks from Ladob with further support from their base in Muhajeria. During the attack, the attackers fired randomly as they entered the area and then burnt down the village. SLA/FW elements were present in Sanya Affendu during the attacks and returned fire, Nine people were killed during these attacks. After the attacks, the displacement of families from the conflict area to Kalma and Alsalam ID camps continued. In total, 25,000 civilians were displaced as a result of these attacks.

(xix) Kafod, (North Darfur), 13 May 2008

On 13 May, clashes between SLA/MM and SLA/FW in Kafod, north Darfur resulted in the death of twelve people, and the injured of eight SLA/MM combatants, the destruction of homes and property and the injury of seven people and the displacement of hundreds of others. On 2 June, SLA/FW and Government commanders informed that civilians had begun returned to Kafod following the deployment of SAF soldiers to the area on 30 May.

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<sup>3</sup> SLA/Mini Mini Minawi is the only rebel leader to sign the 2006 Darfur peace agreement (DPA) after which he accepted a government role as special adviser to the president.

(xx) Kafod, (North Darfur), 21 May 2008

On 21 May SLA/MM carried out an attack against three villages in the Kafod area, Mario Katol, Mario Tunjur and Mario Karol, where 13 civilians were killed. Most of the civilians reportedly killed were burnt alive in their houses, seven civilians were injured and the three villages were burnt to the ground. Reportedly relatives of SLA/FW live in these three villages. The attack was reportedly in retaliation for the attacks which occurred on 19 May, and resulted in the death of five SLA/MM soldiers. The attacks may also be due to the resistance of Kafod and Abusakkin inhabitants to pay the high taxes the SLA/MM is imposing on water points, markets, and farms in the area.

(c) Attacks by Armed Militias

(i) Senabo, (South Darfur), 8 December 2007

On 8, 9, 10 December, Senabo, 30km north of Khorshamam village were subjected to repeated attacks in which nineteen civilians were killed and six injured. The attackers who were armed, driving three land cruiser vehicles, some dressed in civilian clothes and others in green khaki military uniforms entered the village at approximately 11 am from the Southern side, and began shooting randomly. According to the victims interviewed, the perpetrators were Arabs from Fallata tribe. The village was looted, and destroyed including cultivated land.

(ii) Boulay, (North Darfur), 11 January 2008

On 11 January, armed militias attacked Boulay village, North of Rockero. According to witnesses, who arrived in Zamzam IDP camp, North Darfur, the attack took place on Friday 11 January. Community leaders and an INGO in Zamzam camp reported that 22 families from Boulay had settled in Zamzam since the 11 January attack. According to the IDPs, Marri and Korakule, two villages near Rockero were also attacked.

(iii) Tanjeki, (West Darfur), 16 January 2008

On 16 January, Tanjeki (north east of El-Geneina) was attacked by a group of 20 suspected armed militiamen. The armed men raided the village, looted property and harassed people. A SAF force subsequently intervened to protect the population but some damage was already done. Although the intervention of SAF is a positive step, it should also be noted that in mid December 2007, the SAF withdrew from Tanjeki following an attack by a group of 200 armed militia, leaving the civilian population behind.

(iv) Adikong, (West Darfur), 2 February 2008

On 2 February, armed militia attacked Adikong, 23 km west of Geneina, displacing a large number of the residents to El Geneina. A number of victims interviewed reported that on 2 February, hundreds of armed Arab men on horses and camels wearing green camouflage uniforms entered Adikong village and began looting and destroying property. More than 50 houses and shops were either looted or destroyed.

(v) Bir Dagig, (West Darfur), 7 and 9 February 2008

On 7 and 9 February, Bir Dagig was subjected to two separate attacks by armed men dressed in dark green uniforms. The attackers harassed, beat the residents and looted the town. The residents informed that although the SAF was present in the area during both attacks, they took no action to prevent the looting.

(vi) Kabkabiya, (North Darfur), 7 April 2008

On 7 April, soldiers from the Sudanese Border guards Unit attacked Kabkabiya market. The attackers looted several shops and killed two civilians, including a child, and wounded three others. The soldiers were reportedly protesting delay in the payment of their salaries. On 27 April, the UN conducted a field trip to Kabkabiya but was unable to interview victims of the attack due to the large presence of armed militia elements inside the town's market.

(vii) Amkhabesha, (South Darfur), 9 April 2008

On 9 April, Amkhabesha village, 20 km North of Um Safati, was attacked. According to witnesses, approximately 300 armed men dressed in khaki military uniforms, others in civilian clothes, entered the village via land cruisers, horses, donkeys and camels and on foot and launched a sudden attack on the village. The attackers entered the village began shooting randomly killing anybody in sight and burning the villages. As a result, twelve civilians were killed, including an elderly woman who was burnt alive in her house. Four other people were injured and three men were also abducted and their whereabouts are still unknown. The attackers faced no resistance from the village and only found unarmed civilians in the village.

(viii) Wadi Kobore, West Darfur, 16 June 2008.

On 16 June, two Massalit IDP men from Masteri, were abducted by seven armed men described by witnesses as Arab militia from Kobore, which is an area renown for its presence of militia. The abduction was reported to the police. On 20 June, the victims' bodies were found in a dry well near Wadi Kobore, West Darfur. On 21 June, the bodies were examined by a medical

practitioner. The Masteri police commander stated that the men had been severely beaten, and postulated that both men died as a result of a broken neck. The Masteri police opened a case file, initially as an abduction case and later as a murder case. It appears, however, that police did not proceed with further investigation on the grounds that there were no witnesses to the deaths and the case involved “unknown perpetrators”.

(ix) Jelenga (West Darfur), 11 July 2008

Sudanese governmental officials confirmed that on 11 July 2008 at least eleven civilians were killed and two injured after being attacked by men armed men described as Arab militia. The incident took place in Jelenga village, West Darfur approximately three and a half kilometers west of Masteri. Fifty militia reportedly attacked and shot at a group of men conducting farm work in Jelenga village. The attack follows tension between the militia and the alleged supporters of SLA/Khamis Abdallah in Masteri which had escalated in mid June. The presence of approximately 100 Sudanese Armed Forces (SAF) has not mitigated the tension as SAF are stationed outside of the town and thus far have failed to protect the civilians in the area. This security vacuum increased following the departure of the Movement of the Popular Forces for Rights and Democracy (MPFRD), a signatory group with de facto responsibility for security of the area. At the time of the attack, MPFRD had already left to Nyala, South Darfur for regularization training as part of their integration into the government security apparatus.

Assessment of Implementation of Recommendation 1.1.1

Implementation began in October 2007 when the Government indicated that it had issued and circulated rules to enforce discipline in the Sudanese Armed Forces. The information received indicates that the orders did not have a real impact as attacks on civilians and civilian objects by Government forces or allied militia continued during the period January to July 2008.

*Recommendation 1.1.2*      **Short-term**

Start to implement, in cooperation with the UN and AMIS, a plan to control and disarm the militia. Action should also be taken to control and downsize security forces such as the Popular Defence Forces (PDF), Border Intelligence Guard, Central Reserve Police, Popular Police or Nomadic Police. Ensure that members of these institutions are vetted to exclude members who have committed serious human rights violations and bring them to justice.

Indicators: Plan published. Action taken to control and disarm the militia and to control and downsize the PDF, Border Intelligence Guard, Central Reserve Police, Popular Police or Nomadic Police.

*Response of the Government of the Sudan on Recommendation 1.1.2*

Written information submitted to the Special Rapporteur on 10 July 2008

On 5 June 2008, in South Darfur, a joint committee of armed forces, security and police at the camp of Domaia 15km west of Nyala completed the procedure of handing over the light and heavy weapons of 174 fighters from the Peoples Forces Movement, headed by Gamal Eldeen Ali Abdalla. Accordingly the group evacuated the sites it dominated in the regions of North Eltaina and Khor Banga.

*Information Received from Other Sources on Recommendation 1.1.2*

No plan published, or action taken to control and disarm militias, and to control and downsize the PDF, Border Intelligence Guard, Central Reserve Police, Popular Police or Nomadic Police.

*Assessment of Implementation of Recommendation 1.1.2*

Information received indicates that implementation has not yet started. The plan was not published. Some light and heavy weapons were collected from the Peoples Forces Movement in South Darfur. Action was not taken to control and disarm militias, and to control and downsize the PDF, Border Intelligence Guard, Central Reserve Police, Popular Police or Nomadic Police, or vet those organizations to exclude members who have committed serious human rights violations.

*Recommendation 1.1.3*      **Short-term**

Take all necessary measures to avert the threat of and prevent attacks on civilians and intervene to protect populations under attack in all areas under Government control.

*Indicators: Number of attacks on civilians or civilian objects in areas under Government control. Effective action taken to avert the threat of and prevent attacks on civilians and to protect populations under attack.*

*Response of the Government of the Sudan on Recommendation 1.1.3*

Written information submitted to the Special Rapporteur on 10 July 2008

In its report, the Government stated that 431,000 IDPs have voluntarily returned to their original villages during the course of 2008, of which 132,222 have in Southern Darfur such as Jumiza arbaa, Kassar Buram, Hilloog and Marla. In Northern Darfur there are 135,242 voluntary returns such as Abu Zerraga, Fatabarnu, Kalkel and Shagra. In Western Darfur there are 155,066 returns such as Arkum, Gokar, Artala and Bendas.

According to information received there is coordination with UNAMID forces through meetings of the joint security committee conducted on a regular basis. UNAMID has requested the Government to provide necessary police patrols to escort convoys of aid from Khartoum to El Obeid to Darfur. The police and armed forces have been patrolling roads to escort convoys in the three states of Darfur, to ensure the flow of petrol and relief materials.

**Information Received from Other Sources on Recommendation 1.1.3**

*As of July 2008, there were 4.27 million people affected people in need of assistance, of which, 2.5 million are internally displaced. An additional 250,000 Darfurians have sought refuge in Chad. Displacement is still ongoing, 150,000 people were displaced in the first four months of 2008. The affected population throughout Darfur is vulnerable to risks associated with displacement, lack of basic services and protection. January – March 2008 were characterized by widespread Government – rebel armed confrontations in large parts of Darfur. Government aerial bombings in the northern corridor of West Darfur, west and east Jebel Marra, and the Tabit and Malha areas of North Darfur (detailed in other sections) resulted in the temporary suspensions of humanitarian activities in these areas. For the first 40 days of 2008, Government authorities denied all humanitarian access to the conflict-affected populations in the northern corridor of West Darfur, leaving tens of thousands people without humanitarian assistance and protection<sup>4</sup>.*

UN agencies, bodies and programmes operational in Darfur documented several attacks by SLA/MM, militia groups and other armed elements, on IDP camps. The proliferation of weapons, the presence of armed elements residing or in some cases responsible for security inside the camps along with the increased divisions along tribal affiliations added to the insecurity felt by IDPs in Darfur. One of the key human rights concerns is the presence of armed

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<sup>4</sup> Office of UN Deputy Special Representative of the UN Secretary-General for Sudan UN Resident and Humanitarian Coordinator, Darfur Humanitarian Profile No. 31, Situation as of 1 April 2008.

men inside and on the periphery of IDP camps. The UN documented consistent and repeated incidents of sexual and physical assaults, harassment, intimidation, theft and other acts of violence and threats against IDPs particularly female IDPs by armed militias, often dressed in military uniform from Arab nomadic groups.

Abu Shouk IDP camp in North Darfur continues to be the stage of frequent shooting incidents. Three Omdas from Abu Shouk IDP Camp were shot at inside the camp by unknown armed men on 10 April 2008, at approximately 20:45hrs. The three Omdas were returning to their residence after attending a meeting with some members of Sudan Peoples Liberation Movement (SPLM) inside the camp, when they were intercepted by unknown armed men. The men opened fire on the Omdas, killing one instantly, and seriously injuring a second Omda.

There were also armed confrontations between elements of SLA/MM and Government forces which impacted negatively on IDPs in South Darfur. On 30 April, two IDPs were killed and several others wounded during an exchange of heavy shooting and mortar fire between Government (Birgit) and SLA/MM in Shearia. The incident was reportedly caused by an attempt by Government elements to recover 35 goats allegedly stolen by IDPs from Shearia IDP camp, which is under the control of SLA/MM. Mortar bombs fired by the warring factions landed within 200 meters from the fence surrounding UNAMID camp.

#### (b) Attacks on IDPs

IDPs continued to be vulnerable and exposed to violence as a result of deliberate attacks by Government forces and rebel groups. In some cases, IDPs found themselves caught in the middle of fighting between warring factions. Violations included direct attacks on IDP camps, blockade of camps perceived to be hostile to the government, intimidation and physical assaults. In addition, several cases of arbitrary detention and ill treatment of IDPs by Government security forces were documented over the reporting period. (Recounted in Recommendations 1.4.1 & 1.4.2)

On 30 April, armed Government soldiers surrounded Khamsa Dayegeg IDP camp, Zalingei. In the afternoon of the same day, a male IDP from the camp aged 40 years was brought to UNAMID premises in Zalingei with a gunshot wound to his leg and taken to the local hospital where he received medical treatment. Approximately 200 IDPs had gathered under a tree inside the camp. Witnesses reported that NISS forces approached the group, and attempted to separate the children from the adults. When the crowd resisted, the soldiers shot towards the crowd. Another man reportedly suffered minor injuries. IDPs alleged that 91 bullets were collected from the area. The soldiers withdrew from the IDP camp on 4 May.

In El Geneina, more than 100 armed members of the Central Reserve Police (CRP) raided several homes in Riyadh camp on 28 April 2008. The raid was reportedly conducted following allegations that three CRP members had sold guns belonging to the CRP to persons in Riyadh camp. During the raid, the police ransacked several homes and assaulted a number of IDPs; nine people were reportedly injured. Community leaders sought the intervention of the police in the camp but the police refused to intervene.

In North Darfur, more than 20,000 people from Tawila town and the nearby Rwanda IDP camp were forced to flee to neighbouring villages following an attack on 12 May by policemen from CRP. Elements from the CRP attacked the camp after one CRP soldier was found shot dead in the area. CRP surrounded the IDP camp, opened fire indiscriminately at civilians, injuring several people, looted and burnt huts, and destroyed the market. The fighting resulted in thirteen civilian casualties including a fifteen year old boy and the destruction of three homes. Most of the victims were inside the camp market undertaking market activities at the time of the attack.

There had been previous exchange of gunfire between Government forces and the SLA/MM inside Rwanda IDP camp, Tawila, in two separate confrontations on 21 and 23 February. According to the SLA/MM commander in Tawila, the February incident began when a SLA/MM soldier prevented a drunken CRP soldier from assaulting a female IDP. On 23 February, at least 11 IDPs were injured when members of the CRP and SLA/MM soldiers opened fire on each other following a dispute outside the UNAMID compound, while their respective commanders were attempting to negotiate a settlement to the dispute with the mediation of the UNAMID Sector Commander. Heavy weapons such as RPGs and tracers were used, in addition to AK 47s. In both incidents, the SLA/MM either deliberately launched attacks or responded to attacks from within the IDP camps, thus putting the lives of civilians at risk.

On 25 March 2008, two drunken SAF soldiers attacked two people in two separate incidents in Silea. In the first incident, a 60 year IDP woman came home and found two soldiers in her room. The soldiers held her by the neck and severely beat her with a sword. The soldiers also broke into the house of the woman's neighbour, an 80 year old man. The man sustained severe injuries after being subjected to severe beatings on the back and wrist with a sword by the assailants. The accused soldier has been imprisoned for the past year by a military tribunal and as of July 2008, is in a civilian Prison in West Darfur.

On 28 January, a male IDP was seriously beaten and six others were robbed of their possessions by four armed men in the vicinity of Kalma camp, South Darfur. The men were returning to the camp after collecting firewood when they were approached by four armed men on camels wearing green uniforms. The armed men asked them to surrender their firewood. All the

members of the group did as they were told except for the victim who refused to comply with the demands of the armed men. He was separated from the group and beaten with the butt of a gun until he fell down unconscious. The assailants took away all the possessions of the victims and threatened to kill them if they came to the area again. None of the victims reported the incident to the police.

On 12 May in Foro Baranga clashes between CRP and SAF members, which included four hours of shooting, injured a total 11 people, including three civilians, among them two minors aged between five and nine years. The regular police reportedly did not take any immediate action to stop the incident or to arrest the perpetrators. Following the incident, the SAF commander was transferred, and the locality police commander reported that a total of 35 cases have been opened, including one case for murder and another for intentional injuries.

On 23 May, a police officer entered the home of an IDP family in Mukjar IDP camp and aimed his gun at a 28-year-old man while he was asleep. The intruder was taken to the police post in Mukjar and a complaint filed. The police officer has reportedly been transferred to Mukjar and the Deputy Chief of Police in Mukjar stated that he was not aware of the incident.

On 27 May, five IDP men from Hassa Hissa IDP camp, Zalingei, were attacked by two armed suspected militiamen wearing green camouflaged uniforms, while collecting firewood 15 km west of Zalingei. The next day, the victims, and UNAMID CivPol went to the crime scene and traced the donkey's footprints to Souk Al Khamis market in Zalingei. The victims recognised their donkeys in the market but did not report the incident to the police because they did not think the police would take any action.

On 7 June evening, a SAF soldier killed a male IDP inside the in Kass Kabir IDP Camp, Kass camp. Reportedly IDPs from the camp had earlier prevented the soldier from robbing a shop inside the camp. The soldier was reportedly arrested, charged and detained.

On 13 June a 14-year-old IDP boy was killed by seven suspected armed militiamen while collecting firewood with six other children outside Bilel IDP Camp, South Darfur. Eyewitnesses in Bilel informed that the same armed attackers came to the camp following the incident and looted cattle from the camp. The men fired their guns repeatedly for approximately 30 minutes within the vicinity of the police station inside the camp, but reportedly, the police did not intervene.

On 14 June members of the SLA/Unity faction reportedly beat three community leaders and opened fire upon civilians in Kheirban village, North Darfur, after the village refused to continue paying 'protection' money to SLA/Unity. Three of the villagers sustained gunshot wounds.

On 1 July, a 20 year old man and two youths ages 17 and 15 were beaten and robbed by three men described as 'armed Arab militia wearing uniforms'. The victims were all IDPs from Khamsa Dagaig IDP camp. The incident was not reported to the police in Zalingei.

On 8 July 2008, three armed men believed to be Border Guards opened fire on three civilians while attempting to rob them, killing a 25 year old Berti man and injuring two men. The perpetrators were seen entering a house where Border Guard soldiers reside. Although the case was filed at the Awsat police station on 8 July, and police have been informed about the location of the suspects, reports indicate that no arrests have been made.

On 9 July a group of armed men described as Arabs looted goods from Dorti IDP camp and on 11 July, two land-cruisers carrying armed men wearing military uniforms attacked the food storage of an INGO at Ardamata IDP camp.

(c) Tribal Clashes

(i) Katila, (South Darfur) November-December 2007

From 23 November to 10 December, tribal fighting between the Fallata and Gimir in Katila area, South Darfur led to the deaths of nine civilians and the displacement of over 3000 civilians into Alsalam IDP Camp, Nyala. The fighting affected a number of Gimir villages including Ardeba Bitadud, 20km south east of Katila and Senabo. The villagers have since opened a case with the Government police in Katila. The police informed that the perpetrators of the attacks were not arrested, because the parties agreed to amicably settle their differences. According to the IDPs, the attacks began after the Gimir handed over to the Government police in Katila three men from Fallata tribe, whom they accused of stealing cattle in September.

(ii) El Sunta and Mangoya (South Darfur), 27 February 2008

On 27 February, Reziegat and Salamat tribesmen attacked and looted El Sunta, a Habbania town, 130km south east of Nyala killing at least sixty civilians. The attackers destroyed El Sunta police station diminishing the capability of the local police to defend the residents. The attackers also kidnapped two women and one girl. UN officers observed that El Sunta was completely burned down, with several unexploded ordnances strewn around the town. The local Governemnt police informed that it was the military's responsibility to prevent tribal clashes and not the police and that moreover, they did not receive any Government reinforcements until two days after the attack.

(iii) Hilat Daleel, (South Darfur), 25 March 2008

On 25 March, a reported dispute over cattle theft triggered intense fighting between Abbala and Tarjum tribesmen. The fighting continued for three days resulting in injuries to three Abbala tribesmen. On 28 March, a large number of Reziegat tribesmen, some of whom were reported to be wearing Border Intelligence uniforms attacked the Tarjum village of Hilat Daleel, killing two men and injuring eight others. Most of the victims were internally displaced people who recently heeded the Government's appeal to IDPs to return to their places of origin.

(iv) Um Safati, (South Darfur), 9 April 2008

On 9 April, armed elements belonging to the SLA/FW attacked several villages in the Um Safati area. The attackers reportedly accused the villagers of stealing their animals. Um Safti is a Government controlled area but residents reported that the Government police and military took no action to intervene to protect civilians or their property. The attacks left about twenty two dead and three civilians were confirmed abducted. It also led to the displacement of 25,000 people from mainly the Dajo, Fur, Zaghawa, Massalit, Bergo tribes. A subsequent gun battle between SLA/MM elements and the attackers resulted in the killing of one cattle owner.

(x) Hilelat, (West Darfur), 21 January 2008

.On 21 January 2008, armed men under the leadership of Ibrahim Abakar Hashim<sup>5</sup> reportedly with the support of JEM attacked Hilelat village, destroying the town's market. During the attack, one civilian was killed and three others were abducted.

(xi) Kulbus, (West Darfur), 13 March 2008

On 13 March 2008 Ibrahim Abaker Hashim's group attacked a commercial bus escorted by police. Unconfirmed reports indicated that about 10 police officers were killed and five others abducted. Moreover a number of civilians, including a 20-year-old woman and her two-year-old daughter, were also injured during the exchange of fire between the attackers and the police. The woman and her daughter were subsequently abducted by the attackers along with six other civilians, including the driver of the vehicle and a sheikh from Kulbus, both injured during the attack. Three of the abductees including the mother and daughter have been released; the

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<sup>5</sup> Ibrahim Abaker Hashim claims to be the Sultante of the Gimir in Kulbus. He formed a rebel group in 2007, reportedly aligned with JEM after the Government-appointed Sultan, Hashim Usman Hashim returned to Kulbus. The rightful occupant of the Sultante of the Dar Gimir has since become an intractable dispute.

whereabouts of the remaining abductees is unknown. According to NISS in El Geneina, the abductees are being held in Jebel Moon.

(xii) Ed-Alfursan and Wadi Gandai, (South Darfur) 26-28 June 2008

Fighting on 26-28 June between the Bani-Halba and Tarjam tribes led to the death of over 100 people and displacement of an unconfirmed number of families. Sources report that Wadi Gandi, Umhimada, Umdofof, Karo-Karo and Dondora villages were burnt down during clashes on 28 June. To control the conflict, the Government of South Darfur established a mediation team led by the Nomads Commissioner. He was, however, killed on 29 June, at approximately 4 km from Karo-Karo village, a Tarjam populated area where the two tribes were still fighting. It is still not clear who was responsible for his killing. Following the killing, on 30 June, approximately 120 Central Reserve Police (CRP) were deployed to the area to mitigate further conflict. While the CRP was trying to disperse the two conflicting parties, clashes ensued between the CRP and Bani Halba tribesmen. In an effort to restore order, the Sudanese Armed Forces (SAF) subsequently deployed close air support.

(d) JEM attack on Omdurman district of greater Khartoum

On 10 May 2008 rebels of the Darfurian Justice and Equality Movement (JEM) launched an unprecedented attack on Khartoum. Some 200-300 cars manned with rebel fighters and equipped with mounted machine guns and rocket-propelled grenades entered the Omdurman district of Khartoum from the north and west. Government forces stopped the rebel attack in the eastern part of Omdurman near the river Nile. Heavy fighting ensued on the eastern end of Al Arda Street, in Khalifa Square, and particularly on Fiteihab Bridge leading across the river to Khartoum where rebel cars were attacked by tank fire and where JEM was eventually defeated. According to official sources, over 30 civilians died in the attacks, but the circumstances of most of killings of civilians remain unknown. eye-witness accounts indicated that at least six civilians were killed deliberately by JEM fighters during an attack on a brick factory. JEM further attacked civilian targets, such as the main Omdurman local government office, a police station of regular police forces who were not participating in the armed conflict between JEM and Government forces, and the branch of a bank in Omdurman market. The number of casualties caused by these attacks is unknown. It is likely that the number of casualties was limited because most office and Government buildings were empty as the attack occurred on a weekend. The main material damage to buildings attacked by JEM appeared to have resulted from rocket-propelled grenades fired at the buildings, and there were also numerous bullet holes probably caused by rifle shots.

*Assessment of Implementation of Recommendation 1.1.3*

Information received indicates that attacks on civilians or civilian objects in areas under Government control are continuing in July 2008. Very few actions were taken to avert the threat of or prevent an attack on civilians or protect populations under attack.

**Recommendation 1.1.4** *Short-term*

Enforce the prohibition on the enforced and voluntary recruitment of children into armed groups. Register and follow-up on all reported cases.

Indicator: Number of reported cases.

**Response of the Government of the Sudan on Recommendation 1.1.4**

Written information submitted to the Special Rapporteur on 10 July 2008

According to information received the Sudan Armed Forces Act 2007 as well as the Child Act 2008 (bill) confirmed 18 years as age of recruitment. They consider the recruitment or using of children in armed conflict as a crime punishable under the two acts.

The Sudanese authorities have detained 102 child soldiers who participated in the JEM attack on Omdurman on 10 May 2008. The President ordered the establishment of a commission chaired by the State Minister in the Ministry of Humanitarian Affairs to oversee the conditions of the detained children whose ages range from 11-17. The detained children were separated from the others and held in rehabilitation centres in Khartoum North. They have been provided with an excellent standard of accommodation, nutrition, health and psychological care. The children have been visited by UNICEF, ICRC, the Independent Expert Group under resolution 191, as well as the Special Rapporteur on the Sudan. The children are said to have provided information about how they were abducted by JEM and kept in a training camp in the city of Adry in Chad.

**Information Received from Other Sources on Recommendation 1.1.4**

The National Assembly adopted the new Sudan Armed Forces Act during its regular session on 5 December 2007. The Bill makes illegal recruitment of persons below the age of 18 into the Armed Forces and provides criminal penalties for those who recruit children under the age of 18 years or provide false information for enlistment/recruitment of a person below eighteen years of

age. These provisions are an improvement on the earlier Armed Forces Act but fall short of international law and standards. For example, provisions criminalising recruitment of child soldiers do not apply to the enlistment or recruitment of children into rebel forces who are known to use child soldiers widely. In addition, the crime of recruiting child soldiers is subject to a statute of limitations 10 years after the offence. The Armed Forces Act causes further concern, since military courts are permitted jurisdiction over civilians with regards to acts of genocide and war crimes, and Article 34 of the Act provides immunity to soldiers for acts committed in an official capacity.

The International Committee of the Red Cross is involved in tracing the children's families and UNICEF is planning to assist with their eventual reintegration. While the access for international observers to the children was a positive development, the children were subjected to repeat interviewing by a range of actors, among them criminal investigators, international journalists and members of international organizations, with little consideration of the possibility that this may re-traumatize them.

Photos of alleged child combatants have been shown in a public exhibition, on Sudanese television and in several Sudanese newspapers. The public exposure of photos of the children and their identity details may undermine future efforts for their reintegration. Some of the children have also been used as witnesses in a criminal investigation to identify alleged JEM combatants among the hundreds of people detained by the authorities in the wake of the attacks. They also testified as witnesses in court. The authorities did not appear to have considered measures to ensure that procedures should be child-friendly and to protect the identity of the children so as not to put them or their families at risk of reprisals. No information was available on any criminal investigations to determine responsibility for the recruitment of the children and to prosecute those responsible.

Before international observers were given access to the children, they were held for around three weeks without contact with the outside world. The children reported that, prior to being moved to a separate detention facility, they had been held for several days together with adults in a large hangar whose location they were unable to identify. They indicated that detention conditions there had been harsh but did not provide further details.

Around four children, who remained detained with adult suspects, were charged along with adults for criminal offences related to the Omdurman attacks. After trial proceedings opened on 18 June, three of them were excluded from the judicial proceedings on the grounds that they were minors. In one case the judge reportedly did not accept that the defendant was a minor without ordering a medical examination to determine his age.

Information received indicates that children have also been seen as members of government and other rebel forces in Darfur.

In North Darfur a 15 year old boy working for the Central Reserve Police (CRP) was arrested for killing a civilian while intoxicated in El Fasher town. In a similar incident, another 15 year boy working for CRP was arrested in El Fasher for theft and sentenced to one year.

In South Darfur, JEM/PW and SLA/PW<sup>6</sup> are responsible for security matters inside al-Dereig IDP camp as per an agreement with the Government. On January 2008, at approximately 1400hrs, ten SLA/PW soldiers entered one IDP family house inside the camp and attempted to abduct their son, aged 15 years. When the father resisted, he was stabbed in the back and the boy's mother was tied up with a rope. The female neighbours intervened when they heard the screams from the family; they ran to the house and surrounded the minor in an attempt to prevent the soldiers from taking him. In response the soldiers fired in the air to disperse the women injuring two women. The soldiers left without the boy.

JEM/PW said they do not actively recruit any person below the age of 15, and members within their ranks below the age of 15 had volunteered to join and were not forced.

Forced recruitment of children by SLA/AG in Manawashi IDP Camp, South Darfur have been received. Children are reportedly initially offered a salary, before being forced if they refuse.

On 2 July the presence of armed SLA/Free Will child soldiers in Kafod, North Darfur was observed. One 15 year old child soldier stated that he had been given a gun by one of the movement's commanders. The SLA/FW commanders insisted that the children were only 'volunteering to help the commanders with fetching water, serving coffee and/or similar services'.

#### **Assessment of Implementation of recommendation 1.1.4**

The adoption of the Armed Forces Act 2007 provides greater legal protection for children and women in situations of armed conflict, however, it does not comply with human rights law and principles in terms of other areas noted above. Despite the prohibition of recruitment of children into armed groups, children continue to be seen as members of government and rebel forces.

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<sup>6</sup> Signatory to the DoC

**Recommendation 1.1.5** *Mid-term*

Set up effective regular police patrols to protect vulnerable populations in Darfur, supported by UN, including around IDP camps and villages. The needs assessment to decide on priorities should be done with the involvement of the community concerned to decide and agree on the most effective strategy of protection in those areas.

*Indicators:* Number of IDP camps and other vulnerable populations benefiting from regular and effective patrols. Reduction in number of attacks in areas patrolled.

**Response of the Government of the Sudan on Recommendation 1.1.5**

Written information submitted to the Special Rapporteur on 26 June 2008

According to information received 2300 police were deployed to North Darfur state, 2500 police were deployed to South Darfur and 2600 police were deployed to West Darfur to protect IDP camps. The police have established stations in the camps and carry out regular patrols around the camps as well as escorting women groups out of the camps while collecting fire wood.

**Information Received from Other Sources on Recommendation 1.1.5**

(See illustrative examples under recommendation 1.1.3)

On 23 March 2008, SAF began to conduct daily patrols around Abu Suruj, West Darfur. The daily patrols followed an incident on the same day, 23 March, whereby armed Arab nomads drove their camels into the watermelon and onion farms destroying cultivated land in Abu Suruj. The incident was immediately reported to SAF who rushed to the scene and exchanged fire with the Arab nomads. No casualties were reported. Community members in Abu Suruj confirmed to human rights monitors that the daily patrols by SAF at the time led to an initial reduction in harassment, and lootings by armed Arab nomads.

On 26 March 2008, during a field mission to Kulbus, West Darfur, the Government police commander informed human rights monitors that a joint force of police, NISS and SAF conducts daily and night patrols in Kulbus town. Local people confirmed the patrols and added that the security situation has improved allowing for some of the displaced to return. It is important to note however, that the security environment in Kulbus town may have improved, but there are no

IDP camps in the town itself, therefore the displaced population have not necessarily returned to the IDP camps around Kulbus town.

### **Assessment of Implementation of Recommendation 1.1.5**

Some action has been taken to set up SAF and police patrols in a few areas of Darfur. Communities who benefited from patrols in West Darfur affirmed that they had led to a reduction in number of attacks in areas patrolled.

### **1.2 Protection of women against violence**

#### **Recommendation 1.2.1 *Short-term***

Make the National Action Plan on Combating Violence against Women publicly available. Report on implementation.

*Indicators: Plan published. Level of implementation.*

#### **Response of the Government of the Sudan on Recommendation 1.2.1**

Written information submitted to the Special Rapporteur on 10 July 2008

On 1 July 2008 a workshop was held in El Fasher to discuss violence against women and the difficulties the Unit for Combating Violence against Women in Darfur encounters. Participants included 10 members of ACHR and the Unit Combating Violence Against Women. The workshop also discussed criminal circular No.4 and its implementation.

#### **Information Received from Other Sources on Recommendation 1.2.1**

The National Plan on Combating Violence against Women has been published and made public. The plan also includes the level of Implementation.

#### **Assessment of Implementation of Recommendation 1.2.1**

The plan and level of implementation has been published.

**Recommendation 1.2.2**

*Short-term*

Publicly acknowledge and condemn violence against women and reaffirm that there will be zero tolerance for such crimes, and swift action to investigate, identify and prosecute perpetrators and compensate victims will be taken.

*Indicators: Public statements and no subsequent retractions. Number of reported cases, followed by appropriate action which demonstrates the sincerity of the Government to combat impunity through investigation, prosecution of perpetrators and compensation.*

**Response of the Government of the Sudan on Recommendation 1.2.2**

Written information submitted to the Special Rapporteur in March 2008

The Government provided statistical information on status of investigation and prosecution of violence against women and children cases in North, South and West Darfur for the period September 2007-January 2008. In North Darfur 5 cases, 2 referred to court, 1 under investigation and 2 reserved. In South Darfur 10 cases, 3 sentenced 4 trials in progress, 1 before the court, 1 victim referred for medical examination and accused searched for. In West Darfur 14 cases, 4 sentenced 8 trials in progress, 1 accusation dismissed and 1 under investigation. Information on prosecutions of 2 members of the armed forces under Article 149 of the Criminal Act was also provided, 1 was sentenced to imprisonment for five years, a hundred lashes and dismissed from service the other was found not guilty.

The Government also provided information on criminal cases of violence against women in South and North Darfur, involving accused who are members of the regular forces (armed forces and police). The 4 cases from South Darfur (period 2006-2008) included crimes of art. 142 and 149 in which 3 persons were sentenced and 1 accused from the armed forces had not been arrested yet. Of the 8 cases from North Darfur (period 2006-2008), 5 were sentenced, 2 were due to appear in court on 22/6/08 and 24/6/08 and 1 accused from the armed forces had not been arrested yet.

**Information Received from Other Sources on Recommendation 1.2.2**

In December 2007, the Advisory Committee for Human Rights (ACHR) sent a letter to each of the Darfur States requesting that information on all GBV cases which reached the Courts be

compiled on a quarterly basis. The letter stated that the reports will be consolidated at Khartoum level and will be used in reports by the 'Special Rapporteur on the Situation of Human Rights in Sudan' and in Advisory Council reports. Information requested is: name of perpetrator; case number; charges; name of the court; trial date; and court decision.

Women and girls particularly the displaced continue to be raped and subjected to other forms of sexual violence especially when they venture outside the confines of the IDP camps to undertake income generating activities. Incidents involving attacks on women inside the camps were also documented during the period under review. In West Darfur, for example, the total number of cases documented between January and June 2008 is 36 involving 109 victims. The break up of incidents is as follows: 15 cases of rape; 11 of attempted rape; 1 abduction; 2 attempted abduction; and 22 of physical assault and harassment<sup>7</sup>. Only 3 out of 36 cases were registered with the police with no follow up. Three cases were reported to the SAF post commander and one with the CRP commander. However, none of the cases were forwarded to the relevant judicial authorities for further investigation.

In South Darfur, 41 SGBV cases have been documented between January and June 2008, including: thirty three rape cases, five cases of attempted rape, two abduction cases and one attempted killing. Trials and rulings are still pending for all cases.

Human rights monitors documented several cases of sexual violence against minors within families, and among the IDP population. Among the perpetrators were members from the Government security forces. The majority of victims do not file police complaints either due to their lack of confidence in the ability of the police to conduct proper investigations or out of fear of retribution. Additionally, in places where there was no INGO presence, victims were reluctant to seek medical treatment in Government hospitals due to cultural inhibitions, ability to pay hospital fees and stigmatisation. In South Darfur, Government police informed that they did not register cases of SGBV without evidence of a Form 8, which must be submitted within 24 hours of the incident. Furthermore, the police considered cases of attempted rape and physical assaults as minor incidents, and thereby felt no obligated to investigate such cases.

In cases where victims reported attacks, there are still huge barriers to victims seeking justice even in cases where the perpetrator was known to the victim.

On 9 March 2008 in Silea, West Darfur, the police failed to pursue a criminal case against two SAF soldiers who raped a 12 year old girl. The family were reportedly pressurized by the police and the community leaders to agree to compensation in the sum of 2,000 Sudanese pounds. The victim was taken to Chad for her own safety.

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<sup>7</sup> The break down does not correspond with the total number of cases because some cases may involve multiple acts, i.e. rape and abduction.

On 1 May 2008, Nyala Criminal Court, the case of a 15 year old girl who was abducted and gang-raped at gun-point over a period of three days by three military personnel and one civilian, a relative of the victim (police record no. 5142/2007). The four were charged under Articles 149 (Rape) and 26 (Assisting) of Sudan Criminal Act 1991. Only the civilian defendant was present at the court session. According to the prosecution lawyer, since the beginning of 2008, the South Darfur military legal advisor has failed to produce the other three accused before the court. The court scheduled the next hearing for 8 May and reiterated its request to the military legal advisor to produce the three military defendants. Again on 8 May, the three military defendants failed to appear before the Judge, the case has since been re-adjudged four times to 15 June, 8 July, 16 July and at the time of issuing this report had been again adjourned until 27 July, due to the failure of the military to produce personnel.

A member of SAF who raped a 14 year old girl in Nyala in November 2007 has repeatedly failed to appear before the court. The case which is lodged as criminal case no.2632/2007 has received six court sessions; the defendant has failed to appear on all six occasions. The defendant is charged in absentia under article 149 of the Criminal Act, 1991.

On a positive note, Nyala Court imposed a prison sentence and compensation on two men, one of whom was a member of SAF. In the sexual assault case (police record no. 2927/2007) involving the October 2007 rape and beating of two 14 year old girls by two men, including one military personnel, on 29 April 2008, the Nyala Criminal Court found both men guilty under Articles 149 (rape) and 21 (criminal joint acts) of the Sudan Criminal Act 1991. The court sentenced both men to ten years imprisonment and one hundred lashes each, and ordered a compensation payment of 3500 Sudanese pounds / 1750 USD for each victim to be paid by the convicted. The court stated in its decision that due to the prevalence of rape offences in South Darfur State, the maximum punishment should be taken against the convicted.

**a. South Darfur**

Human rights monitors documented 21 cases of rape, of which 6 of the victims were children. Among the cases documented are some of the following:

On 15 November 2007, two women who went out in search of firewood were captured, beaten and gang raped by five armed men in military uniforms at a farm west of Nyala. Although the men had their faces partly covered, the victims suspected that they were soldiers from a nearby military checkpoint. One was raped by three men while the other was raped by two others. Both did not receive medical treatment, the case was not reported to the police.

In another incident in Nyala, on 20 November 2007, a 28 year old woman working in her farm was gang raped in the presence of her 7 year old son by two men in green camouflage uniforms. Both mother and son were severely beaten by the men before two of them proceeded to rape the woman. She received treatment at a local clinic but chose not to report the incident to the police.

On 8 December 2007 two girls aged 12 from Al Neem IDP camp, were abducted and raped by two gunmen while fetching firewood near the camp. One was released the same day while the other was kept for four days during which time she was continuously beaten and raped. The latter was examined at a local hospital but doctors concluded that there was no evidence that she had sexual intercourse. As a result, relatives did not lodge a complaint with the police. Nevertheless, a suspect was apparently arrested in connection with the incident but managed to escape from custody.

On 11 December 2007, a 20 year old woman from Kalma IDP camp was raped by an armed man while collecting grass with a group of other women. All the women with the exception of the victim and her aunt managed to flee. The assailant threatened both women with a knife and later tied the victim's hands with a rope. He proceeded to beat the victim before raping her in front of her aunt. The man continued to beat her even after the rape was over. With the assistance of the aunt, the victim was carried back to the camp where she received treatment. She did not report the incident to the police.

On 7 January 2008, four Fur IDP women from Kalma camp were raped when they went outside the camp to collect palm leaves. According to one of the victims, they were confronted by four armed men wearing different types of uniforms who fired several gun shots in their direction. They beat them on their arms and backs and accused them of hiding rebels in the camp. The men raped all four women in turns. They released them after approximately one hour and the women went back to the camp. The victims received treatment at an INGO clinic, but did not report the incident to the police.

On 7 January 2008, two women were raped by two armed and uniformed men suspected by the victims to be militia. According to one of the victims, the incident occurred while the two women were collecting firewood in a deserted village, an hour walk from Kalma camp. They were approached by two men armed with Kalashnikovs; one in green camouflage uniform and the other in green khaki uniform. One of the men approached one of the victims and hit her with the butt of his gun and then raped her while the second man went after the other victim. The latter tried to ward off the attack with her knife, but was eventually overpowered and also raped. The incident was not reported to the police.

On 16 February 2008, five IDP girls from Alsalam IDP Camp, age between 11 and 14 years were collecting grass when they were approached by a man described by the victims as an Arab. The man was dressed in civilian clothes, on a camel and armed with a stick. Four of the girls managed to flee, leaving behind one girl aged 13 years. After struggling and with the help of the other girls, who came back armed with sticks and stones, they chased the attacker away. The victim sustained minor injuries and received medical attention at the camp clinic. The incident was reported to the police inside the camp, however, the police refused to register a complaint because they considered attempted rape to be a minor case which did not merit an investigation.

On 18 February 2008, a 50 year old woman was raped when she went out to collect firewood near the Kalma camp. The victim and her half sister were approached by an armed man in green khaki uniform. The man ordered the victim to follow him after threatening to kill her. He took her to a nearby bushy area, subjected her to severe beatings before raping her. The victim was left barely conscious after the rape. She was assisted by her sister and taken to an INGO clinic where she received treatment. Incident not reported to the police

On 10 March 2008, three women from Otash IDP camp near Nyala reported that they were attacked by five armed men in military uniforms. Two of the assailants were described by the victims as Dinka tribesmen from a nearby Dinka community. The women were out gathering palm leaves when they were approached by the assailants, three of whom had their faces covered with scarves. Two of the women were raped at gun point while the third woman was subjected to severe beatings. Incident not reported to the police

On 25 March 2008 a woman community leader and activist on SGBV reported that two armed men broke into her home in Kalma camp to kill her while she was sleeping with other female relatives. According to the victim, the men fled when they discovered her relatives in her home. The victim is now unable to stay in her home as she believed the men intended to kill for her work.

In El-Sarif camp, a 12 year old IDP girl<sup>8</sup> was raped in her house by a man in civilian clothes armed with a knife. The case was reported to the Nyala police and the perpetrator was apprehended shortly after the incident and subsequently charged with the offence of rape. The case is currently before a court in Nyala.

On 4 April 2008, a 13 year old girl from Alsalam IDP camp was beaten and raped by a man dressed in civilian clothing and armed with a stick. The victim's younger brothers fled and went to the camp to inform their relatives of the attack. The victim's relatives arrived at the scene while the man was still raping the girl. The case was reported to the police inside the camp who

issued her with a Form 8 and advised the victim's family to file a complaint at Nyala central police station. The family did not report the case to Nyala police station.

In mid April 2008, a thirty year old woman from Alaslām IDP camp was raped and beaten by four armed and uniformed men believed to be members of SLA/Free Will. The attack took place as the victim and three other women were cultivating land in the Tandalti area. The victim reported that she was certain the other women had also been raped although she did not witness it.

In a separate incident, a 20 year old woman from the same camp reported that she had also been raped in mid April 2008. She was travelling from Sani Affendu to Marla with a group of four men and two women, when three Zaghawa men believed to be SLA/MM members stopped their donkey carts and began beating the men. One of the attackers dragged the victim to a nearby bush and raped her. The incident was not reported to the police.

On 11 May 2008, a 12 year old girl from Asalam IDP camp was raped and beaten. The girl and her 11 year old neighbour were collecting grass outside the camp when the perpetrator attacked the victim with a knife and stick, removed all her clothes and raped her. The victim received treatment at Nyala hospital and lodged a complaint with the police. Police arrested the perpetrator on 12 May 2008 and the case is under investigation by the Protection of Family Unit.

On 14 May the GBV committee at Otash camp in South Darfur, reported that incidents of sexual and gender-based violence continue unabated.

In May a 13-year old girl of the Berti tribe living in Nyala town was abducted and raped over a period of four days by three men, including a policeman and a WFP security guard. She was threatened with a gun and taken to a house in the Alsalām area, where she was raped during four days. On 20 May the victim was released in very bad physical condition, reportedly drugged and with her body showing clear signs of violence. A police case was lodged by her parents at the Taiba area, and at the Nyala hospital she was provided with Form 8 and received treatment. Police have arrested two men out of the three men that abducted and raped her. One of the two arrested men has filed an official complaint against the victim's mother.

#### **b. West Darfur**

In West Darfur, From January to June 2008, there were 15 documented cases of rape involving a total of 22 victims, of whom 18 were minors.

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<sup>8</sup> The mother of the victim was present during the interview.

In the first week of December 2007, a group of 10 women and girls, aged between 11 and 35, were attacked by two men, one of them armed. The group of women and girls was held for more than two hours in the Turab El-Ahmar area, 3km west of Riyadh camp. A 16 year old girl from the group was gang raped by the two men as well as assaulted with a stick and butt of a gun. At least three other women in the group were whipped and beaten with axes. Two women, who were able to escape, reported the incident to Riyadh police. Although the community requested the police and a group of soldiers manning a nearby checkpoint to rescue the women, they refused to proceed to the scene of the incident.

On 8 January, three commercial trucks were hijacked by unknown armed men in Thur, Zalingei. The incident was reported to SAF and Government Police who attempted to track the vehicles but was unable to. When they returned to Thur town, they met a Fur male, whom they accused of taking part in the hijacking. The man fled towards the market and was chased by SAF soldiers and police. In the market, SAF soldiers and policemen started beating civilians, burnt down shops, looted goods and raped several women inside the shops and in their homes. According to witness, the attackers started off by shooting indiscriminately before proceeding to loot the market and then sexually assaulting women. Three women reported having been gang raped. Accounts from victims and other witnesses testified that Fur women in the town were specifically targeted.

On 9 January 2008, one girl and seven women were returning to Mornei camp after collecting firewood when they came across four armed men in green camouflage uniform who asked them to hand over the 16-year-old girl. The women refused and started running. The four men chased them and managed to beat some of them with whips. When the men spotted another man in the distance, they gave up the chase but took most of the women's possessions and disappeared. Upon their return to the camp, the women reported the incident to the police but the police refused to open a case and took no action.

On 15 February 2008, two female IDPs from a camp near Zalingei were attacked by two armed men on camels. The women were returning to the camp after collecting firewood when they were confronted by the armed men. The men separated them and attempted to rape them. The women fought off the attack and in the process were both severely beaten. The attackers fled when a man on a bicycle approached the scene.

On 21 and 27 February 2008 in Bir Dagig, two separate incidents of gang rape of two female IDPs aged 18 and 25 in front of their relatives. In both instances, the victims described their attackers as Arabs because they spoke Arabic fluently. In the first case, an 18 year old woman was raped by three men in the presence of her mother, her uncle and her two younger sisters. The

case was reported to the police. In the second incident, a 25 year old was raped in the presence of her mother by three men. The incident was not reported to the police.

On 2 March 2008, four IDP girls aged between 14 and 16 were raped by four members of the CRP in Sirba, West Darfur. The girls were returning from Birak, Chad to Sirba with an older woman when they were approached by the soldiers. The attackers allowed the older woman to leave the place and took the girls to their military base where they raped them in the presence of four other CRP members. The incident was reported to the local CRP Commander, who has so far not made any efforts to investigate or prosecute the perpetrators, citing the unwillingness of two of the victims to be interviewed by him. This reluctance appears to stem from concern for the safety of the victims, who have refused to speak with the commander due to fear of reprisal.

On 6 March 2008, two armed Arab men attacked a group of Fur IDP girls and women in Lisse area, 2km south of Mornei. The perpetrators approached the group and asked a 13 year old girl from the group to follow them to their *furgan* (settlement) to have sexual intercourse with her. After she refused and the older woman intervened to support the victim, the attackers hit the 13 year old girl with an axe on her neck and assaulted the woman. The attackers fled when a group of IDPs approached the scene. The victim was taken to the police station and later admitted to the public clinic for medical treatment. Although the Form 8 was completed for her and the incident reported to the police, the police reportedly did not take any action to investigate.

Two SAF soldiers who beat and attempted to rape two female IDPs, a 25 year old woman and a 15 year old girl on 18 March 2008 were verbally reprimanded by their commander. He advised the victims to beat the men if they attempt to rape them again. The victims were attacked at the outskirts of Abu Suruj, West Darfur. The perpetrators fled when people in Abu Suruj heard the victims' shouting and came to their rescue. One of the women sustained injuries to the neck.

In March 2008, two SAF armed soldiers attempted to abduct two girls, 15 and 14 year Eringa for sexual purposes in Abu Suruj, West Darfur. According to an eyewitness, who fought off the abduction attempt. The soldiers asked the girls to go with them as they need women to have sex with. When the elder sister refused to allow them to take the girls, the SAF soldiers shouted at her and told her she was black and a stupid woman and that 'they were black Africans, and that they should consider it a blessing to have Arab babies'. The soldiers insisted on taking the girls, they beat the elder sister and one of the soldiers pointed his gun at her. The elder sister's shouts and screams alerted the neighbours who came to intervene. The other soldier persuaded his colleague not to shoot the elder sister.

In late March 2008, a 33 year old woman, nine girls (ages 13-17) and three boys from Mornei IDP camp were in the Arow area, when the group was approached by two armed Arab

militiamen. The victims reported that the attackers began chasing the young girls, shot several times at the group, captured the 33 and a 15-year-old-girl and held them at gun point. According to the victims, they were beaten with sticks, stones and gun butts and detained for over two hours. The victims were then separated and taken to different places. The victims fought with the perpetrators who reportedly tried to rape them during their captivity. However, UNAMID CivPol visited the victims the day after the incident and distributed some medicines.

On 03 April 2008, a 13 year old Fur IDP girl living in Deleig IDP camp, Zalingei was attacked and raped by four armed militia men, two on horses and two on camels in Wadi Andi, 2-3 km East of Deleig,. The girl was attacked while collecting firewood with three women. Three of the women escaped leaving behind the 13 year old girl. The girl was gang raped by all four men. The victim sustained serious injuries to her genital area and was unable to walk. The incident was reported to the police in Deleig. Police in Deleig opened a complaint under Article 149, 'Rape' of the Criminal Act, 1991. They are investigating and searching for the perpetrators.

On 6 April 2008 in Mornei IDP camp a case of abduction of a woman by three armed Arab men. The victim was still being held in captivity by the perpetrators at the time of the mission.

On 12 April 2008, seven Massalit women from Ardamata IDP camp were attacked while collecting firewood at Arafa, a nearby village. According to the victims, the man was of an Arab tribe and armed with a stick. The attacker initially questioned them as to whether they were from the Zaghawa tribe before attempting to sexually assault two of the women, aged 22 years and 30 years. The group fought him; he beat them with his stick, the 22 year old sustained serious injuries to her head. The attacker fled when he saw that the woman was seriously injured. The case was reported to Ardamata police station.

On 14 April 2008, three women and a 15 year old girl were reportedly attacked by three armed militiamen while collecting grass in Abu Suruj. The 15 year old girl attempted to flee, her attackers shot her in the leg. She sustained serious injuries; the local clinic is unable to remove the bullet from her leg.

On 23 April 2008, two IDP women were assaulted at Sisi, West Darfur by an armed man wearing green camouflaged uniform and riding a horse. The attacker fled the scene when he observed some people from the camp approaching. The victims received medical treatment from the INGO clinic at the camp and reported the incident to the SAF post and then to Mejmera police station, who issued them with Form 8s.

On 1 May, a Massalit woman and two Massalit girls, IDPs from Foro Baranga aged 14, 15 and 20 were reportedly gang raped during four hours by seven men, described by the victims as

“Arab militia”. They were attacked in Joroko area by seven men riding horses and wearing military camouflage uniforms with faces covered. They were held captive for four hours and gang raped. The victims came back to the camp and reported the incident to the Sheikh. They did not report to the police nor did they seek medical treatment.

On 5 May an Erenga woman was reportedly physically assaulted and gang raped by three SAF soldiers near a hill close to Jatek. As a result one of her legs was broken and she is still unable to walk. The victim did not get any medical treatment due to its unavailability nor did she report the incident to the police or the SAF.

On 24 June in Kerenek, West Darfur, two Massalit men abducted and raped a 16 year old mentally disabled Massalit girl. The victim’s mother attempted to open a file at the police station but the police refused to provide a Form 8 or to register the case because the woman sought medical treatment for the victim prior to reporting the rape to the police. The *Furshah* (local leader) ordered the ‘arrest’ of the perpetrators and referred the case to the rural court. According to the victim’s mother, the court refused to allow the women and her daughter to participate or observe the trial proceedings and complained that she was not paid compensation. The victim’s mother was informed that the case was closed because pursuing criminal proceedings might create problems in the community. The court released the perpetrators after the men paid the court fees.

### **(c) North Darfur**

In North Darfur 20 cases of rape of which 3 were children have been documented.

On 11 January 2008 a 12 year old Birgid girl was raped by an unidentified man. The victim was returning from firewood collection with a group of women when they spotted a man standing by the roadside. The victim, who was holding her seven year old brother, could not run very fast and was captured by the man. He ordered her to lie on the ground and threatened to beat her when she refused. The victim subsequently lied down and was raped by the man. She reported that she could not identify her attacker because it was dark. The case was reported to the police.

In Abou Shok IDP camp, human rights monitors interviewed a 30 year old woman who reported that she was raped by a man in civilian clothes on 25 January 2008. The woman was praying in her farm near the northern edge of the camp when she was approached by the man. The man threatened her with a knife, beat and overpowered her before raping her. The victim was referred to the prosecutor’s office when she attempted to file a complaint at the local police station.

On 15 February 2008, a 15 year old girl was kidnapped by two armed men, one in civilian clothing and the second in green khaki uniform in Kabkabiya. The victim was taken to a nearby abandoned house where she was raped by the man dressed in uniform. The victim escaped the following morning. The victim received medical treatment at local INGO clinic. The case was reported to the police.

On 18 February 2008 in Kabkabiya, an 18 year old woman was raped by an armed man dressed in a brown uniform near a Police checkpoint in Midcrow valley. The victim reported the incident at the Police checkpoint and was later escorted home by the police officers. The victim received medical treatment at a local INGO clinic.

On 25 February a 25 year old IDP woman was raped by an armed man dressed in a khaki uniform while collecting firewood outside Kassab IDP camp. The woman was severely beaten during the attack. She received medical treatment at a local INGO clinic. The incident was reported to the police.

On 24 February 2008 two women from Kassab IDP camp were beaten and seriously injured when they resisted an attempt by two armed men dressed in CRP uniform to abduct them. The victims were approached by the men whilst collecting firewood with a group of women outside the camp. The attackers ordered the victims to follow them and when they refused, they beat them with whips in the presence of the other women

On 13 March 2008 a 35 year old woman was reportedly killed when two armed men dressed in civilian clothing opened fire on a group of IDPs in an apparent attempt to abduct and rape one of them in Tawila. Three of the victims were severely beaten by the militiamen. The armed men attempted to seize one of the women but the other women in the group came to her aid and fought off the attackers. The attackers subsequently opened fire on the women, killing the 35 year old.

On 11 April 2008 SLA/MM Police Station confirmed that two girls aged 15 and 13 were raped in Golo valley, while another girl, aged 7, managed to escape and inform an Omda. Police from the IDP camp, with the assistance of the victims, managed to identify a suspect, a shepherd. The suspect, denied raping the girl and claimed that she had been willing to engage in sexual intercourse with him. The suspect also claimed he had been ill-treated while in detention and forced into confessing that there was another rapist. The girls were admitted to a hospital, where they received medical treatment.

On 2 May 2008, a 25 year old Fur woman was assaulted by an armed man described as an Arab. According to the victim, she and seven other women were collecting firewood near the Qabdanju

Valley, Kabkabiya, North Darfur, when an armed Arab man in civilian clothes riding a camel approached the group. Although seven of the women managed to flee the area, the 25 year old Fur woman, who was five months pregnant at the time, was unable to escape. The perpetrator reportedly chased her and knocked her over with his camel. After the victim began bleeding, the man fled. The victim suffered a miscarriage as result of the attack and spent eight days receiving medical treatment at a clinic in Kabkabiya. Although the victim filed a report with the police, including a Form 8, it appears that no investigation was conducted.

On 10 May 2008, a 26 year old Fur woman was raped by an armed man wearing a green camouflage uniform. The incident took place in Qabdanjo valley, Kabkabiya, North Darfur. The victim stated that she was collecting firewood with six women when the perpetrator approached the group. The women fled but the victim was unable to escape as she was carrying her 15-month-old baby. The perpetrator reportedly pointed his gun toward the baby and said that he would kill the baby if she failed to follow his instructions. The victim reported that the man raped her four times in two hours. The victim informed her Sheikh about the incident and received treatment at a local clinic. The victim did not file a report with the police.

On 24 May, a ten year old girl was reportedly raped by CRP soldiers in Tawila, North Darfur. Three girls were returning from the Tawila water point when they were stopped by two CRP and asked if they were Zaghawa. After the girls replied “no”, one of the soldiers allegedly grabbed the ten year old girl, tied a rope around her neck and brought her to an abandoned house. Reportedly, one of the CRP soldiers raped her while the other stood guard outside the house. A passerby found the victim and brought her to the Sheik who subsequently brought the victim to UNPOL to report the case.

On 15 June, a 40-year-old mother, and her two daughters aged 18-years and 22-years from Rwanda IDP camp, Tawila were severely beaten by two armed men dressed in khaki camouflage uniforms when they resisted an attempted rape. The incident was not reported to the police.

On 15 June a 23-year-old Fur IDP was raped by two armed men dressed in civilian clothing in Tawila, North Darfur. The woman was fetching firewood a few kilometres north west of the camp with six other women and a 16-year-old girl when they were attacked by the two men. According to the victim, the men initially attacked the 16-year-old girl with a wooden stick. She fell and managed to escape along with the other women. The men reportedly captured her and raped her. The incident was not reported to the police.

On 21 June, a group of twenty women were collecting firewood in an area near Esthrena, south of Kerenek when two men, described as ‘armed Arabs, wearing green camouflaged uniform’ attacked a group of three Massalit IDP females. The armed men tied the hands of the 16 year old

girl and raped her at gunpoint, and tried to abduct the victim and another girl. After two other women tried to intervene, the men began beating the women with whips. The victims eventually escaped after two Massalit men nearby intervened. Although the rape victim and the other victims of physical assault reported the incident to the police, obtained a Form 8 and obtained treatment at an INGO clinic, the other victim of attempted abduction/rape did not wish to pursue charges against the perpetrators. Although the victims knew that the perpetrators were from Are area, the police apparently did little to investigate and only instructed the victim to inform them if they saw the perpetrators in town.

On 23 June a group of armed Arabs wearing the uniforms of the Central Reserve Police (CRP) attacked a group of Fur women from the Hassa Hissa IDP camp. A 28 year old Fur woman was raped and another woman was stabbed in her hand during the rape attempt but managed to escape. Neither victim reported the matter to the police.

### **Assessment of Implementation of Recommendation 1.2.2**

Implementation has begun however the ratio of number of reported cases followed by appropriate action is still extremely low. There have been a few cases where perpetrators of rape have been prosecuted, however in the majority of cases the authorities are still not responding appropriately. More effort is required to ensure that every case reported to the authorities is promptly responded to through effective investigation, prosecution and compensation. Only when victims see successful cases being brought to court will they have confidence in the criminal justice system and more cases will be reported to the police.

### **Recommendation 1.2.3**      *Short-term*

Work in consultation with community members, including females, to set up or resume firewood patrols for IDP camps and villages.

*Indicators: Number of IDP camps benefiting from regular and effective firewood patrols.  
Reduction in number of reported attacks on women in areas patrolled.*

### **Response of the Government of the Sudan on Recommendation 1.2.3**

#### Written information submitted to the Special Rapporteur on 10 July

Police forces are continuing their regular patrols around IDP camps as well as escorting women out of camps to collect firewood. There is coordination with UNAMID through regular meetings of the joint security committee.

### **Information Received from Other Sources on Recommendation 1.2.3**

There are currently no Government firewood patrols in Darfur. UNAMID Police have however carried out these activities in some of the areas where they are deployed in the camp. According to UNAMID police, in 2007, there was a joint AMIS Civpol and Government police patrol in two IDP Camps, Alsalam and Alsaerif in South Darfur. As of 2008, there have yet to be any such joint patrols.

### **Assessment of Implementation of Recommendation 1.2.3**

The Government of Sudan informed that there are regular patrols, however, no information was provided as to which camps were benefiting. According to information received from other sources whilst there were joint firewood patrols in two camps in South Darfur, since 2008 there have been no Government firewood patrols.

#### **Recommendation 1.2.4**      *Short-term*

Make work plans for the State Committees to Combat Violence Against Women with clear objectives, targets & time-frames available to the public.

*Indicators: State committee work plans publicly available.*

### **Response of the Government of the Sudan on Recommendation 1.2.4**

No information received.

#### **Information Received from Other Sources on Recommendation 1.2.4**

North Darfur State Committee to Combat Violence against Women met on 18 February to review its 2007 workplan and to draft a new Work Plan for 2008. Members of the Committee met again on 3 March; it was agreed that the Committee would meet on a bi-monthly basis. The Committee received funds 5000 Sudanese pounds from the Violence against Women Unit in Khartoum. UNAMID sections have committed support to the committee in the form of technical expertise, logistics, financial support and training based on the mandate of each section.

According to the work plan capacity-building represented the main scope of the State Committee activities in 2007 and will continue in 2008 with the following planned activities: workshops on form 8 in seven additional localities; one-day workshop for newly appointed prosecutors in the localities; two-day training workshop for members of the sub-committees branch offices; several workshops on female circumcision; training on GBV to the media in El Fasher and human rights training at OHCHR for some members of the Committee. UN representatives requested that the Committee work in 2008 Work plan concentrate more on advocacy, policy and information-sharing: Public Awareness Raising : The Committee agreed that it will conduct a campaign on the health consequences of sexual violence; Policy: Dissemination of policy and recommendations drafted at the State level should take place including on the Declaration on the measures for the elimination of violence against women in Darfur Information-Gathering/Analysis: The ACHR addressed a letter to each Darfur State on 30 Dec 07, asking that information on all types of GBV should be compiled on a quarterly basis and sent back to them. The Sate Committee Chair has forwarded the request to ND Police Commissioner, ND Prosecutor and ND Chief Judiciary.

During the reporting period, the Committee collected and forwarded information requested by the ACHR in Khartoum (156 cases for the 1<sup>st</sup> quarter). It did not directly implement any other activity, investigate or follow up on any case of GBV. Celebrations of International Women's Day were led and conducted by the Wali's Advisor on Women and Children Affairs. The Chair of the GBV State Committee and some members attended. The local topic this year was on eradication and criminalisation of FGM, an official celebration was organized by the Wali's office and the Advisor on Women and Children Affairs. Also the Ministry of Social Welfare conducted several activities on FGM and the Ministry of Education established an awareness-raising committee in 5 schools in North Darfur.

The Committee constituted 3 Sub GBV committees in Dar El Salam, El lait and El Sarif localities. The Sub committees received funds from the National Ministry of Social Welfare, Women and Children Unit (5,000 Sudanese pounds each, computer and furniture).

West Darfur - The West Darfur State Committee to Eliminate Violence against Women held three meetings, on 1 and 30 April and 21 May. The meetings were attended by all Government members and UNAMID and UN agencies, who attended as observers. The committee has a work plan. Although the committee was established in late 2005, it is only now starting its work and has not yet undertaken activities.

South Darfur - In the last quarter of 2007, the South Darfur State Committee developed a three-month work plan, which was not implemented. On 30 April, members of the Committee met for the first time in 2008. Participants proposed that the 2008 work-plan be adopted for implementation for the next three months. Participants agreed to meet on 13 May to complete the work plan. UNAMID and other UN agencies participated in the meeting as observers. The work plan has now been adopted by the Committee.

#### **Assessment of Implementation of Recommendation 1.2.4**

Work plans have been adopted for all three state committees. Efforts have been slow in West and South Darfur. In North Darfur there seems to be more action, with its main activity focused on awareness raising and providing information to ACHR on cases, and the impact of the work in combating violence against women.

#### **Recommendation 1.2.5**      *Short-term*

Issue and immediately enforce clear instructions to all authorities, including the armed forces, and any militia under the Government's control that rape and other forms of sexual violence are prohibited; that they may amount to war crimes and crimes against humanity; that suspects, including bearers of command responsibility, will be investigated and brought to justice and that any immunities would be waived. Publish and widely disseminate these instructions.

*Indicators: Instructions issued and widely disseminated. Number of incidents attributable to Government authorities or any militia under Government's control.*

## **Response of the Government of the Sudan on Recommendation 1.2.5**

### Written information submitted to the Special Rapporteur on 10 July 2008

The Armed Forces Act 2007 was approved at the end of 2007. It specified 18 years as the minimum age of recruitment. The Act included a chapter on the principles of International Humanitarian Law which illustrates the protection of civilians and war crimes. The chapter also emphasizes individual responsibility and provides for mechanisms of accountability and formation of military courts.

The National Commission of Humanitarian Law at the Ministry of Justice is preparing the required studies for the adoption of the Arab Model Law for war crimes and crimes against humanity, endorsed by Sudan and other Arab countries at the meeting of Arab Ministries of Justice on 6/4/2008. The basic draft of the law was prepared by the legal branch of the Arab League.

The National Commission of Humanitarian Law is also drafting a Combating mines Act 2008 pursuant to article 9 of the Ottawa agreement.

### **Information Received from Other Sources on Recommendation 1.2.5**

The National Assembly adopted the new Sudan Armed Forces Act during its regular session on 5 December 2007.

### **Assessment of Implementation of Recommendation 1.2.5**

The legal framework in terms of protection of children and women in situations of armed conflict has improved with the adoption of the Sudan Armed Forces Act 2007, however, it does not comply with other international human rights principles as detailed under 1.1.4. Ongoing violations indicate that there has not been much improvement on the ground.

#### **Recommendation 1.2.6**     *Ongoing*

Ensure that women who experienced sexual violence have access to medical care, regardless of whether they choose to report their case to the police or not. Disseminate and promote compliance with Rules of Application to Criminal Circular No. 2 that removes this requirement. Entrust State Committees with the task of monitoring compliance and publicly reporting on it.

*Indicators: Number of instances of non compliance with Rules of Application to Criminal Circular No. 2.*

### **Response of the Government of the Sudan on Recommendation 1.2.6**

#### Written information submitted to the Special Rapporteur 10 July

The Unit for combating violence against women has been attentive in following up on the implementation of Criminal Circular 2. No complaints have been received that victims have not been provided with health treatment before obtaining form 8.

### **Information Received from Other Sources on Recommendation 1.2.6**

The use and knowledge of Criminal Circular No. 2 and Form 8 remains an ongoing challenge in many parts of Darfur. Training is required at all levels for professional workers, including medical staff, police and community workers. A number of INGOs are now authorised to issue Form 8.

On 14 April, the Joint State Committee for Combating Sexual and Gender Based Violence (JSCGBV) in Nyala, South Darfur, UNFPA and UNAMID Gender Office conducted field missions to two IDP camps, Mousay and Alsherif, primarily to disseminate information with regards to the Rules of Application to Criminal Circular No. 2 in addition to the Governor's circular on the seven (7) points of handling rape survivors in relation to Form 8. The JSCGBV was created in January 2008 following a Government Decree.

In North Darfur, the State Committees to Combat Violence Against Women conducted dissemination workshops on Circular 2 and Form 8 across five localities (50%) in North Darfur, the Committee in its Work plan for 2008 budgeted for a further five workshops in the remaining localities. UNAMID Human Rights will be funding part of the activities. Inter-agency Working groups on GBV in three Darfur states have undertaken several activities to spread awareness among women of their right to seek medical care with regard to cases of sexual violence including awareness raising on referral pathways on medical care, training of UNAMID CIVPOL community police officers, Gender Desk Officers and Gender Advisers.

### **Assessment of Implementation of recommendation 1.2.6**

The recommendation has been fully implemented with the authorities disseminating, promoting compliance with the rules for implementation of Criminal Circular No.2, and state committees monitoring compliance. Training is ongoing to ensure that the message is communicated to all parts of Darfur.

**Recommendation 1.2.7**     *Mid-term*

Deploy women police officers to Darfur specially trained to deal with victims of sexual violence and other forms of violence against women. Ensure that all investigating officers at least receive training on how to deal with VAW cases.

*Indicator: Number of trained women police officers deployed in IDP camps.*

**Response of the Government of the Sudan on Recommendation 1.2.7**

Written information submitted to the Special Rapporteur on 10 July 2008

The Government provided information that 35 police women have been deployed in Northern State to work in the camps of Abu Shouk and Zam Zam and units of women and child protection in the central and southern sectors. In Southern Darfur 33 police women have been deployed in the camps of Itash, Alsaif, Alsalam and Sagli as well as in the localities of Nyala, Gadas, Idelfrsan, m Rehaid Alberdi, Kas and Aldiain. Lists of names, rank and location were provided to the Special Rapporteur.

In North Darfur 27 social workers were trained by the unit to combat violence against women on the effects of incidents on victims.

**Information Received from Other Sources on Recommendation 1.2.7**

On 16 October 2007, South Darfur Police established a new unit in Nyala entitled, 'Section to Investigate Crimes and Violations against Women and Children'. The Unit was tasked with investigations into cases of sexual violence. Although members of the unit include female police officers who have benefited from a number of UN trainings pertaining to their mandate, there has yet to be an official outcome to investigations which they were assigned. The new Unit now comprises the Prosecution office, Judiciary, Ministry of Social Welfare, doctors and psychosocial specialists. Additionally, the new unit comprises a specialised Prosecutor for children, a children custody centre and a juvenile court.

On 7 May, a representative from West Darfur State Police informed that there were no female police holding the rank of an officer in West Darfur. That the police barracks in West Darfur lacked the resources to provide facilities including accommodation for women police officers

should they be deployed to the region. In Zalingei, women work in the police as administrators and not as police officers.

UNAMID has deployed women CIVPOL officers who are especially trained to deal with sexual violence crimes inside IDP Camps across Darfur.

### **Assessment of Implementation of Recommendation 1.2.7**

Implementation has begun with female police deployed to North and South Darfur. At the time of finalizing the report it is hoped that the deployment will have a positive impact on appropriate responses to victims, and lead to successful investigations and prosecution of violence against women cases.

### **Recommendation 1.2.8**     *Mid-term*

Review the current legal framework to address deficiencies and ensure its effectiveness in the prevention and prosecution of crimes of sexual violence. Amend the definition of rape in Art. 149 of Criminal Act 1991 in a way ensuring that no links it to the substantive or evidentiary requirements of adultery or sodomy exist. Reform law of criminal evidence to ensure that it is legally inadmissible to regard victim's allegation of rape as a confession of adultery (Article 145 of Criminal Act 1991).

*Indicators: Criminal Act of 1991 and other relevant legislation reformed. Number of prosecutions of rape, appropriate sentences for perpetrators and reparation for victims.*

### **Response of the Government of the Sudan on Recommendation 1.2.8**

Written information submitted to the Special Rapporteur on 10 July

On 16 June ACHR in collaboration with UNMIS convened a workshop to discuss the overlap in the definition of the crimes of rape and adultery and to look into the practice and ways of substantiating each of the two crimes. The workshop was attended by judges, prosecutors, the police, the military justice, lawyers and representatives of voluntary organizations. A paper presented by the former Chief justice included a number of initial recommendations stressing the importance of amending the definition of rape as well as looking into evidence. The recommendations will be provided to a number of specialized scholars.

### Information Received from Other Sources on Recommendation 1.2.8

During the reporting period, there were no significant changes in the current legal framework with regard to crimes of sexual violence, including amendment to the definition of rape.

In the courts application of the existing law, the courts have in some instances amended charges of rape to adultery. Rape unlike adultery is not a hudud crime and therefore the high standards of evidence required to prove and convict a defendant of hudud offences are not requirements to convict a defendant of rape. However victims and their legal representatives are not made aware of this fact, ensuring that the 'reversal of charge' has become an effective threat to victims accessing justice in cases of rape. The problem of misinterpretation of the law has not been limited to defence lawyers, in the absence of a statutory interpretation of the Evidence Act 1993, in cases of rape, judges' interpretation of the law has also been wrong in law. On 27 January, Nyala General Court found an accused guilty under articles 151 (Gross Indecency) and 78 (Drinking alcohol) of the Criminal Act, 1991 although the defendant was charged and tried for offences under articles 149 (rape), 78 and 148. The judge ruled that the prosecution failed to present evidence of adultery as contained in article 62 of the Evidence Act 1993. On 12 January, the victim, a 12 year old girl from Alserief IDP Camp, 12km south west of Nyala was raped by the accused in her home inside the camp. The victim was also subjected to severe beatings during the attack. The defendant was sentenced to two years imprisonment, 80 lashes and a fine of 10,000 Sudanese pounds.

On 29 April, Nyala Criminal Court convicted two men, one a member of SAF, of rape of two 14 year old girls in October 2007 under Articles 149 (rape), and 21 (criminal joint acts) of the Criminal Act 1991. The men were sentenced to ten years imprisonment and one hundred lashes each, and ordered to pay a compensation of 35, 000 SDG for each victim to be paid by the convicted. The court stated in its decision that due to the prevalence of rape offences in South Darfur State, the maximum punishment should be imposed on the convicted.

### **Assessment of Implementation of Recommendation 1.2.8**

Workshops have been held on the issue which conclude that there is need for reform of the Criminal Act of 1991-definition of rape and evidence. No action has been taken to reform the law so far. In a couple of cases the Nyala Criminal Court has shown that it is able and willing to prosecute cases of rape, with appropriate sentences for perpetrators and reparation for victims.

**Recommendation 1.2.9**      *Mid-term*

Ratify the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa.

*Indicators: CEDAW and Protocol ratified.*

**Response of the Government of the Sudan on Recommendation 1.2.9**

No information received

**Information Received from Other Sources on Recommendation 1.2.9**

The Sudanese government has not yet ratified CEDAW and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.

**Assessment of Implementation of Recommendation 1.2.9**

Not implemented.

**1.3 Children and armed conflict**

**Recommendation 1.3.1**      *Short-term*

Establish and provide sufficient resources to Gender and Child Units within the national police in Darfur as a matter of priority.

*Indicator: Gender and Child Units within the national police established and fully resourced.*

### **Response of the Government of the Sudan on Recommendation 1.3.1**

#### Written information submitted to the Special Rapporteur on 10 July 2008

Gender and family protection units in Northern and Southern Darfur have received women police who will investigate gender-based crimes. The Special Rapporteur was provided with a list of names of police women transferred to different sites in Darfur, as well as the names of women who joined the child and family protection units.

#### **Information Received from Other Sources on Recommendation 1.3.1**

In March 2008, the government opened a Family and Child Protection Unit in West Darfur, the first in Darfur with the technical and financial support of UNICEF. The Unit is modelled on previous Units established in Khartoum in early 2007. It is expected to provide specialist services for children and women who are victims of sexual and gender based violence, abuse and exploitation. Similar Units are expected in the latter half of 2008 in both North and South Darfur. The unit is headed by a police officer holding the rank of captain. The Ministry of Justice has designated one judge and one prosecutor to follow up on cases involving women and children. The unit has four departments, 1) three police investigators; 2) one social worker, 3) one nurse and 4) one public relations and media officer.

All the Units as in Khartoum will be funded jointly by the Government and UNICEF. As part of capacity building programme for the Units, 45 law enforcement officers (chiefs of police units and prosecutors from Northern and Southern Sudan states) were trained from 24 to 29 February 2008. For further capacity building, UNICEF plans on facilitating and funding 'on-the-job' training through an INGO. UNICEF El Geneina has donated to the unit furniture including desks, chairs, photocopier and cabinets. To facilitate the work and day-to day-functioning, UNICEF is planning to provide four computers and one vehicle. Currently, the unit covers El Geneina Locality only. It is however envisaged that the unit will gradually expand its operation to include the whole of West Darfur.

#### **Assessment of Implementation of recommendation 1.3.1**

Implementation has begun with UNICEF support and the opening of family and child protection units in Darfur and deployment of female police.

**Recommendation 1.3.2**      *Mid-term*

Undertake timely adoption of national legislation for the protection of children, and ensure the implementation of this legislation. Ensure the rigorous and systematic investigation and prosecution of violations against children to address the prevailing sense of impunity for such violations.

*Indicators: Adoption of national legislation for the protection of children. Number of cases of violations against children investigated and prosecuted.*

**Response of the Government of the Sudan on Recommendation 1.3.2**

Written information submitted to the Special Rapporteur on 10 July 2008

The Child Act 2008 (bill) has been submitted to parliament. The bill defines child as a person who has not yet reached the age of 18 and revoked signs of maturity as a criterion for defining a child adopted by the previous Act. It also prohibits FGM and raised the age of criminal responsibility. It also dedicates a section for juvenile trial, formation of special prosecutor and courts. It also elaborated on means of reform and rehabilitation. The bill also provides better guarantees for children with disabilities.

**Information Received from Other Sources on Recommendation 1.3.2**

The National Assembly adopted the new Sudan Armed Forces Act during its regular session on 5 December 2007. The Child Bill prohibits and prescribes criminal penalties for gross violations of humanitarian and human rights law, including torture, unlawful killings, sexual slavery or forced pregnancy, abduction and enslavement, rape, and attacks on schools and hospitals.

During the reporting period, the revised amended version of the 2004 Child Act was finalized by the Legal Reform Committee (LRC) and forwarded to the Cabinet of Ministers for review and endorsement. Upon the approval of the Cabinet of Ministers, the Bill is expected to be presented to the National Assembly for ratification. The Government has undertaken a number of activities to disseminate the Act including a range of consultation and orientation sessions for Government, religious leaders, civil society, and other influential and key stakeholders.

A draft West Darfur Child Act was submitted by the West Darfur State Cabinet to the West Darfur State Legislative Council for consideration and adoption. It has yet to be adopted.

### **Assessment of Implementation of Recommendation 1.3.2**

Implementation has started with a new Child Act presented to Parliament although no law has been adopted yet.

#### **Recommendation 1.3.3**     *Mid-term*

Ensure that Disarmament, Demobilization and Re-Integration Commissions have adequate child protection expertise, and ensure effective communication with relevant line ministries such as the Ministry of Social Welfare, Women and Children's Affairs. The National Disarmament, Demobilization and Re-Integration Coordination Council should facilitate the inclusion of all relevant stakeholders.

*Indicator: Adequate child protection expertise within the Disarmament, Demobilization and Re-Integration Commissions.*

#### **Response of the Government of the Sudan on Recommendation 1.3.3**

No information received.

#### Information Received from Other Sources on Recommendation 1.3.3

By the initiative of the National Council for Child Welfare NCCW, UNICEF in partnership with Save the Children-Sweden commenced training of Sudan Armed Forces (SAF) officers in Khartoum and Darfur states. In February training courses were conducted in North and South Darfur for 80 junior and senior SAF officers and in Khartoum state for 50 senior SAF officers. The training included sessions on the impact of armed conflict on children, the legal instruments and the obligation of Sudan in regard to ratified conventions and treaties including sessions on the CRC, the optional protocols, international humanitarian law, the Paris Commitments and the new Sudan Armed Forces Act. The sessions also focused on the role of the military in child protection and more specifically in situations of armed conflict. The NCCW, SAF and UNICEF are currently working on developing a comprehensive and long term tripartite programme of collaboration to strengthen the protection of children in Sudan and in particular in Darfur.

### **Assessment of Implementation of Recommendation 1.3.3**

Implementation has begun with training on the impact of armed conflict on children and the legal framework which applies in Sudan. No information was received about the child protection expertise on the DDR Commissions, communication between the relevant line ministries and inclusion of all relevant stakeholders.

### **1.4 Protection against summary executions, arbitrary detention, disappearances, torture**

#### **Recommendation 1.4.1**      *Short-term*

Issue and enforce clear instructions to the law enforcement agencies, the armed forces and any militias under the Government's control that summary executions, arbitrary detention, enforced or involuntary disappearances and torture are illegal and will not be tolerated; that they can amount to war crimes and crimes against humanity, that suspects will be investigated and brought to justice and any immunities would be waived.

*Indicators: Instructions issued and widely disseminated. Number of reported incidents attributable to the Government.*

#### **Response of the Government of the Sudan on Recommendation 1.4.1**

No information received

#### **Information Received from Other Sources on Recommendation 1.4.1**

During the reporting period, there were no new instructions issued to Government law enforcement agencies. Government security apparatus continued to commit human rights violations, including arbitrary arrests, arbitrary detentions, torture and ill-treatment of detainees. Individuals targeted included community leaders, and people perceived to have ties with rebel movements.

In Darfur:

(i) Summary Executions and Attempted Summary Executions

On 9 December 2007, Adam Youssef Ibrahim, a 60 year old tailor was shot and killed in El Fasher market by members from the Border Guards. Immediately after the incident, the Wali of North Darfur and Government Police confirmed that members of SAF were responsible for the death. The police opened a case against the perpetrators (criminal case no. 3945/2006) and the Wali promised compensation to the relatives of the victim. As of 29 May 2008, the relatives have not received compensation. The Prosecutor has requested cooperation from the Military; however the Military responded that they required the name of the individual soldier who fired the fatal shot before they would be able to take action.

On 7 January 2008, a member of Sudan's Armed Forces (SAF) shot and killed a 45 year old woman in her restaurant at a market in Zalingei. An eyewitness reported that the victim worked late on the night of the incident in order to serve travellers who frequently patronised her restaurant. The victim was packing her belongings and preparing to close for the day when the soldier appeared in front of her restaurant. Without any warning, the soldier shot the victim several times in the stomach and she died instantly. The soldier was reportedly arrested by the police and transferred to Zalingei prison.

On 17 January 2008, a 75-year-old Erenga man was assaulted and shot in his home in Dorti camp in El Geneina by four armed men. One of the perpetrators was wearing green camouflage uniform and the others were wearing civilian clothing; all the assailants had their faces covered. The victim was shot in his right arm after he failed to comply with the demands of the assailants for millet. After receiving treatment at an INGO clinic, he was referred to the Geneina hospital for additional treatment. However, the doctor on duty refused to attend to him without a Form 8, which was not available at the hospital. A copy of the form was later obtained from the police and the victim was eventually admitted at the hospital.

On 6 February 2008, two male Fur IDPs were shot at in *Wadi Aribo*, between Hamadiya IDP camp and Zalingei town, while coming back from farming along the *wadi*. The two IDPs were stopped by two armed men - one in military uniform and the other in police uniform. The two IDPs were asked to walk in front of the armed men. One of the IDPs attempted to flee towards the camp and the armed men opened fire and shot at both victims: one victim was shot in the leg and the other in the hand. The perpetrators immediately left the scene while the IDP who was wounded in the hand was able to return to the IDP camp to ask for help. A complaint was filed with the police. There has been no progress in the investigation.

On 8 February, two drunken Central Reserve Police (CRP) members assaulted a 40 year old woman and her son in their home in Jabalin IDP camp, near Garsilla, West Darfur. The woman's neighbours came to her rescue and captured one of the assailants. They took him to the local police station but the police released him without charging him with an offence.

On 10 February 2008, a 46 year old man was killed after being attacked in his home in Garsilla by four members of the SAF. The four men barged into the victim's home at around 10 pm. and began beating him in the presence of his family. Neighbours reported the beating lasted for more than an hour and the aggressors made sure the victim was dead before they left.

On 25 February 2008, a 50-year-old man was shot dead in his home in Ardamata, West Darfur, while trying to prevent his two nieces from being raped. Eyewitnesses reported that three armed men dressed in green camouflaged uniforms broke into the house of the deceased sister and attempted to rape the deceased's nieces who also lived in the house. She tried to stop the attackers and was severely beaten. The deceased, who lives next door, heard the screams of his sister and immediately run to her rescue. He was immediately shot and killed by one of the attackers. The incident was reported to the police in Ardamata.

On 2 May 2008, NISS allegedly detained a 53-year- old Massalit man for two days, for his criticism of the government and the Tijaniya *tariqa*, a Sufi religious group. The victim is a well-known religious figure and activist in El Geneina and belongs to a Sunni sect with hundreds of student supporters. The man was released on 4 May 2008 after signing an agreement not to criticize the Government and other religious groups. The victim had been similarly detained on four previous occasions, for periods of fourteen to ninety five days in 1997, 1998, 1999 and 2003.

On 14 May 2008 at approximately 5:00 pm, soldiers from Military Intelligence arrested three Zaghawa men at a check point located at the western entrance of Zalingei town. At the time of the arrest, the three men were travelling in a commercial vehicle from Al Geneina en route to Zalingei. The basis of the men's arrest remains unclear. The three men were taken to military intelligence headquarters based in Brigade 96 HQ, Zalingei. On the same evening of the arrest, one of the men, a 30- year old from the Zaghawa tribe from Tandelti, West Darfur, died after being beaten by military intelligence soldiers. Reportedly the victim was repeatedly kicked by military soldiers, which may have caused the man to haemorrhage internally. He reportedly collapsed and died the same evening and was buried on 15 May. According to information received, the other two detainees arrested at the same time as the deceased were immediately transferred from the military base. Military intelligence, were not available to discuss the case.

On 9 June a 47-year-old Berti man was arrested in Nyala after NISS had threatened to abduct his wife if he did not surrender himself. On 11 June, the police (not the NISS who arrested him) brought the body of the victim to his family. The family was unable to verify whether there were any signs on the body as to the cause of death as the police had prepared the body for burial before bringing the body to the family. The man was said to have been in good health before his arrest. There is a police autopsy report, but the results have so far not been disclosed. The family is of the opinion that the arrest of their relative was related to the Omdurman attack. The Prosecutor's Office has initiated an investigation.

On 19 June, two armed members from the CRP shot and killed an unarmed 45-year-old IDP man inside Tonkitir IDP camp. According to eyewitnesses two armed CRP from Mershing entered an IDP home at Tonkitir IDP camp and reportedly attempted to kidnap and rape two girls. The victim, who resided in a home neighboring the attacked family, heard the noise and approached the home. According to the witnesses, when the victim entered the home, the CRP reportedly shot the victim in the chest. The victim died shortly after the shooting. IDP sheiks briefed the Wali on the circumstances of the killing, including the identities of the perpetrators, when the Wali visited the area on 20 June. The Wali reportedly instructed the CRP commander to take immediate action. The two CRP members suspected of the killing are reportedly in CRP detention in Mershing. On 23 June, the chief prosecutor of South Darfur reportedly submitted a formal request to the Ministry of Interior to waive the immunity privileges of the two CRP members. The letter was also addressed to the Chief of the CRP in South Darfur and to Mershing police station, where the men are currently detained. It is promising to note the immediate action undertaken by the chief prosecutor.

On 16 June 2008, two Massalit IDP men from Masteri, were abducted by seven armed men described by witnesses as Arab militia from Kobore. The bodies of the men were later found in a dry well. Relatives of the victims, a group of nine women and girls, were collecting mangoes when they were instructed by two men, described as Arabs wearing green military uniforms, to leave the area. As the women were returning to their camp, they saw their two relatives cutting wood. Before the women could reach the men to warn them to leave, the women observed a group of armed men approach their two relatives. The armed men were described as Arabs wearing green camouflage uniforms who were riding horses. Both victims were reportedly ordered at gunpoint by the abductors to move with them to Kobore, which is an area renown for its presence of militia. The women who witnessed the abduction reported it to the police. On 20 June, the victims' bodies were found in a dry well near Wadi Kobore, West Darfur. On 21 June 2008, the bodies were recovered from the well and examined by a medical practitioner. The Masteri police commander stated that the men had been severely beaten, and postulated that both men died as a result of a broken neck. The Masteri police opened a case file, initially as an abduction case and later as a murder case. It appears, however, that police did not proceed with

further investigation on the grounds that there were no witnesses to the deaths and the case involved “unknown perpetrators”.

On 16 July 2008, three armed men believed to be members of the Border Guards dressed in military uniforms opened fire on two students (brothers) in Nyala, Hay al-Salam west, South Darfur. According to reports, the students were returning home when the armed men tried to stop them. After the men failed to stop, the soldiers reportedly shot several rounds of ammunition towards them, killing one of the men, a 20 year old student. The perpetrators fled the area. Police visited the home of the victim but were reportedly sent away by the victim’s father.

(ii) Torture, degrading, inhumane and cruel treatment

The UN continues to receive reports of severe beatings of detainees, particularly those suspected of involvement with rebel groups, while in custody of National Intelligence and Security Services (NISS) in West Darfur. For example, between 23 June and 12 July 2008 in West Darfur, UNAMID documented four separate incidents of torture/ill treatment by NISS which are consistent with previous reports, whereby detainees accused of involvement with rebel movements or other anti-state political activities were subjected to torture, ill treatment and inhumane and degrading treatment. Consistent reports were received of: detainees being restrained and severely and repeatedly beaten with pipes and sticks; being subjected to beatings and interrogation while in stress positions; and detainees being forced to adopt degrading positions such as crawling or rolling on the ground and being beaten. On the basis of the severity of the beatings and degree of suffering caused, and the intent to use the beating to elicit information or punish detainees for their alleged involvement in activities perceived as acts against the state. The following are some examples of cases documented:

In Zalingei, a male IDP arrested by the police in January 2008 reported that he was later ill treated by NISS. The victim was picked up at a market area by a policeman who accused him of having killed people. He was taken to the local police station where he was interrogated and detained for two days. He was later moved to an NISS office inside the police station where he was further interrogated and subjected to ill treatment by five NISS officers and one policeman. He reported that he was repeatedly beaten, humiliated and threatened. His hair was pulled and he was beaten many times with a plastic cylinder tool. The victim was released on 12 January, after the Zalingei Prosecutor intervened.

On 25 February, police in Nyala re-arrested four people moments after a court ordered their release, citing insufficient evidence. The detainees were not informed of the reasons for their re-arrest. They later embarked on a hunger strike and demanded to know why they had been re-arrested. Human rights monitors visited the detainees at Kuria Prison. One of them was arrested on 20 August 2007 on suspicion of killing his brother while the other three were picked up by

the police from Al Salaam and Kalma IDP camps along with other IDPs for unknown reasons. All of them stated that they had been ill treated and denied access to medical treatment. Some were kicked while others were punched and thrown against a wall on numerous occasions. They also reported that their lives were threatened by officers from National Security while in custody at Nyala Wassat Police station and at Kuria prison.

A 40 year old man from Zalingei was reportedly subjected to cruel and inhumane treatment including being shown pictures of dead and mutilated bodies, and suspended upside down from a ceiling by officers from National Security. The man was arrested on 25 February on suspicion of murdering a community leader in an IDP Camp in Zalingei. He reported that the officers threatened to kill him in a similar fashion as shown in the pictures if he did not confess to the murder. He has been charged with murder and remains in detention.

On 27 March, a 44-year-old IDP shopkeeper was reportedly assaulted and threatened by the head of SAF military base in Mornei, West Darfur inside Mornei market after he informed the Commander that he did not have enough of the item he was seeking. The commander reportedly told the victim that *“he could bury him alive if he wished to do so and nobody would know what happened to him”*.

On 8 May, Sudanese authorities in Kass arrested the man for travelling in Sudan without a visa and instructed him to return to Chad. On 10 May, as he was returning back to Chad, Nationality and Immigration authorities wearing civilian clothes reportedly arrested him at the bus station in Zalingei. The man was taken to the Nationality and Immigration Office where he was detained and subjected to ill-treatment including severe beating. According to the victim, he was repeatedly beaten with a whip and a tree branch by an immigration officer in the presence of four other men in civilian clothes. The victim also stated that during his detention, an Immigration authority approached him and stated that *“your people have attacked Omdurman”*. The victim escaped from custody on 11 May and reported the incident to UNHCR Zalingei. The Chadian male was transferred to the Zalingei police station and the case referred to the court. On 13 May, the UN attended the trial and observed that the Zalingei court ordered the man to be immediately deported to Chad and to remain in Zalingei prison until the arrangements for his return to Chad were finalized. Reports were received that arrangements had been made for the man’s deportation but as of 21 May 2008, the man remained in detention at Zalingei prison.

On 10 April 2008, a group of SAF soldiers reportedly arrested a 35-year-old Erenga man in Abu Suruj on suspicion of belonging to rebel groups. The victim was detained for six days and was not brought before a judicial authority. According to the victim, he was blindfolded and handcuffed during the arrest and taken to a military camp on the western side of Abu Suruj. The victim was beaten by SAF soldiers with whips and sticks and hung him by his neck from a tree

for two hour intervals, over a period of two days. A deep fresh wound on the victim's neck was observed. He was released on 15 April 2008 without charge.

On 11 May, military intelligence in West Darfur detained a Massalit taxi driver for seven days. In both cases, the men were reportedly subjected to ill treatment. The Zaghawa man stated that his hands were shackled to his feet for several days and only released twice each day for personal needs. The Massalit taxi driver was reportedly repeatedly whipped by three military intelligence soldiers and blamed for the attacks against the government in Omdurman. Although both men were released without charge, the security entities reportedly stated the releases were 'conditional' and instructed the men to report every day to the NISS or Military Intelligence respectively and not to leave the city.

In early 2004, NISS at Um Kadada tortured a Tunjur man. The victim suffered extensive damage to his genitalia: as a result of the attack, parts of his testes were removed at El Fasher hospital. Although it is not relevant to allegation to the allegation of torture, the victim had been accused of robbery and was acquitted by the Al Fasher courts on 26 April 2004. After the incident, the victim could not file case against those who tortured him because he was living in Um Kadada, an area was under control of Border Guards. After the victim moved to Abou Shouk IDP camp in early 2008, he filed a complaint at the Al Gunubi police station. On 1 June 2008, the Prosecutor lodged a request for the immunity of NISS perpetrators to be waived.

On 3 July 2008, a group of approximately thirty men, mostly wearing brown camouflage uniforms, arrested a 34 year old man at his home in Zalingei and brought him to NISS where he was detained until 10 July. Available information indicates that the man was subjected to ill treatment on the evenings of 3 and 4 July 2008. The victim was seen briefly by a relative on 4 July and described as very weak and unable to stand up. Due to a pre-existing medical issue, on 8 July the detainee was taken to the emergency room at Zalingei hospital. Relatives of the victim observed bruising on the victim's back, the bottom of both feet, on his right wrist and right cheek. The men have been released

A 28 year old Fur male who was reportedly subject to ill treatment during his detention with NISS Zalingei from 17 May 2008 until 6 July 2008. NISS Zalingei arrested and detained him on 17 May due to suspicion of his involvement in painting pro-SLA/Abdul Wahid messages and other graffiti on walls in Zalingei town. On four occasions during his detention he was subjected to severe beatings and degrading treatment. The victim was reportedly ordered to stand against a wall with his arms above his head while NISS officers repeatedly beat him with a black water pipe and sticks. On two occasions he was instructed to crawl on the ground, during which he was also subjected to further beatings. The victim reported that while being subjected to this

degrading treatment, NISS said “you Fur, you are away now. Now we hate you. Now we will take you out of the country”.

In May a 39-year old Zaghawa man was detained for six days by the NISS (both in El Fasher and Khartoum) on suspicion of being involved in the Omdurman attack. The man, who is from Tina and resides in El Fasher, works as a security guard for a UN agency. During the three days he was detained by NISS in El Fasher, the man reported that he was forced to lie on the floor in only his underwear with his legs tied to a chair while four men beat him. During the beatings he was accused of collaborating with foreigners. According to the victim, he was transferred to Khartoum in a cargo aircraft and had his head hooded until his arrival at NISS premises in Khartoum. During his interrogation in NISS, which occurred after a hospital visit as the victim had fainted and required oxygen, the victim said he was beaten with a wooden stick whenever he moved. He was interrogated mainly about his relationships with the leadership of rebel movements. He also mentioned that he was questioned about a colleague and questioned as to whether the colleague belonged to the Zaghawa tribe. He reported that this colleague was later interrogated by NISS for two hours, before being allowed to leave. The victim was returned to El Fasher on 26 May. A few days later, he was invited to meet the Head of NISS in El Fasher who presented his excuses to him for the ill-treatment and stated that it had been carried out by individuals who should not have treated him in such a way.

On 11 May NISS arrested two merchants from Central Sudan in Nyala, apparently for their suspected involvement with the Omdurman attack. The families of the detainees were allowed access to them after they approached the NISS with a Berti tribal committee headed by the Nazir. UNAMID’s attempts to gain access to the detainees were denied by the NISS. The Director of NISS told the HRT that the men were arrested following orders from Khartoum and therefore all requests including access should be directed at the Khartoum level.

A 42-year-old Massalit IDP leader from Hujaj IDP Camp in Geneina, West Darfur arrested and detained by NISS officials on several occasions due to suspicion of his association with JEM. He was initially arrested on 21 May, when he went to the NISS office inside Geneina market to seek permission to buy fuel to sell. The man was reportedly taken to the NISS headquarters in Geneina and subjected to ill-treatment. NISS officials apparently took him outside, made him lie down in the sun and told him to crawl for over thirty minutes. During the ill-treatment, he was accused of collecting money from the IDPs in Hujaj camp to support JEM. According to the man, he was kept in a cell alone for the first four days; on the fifth day, he was taken to another cell with thirteen other detainees. The man was released on 26 May and ordered to report to the NISS every day. On 29 May, the man was rearrested and detained when he went to report to the NISS office. The man was reportedly interrogated again and told that he would be released if he confessed to supporting the JEM. The man alleged that a senior official from the Humanitarian Aid Commission (HAC) in Geneina was present during the interrogation and he also urged him

to confess. The man was reportedly released on 15 June, after the he swore on the Quran that he would not support the JEM and signed a paper presented to him, which he was unable to read. According to the ex-detainee, he shared a cell with sixteen other detainees, including Chadians. Bruising and abrasion marks on the victim's feet and arms were observed consistent with his testimony.

On 7 June, NISS officers arrested eight IDP men from Kalma IDP camp. No reason was given for the arrest. The NISS initially denied arresting the men but have since admitted to the detention. The detainees are accused by NISS of membership of SLA/AW. The NISS officials also informed the relatives that the detainees will be charged under articles 50 (Undermining the constitutional system) and 51 (Waging war against the state) of the Sudan Criminal Act 1991. The family has been denied access to the detainees.

On 9 June a 25-year-old man from the Berti tribe was arrested by unknown men believed to be NISS officers. According to the family, the NISS, the police and police 'mubaheth' (intelligence) in Nyala have denied the arrest. The whereabouts of the man is unknown.

On 9 June, unknown armed men suspected to be officers from the NISS arrested a 17-year-old boy from the Berti tribe in his family home in Hay Al-Wihda, Nyala, South Darfur. The whereabouts of the detainee is unknown. The detainee's family added that NISS in Nyala have denied making the arrest.

On 3 July 2008, NISS arrested three men in Zalingei, on the basis of the men's suspected involvement in writing pro-SLA Abdul Wahid and other rebellion oriented graffiti on houses, schools and shops in Zalingei town. At least two of the men were reportedly ill treated while in NISS custody.

### (iii) Arbitrary Detention

The UN continued to document arbitrary arrests and detentions by Government security agencies, primarily targeting people perceived to be aligned with rebel factions. On 29 March, a 40 year old man from Dorti IDP camp, West Darfur, was arrested by officers from NISS for providing accommodation to a man alleged to be a member of JEM and for reportedly aiding in his escape from the camp. The man has since been held in *incommunicado* detention and is yet to be charged with an offence. The Head of Military Intelligence confirmed the arrest, and informed that the detainee will remain in detention until the alleged JEM member surrenders to the authorities.

In Hileat, West Darfur, law enforcement agencies arrested three men including the Omda of Hilelat on suspicion of having ties with JEM. The men were arrested on 8 March, and taken to a

Governemnt military barracks in Kulbus. They were held for two nights and interrogated about their affiliation with JEM. On 18 March, two of the detainees were released without charge. The Omda remained in military custody in Kulbus for additional three days and was transferred to military headquarters El Geneina for further investigations on 21 March 2008. After two days in detention in MI headquarters, he was transferred to NISS detention facility in El Geneina where he was detained for a further 28 days. The Omda was released on 19 April without charge.

In West Darfur, following aerial bombardments of villages in the northern corridor in early February, the Government arrested and detained 21 male IDPs from Silea for more than 30 days. According to one of the detainees, the detainees were all released without charge on 25 March in El Fasher, North Darfur and given thirty Sudanese pounds for transportation. One former detainee reported that he was arrested on 19 February from his home along with twenty others from Aro Sharow by SAF soldiers and taken to Silea. Their hands were tied behind them, and they were denied food and water. They were also beaten with whips and sticks. On 20 February, they were transferred to Military Intelligence headquarters in Geneina where they were kept for three nights. Again, they were subjected to continual beatings and accused of being rebels. They were then separated and subjected to repeated interrogation on their alleged ties with rebel groups. The victim was lashed repeatedly while being interrogated. He was transferred to El Fasher on 22 February and remained in military custody before his release on 25 March.

Between 20 and 21 May 2008, five Zaghawa family members, including two women and a 19-month child, were detained by Military Intelligence in El Fasher during a search for a suspect, the husband of one of the women arrested. The suspect, a clothes merchant from El Fasher has been missing since 20 May. The family reports that they were arrested to place pressure on the suspect to surrender to Military Intelligence. The family were not informed of the reasons why Military Intelligence is looking for the suspect. Although by 26 May all family members had been released, the two male family members released conditionally were re-arrested on 29 May when checking in with the police as required on a daily basis. The wife of the suspect was released on bail and is facing the charge of ‘concealing information about a suspect’. The victims lodged a complaint with the Prosecutor’s office in El Fasher on the grounds the that daily checking in with the police has disrupted their lives. The Police refused to investigate the case and advised the family members to comply with orders of the Military Intelligence, ‘even if it takes a year of daily checking in’.

The headmaster of a school in Kalma camp was arrested and detained by the NISS for three days without being charged with an offence. NISS accused him of being a rebel commander and a member of a group responsible for mobilizing IDPs against the Government. On 21 December 2007, the man was picked up from his home and placed in an NISS cell. On the third day of his incarceration, he was brought before the NISS director and accused of stealing and being part of

group which had threatened to attack Nyala. He was transferred to a Nyala police station and released on the same day without being charged with an offence.

Allegations have been received that on 27 April, NISS Zalingei arrested a 74-year-old INGO security guard, on suspicion of being a supporter of Abdul Wahid. During his 17 days in custody, the man was not brought before a competent judicial authority nor was he informed of the reason of arrest. The victim was released on 14 May 2008.

In Zalingei, a male IDP was subjected to severe beatings by local policemen while in police custody. The man was first 'arrested' by a group of men from the Fallata tribe who accused him of fighting with their relative. He was severely beaten by the men before being taken to the local police station where a complaint was filed against him. While the police was undertaking their own investigation, the victim was subjected to further beatings by some of the policemen. He claimed that his hearing has been partially impaired after being slapped by a police investigator. HROs observed several bruises on different parts of his body including a swollen right ankle.

In Hileat, West Darfur, law enforcement agencies arrested three men including the Omda of Hilelat on suspicion of having ties with JEM. The men were arrested on 8 March, and taken to a Gouvernement military barracks in Kulbus. They were held for two nights and interrogated about their affiliation with JEM. On 18 March, two of the detainees were released without charge. The Omda remained in military custody in Kulbus for additional three days and was transferred to military headquarters El Geneina for further investigations on 21 March 2008. After two days in detention in MI headquarters, he was transferred to NISS detention facility in El Geneina where he was detained for a further 28 days. The Omda was released on 19 April without charge.

Between 10 and 24 May, the NISS in West Darfur have arrested at least ten civilians on the basis of their alleged association with the JEM, following the attack on Omdurman. The arrested include two women, a prominent lawyer, at least five Zaghawa IDPs and an Umda. There is concern that the arrest of the Zaghawa may have been linked to their ethnic origins rather than their demonstrated involvement in the Omdurman attacks. The HRT also received reports that several of the detainees were held incommunicado. On 27 May, the HRT met with the Acting NISS Director, West Darfur who confirmed that several of the detainees had been released while four remained in custody. The NISS Director also agreed to allow the HRT to interview the detainees after NISS has completed their investigation. Between 10 May and 23 of June, NISS officials in South Darfur have arrested and detained twenty-three people from the Zaghawa, Berti and Arab tribes on the basis of their suspected involvement in the attack on the city of Omdurman. The UN also documented some incidents of similar arrests in North Darfur. On 27 May, a Zaghawa man who had been detained by NISS North Darfur for twelve days and was

released without charge. Several reports were received that persons detained in relation to the Omdurman incident were subjected to ill treatment during interrogation.

On 11 May a Zaghawa man detained by NISS North Darfur for twelve days and released without charge. On 11 May, MI West Darfur detained a Massalit taxi driver for seven days. In both cases, the men were reportedly subjected to ill treatment. The Zaghawa man stated that his hands were shackled to his feet for several days and only released twice each day for personal needs. The Massalit taxi driver reported to HRT that he was repeatedly whipped by three MI soldiers and blamed for the attacks against the government in Omdurman. Although both men were released without charge, the security entities reportedly stated the releases were 'conditional' and instructed the men to report every day to the NISS or MI respectively and not to leave the city.

On 12 June, a 35-year old Massalit man was arrested by NISS officers in Geneina. No reason was given for the arrest and the detainee has been held incommunicado since the arrest. The man, a trader from El Geneina, was first detained on 11 June by NISS for two hours and released on the condition that he report to NISS the following day. When he did so, he was arrested. The victim's family members visited the NISS Office on three separate occasions to confirm the detention and to visit the detainee. On the third visit the NISS confirmed that the detainee was being held in their custody but the family's requests to see the detainee were rejected by the NISS. UNAMID HR is also seeking to gain access to the detainee and to meet the NISS Director, but these requests have also been refused.

(iv) Abuses by rebel groups and armed militias

In April 2008, JEM rebels in West Darfur reportedly detained and tortured a 41 year old Tama man who had been accused of spying on rebels. During an interview with the victim on 11 May, the victim reported that he had been detained incommunicado for thirteen days and subjected to torture and ill-treatment, including: being hung from a tree and beaten, burnt with cigarettes, repeatedly beaten with a steel rod and being subjected to other forms of physical abuse. Bruising, burns, cuts and marks consistent with the victim's testimony were observed. The victim also stated that he is now deaf in his right ear and his thumb and forefingers are paralyzed as a result of the beatings. After receiving information that the victim had been detained, his brother registered the case at the Ardamata police station. Police also recorded the victim's testimony after he had been released by the rebels.

Reportedly in Dereig IDP camp, South Darfur members of rebel factions namely SLA/Peace Wing and JEM/Peace Wing continue to perpetrate a variety of abuses against the IDP population since their arrival in the Camp in 2007. Reportedly, notwithstanding a Government judicial system in the camp, the two groups have established a parallel judicial system which they use to extort money from the IDPs with the complicity of Government police stationed inside the camp.

IDPs that are unable to pay the court charges imposed by the rebels are prevented from settling dispute through the national court system. Once the court charges are paid, the rebels then arrest the alleged perpetrators and detain them until they are able to pay a fine for the alleged offence. Reportedly the feet and hands of detainees in the rebels' custody centre are tied with rope to prevent them from escaping. The IDP leaders added that Government police in the camp are aware of this practice and are reticent to register cases from the IDPs. Reports were also received of forced recruitment of children by SLA/Peace Wing in the camp.

On 18 January, a 20 year old Fur woman from a village near Kabkabiya in North Darfur was reportedly assaulted and stoned in her house by three armed men in green khaki and camouflage uniforms. The men jumped over the wall of her house and demanded money. The victim refused to hand over her money and started screaming to attract the attention of her neighbours. The attackers hit her with stones and bricks before escaping. She sustained severe injuries in the head and a report was filed with the local police.

On 28 May 2008, MPFRD members arrested a 30 year old Massalit IDP from his home in Masteri and detained him for two nights at the MPFRD military compound. The victim was severely and repeatedly beaten by three MPFRD members for approximately four hours each day. As a result of the torture/ill treatment, the victim reportedly sustained serious injuries on his back, head and legs. The victim had been accused of providing information and financial support to SLA associated with Khamis Abdallah. The victim is a butcher in the market and does not have any relationship with any rebel groups. On 30 May 2008, the victim's brother was ordered to go to the MPFRD office in the market and to pay 100 SP for the release of his brother. The victim was released on the same day and allegedly threatened that if he reported the incident to the police or to the Human Rights Team he would be executed. Due to fear of reprisal, the victim did not seek medical treatment or report the matter to the police.

In Khartoum:

(i) Treatment and detention of combatants

The tens of people presumed to have been killed during the armed confrontation in Omdurman were either JEM fighters or armed government forces belonging to Police, National Intelligence and Security Services (NISS), Popular Defense Forces (PDF) and the Sudan Armed Forces (SAF). There are fears that both government forces and JEM combatants may have executed wounded combatants instead of capturing them. For example, official sources have reported that Jamali Hassan Jelaladin, a leading figure in JEM, was killed in armed confrontation. However, pictures of his dead body suggest that he may have been severely beaten on his face prior to his death. According to reports in the Sudanese press, between 50 and 300 JEM combatants have been captured. Two days after the attack, the Minister of Defense gave public assurances that

captured combatants would receive a fair military trial. The number and whereabouts of captured combatants are currently unknown. Since 19 May 2008 UNMIS Human Rights has requested a list of captured combatants from the Government, as well as information on their whereabouts, and sought access to them.

(ii) Arrest of Darfurians following the JEM attack on Omdurman

The UN has records of some 450 detainees, most of them civilians of Darfurian origin, who have been arrested in connection with the JEM attack. The actual number of arrests carried out may be much higher. Large numbers of civilians appear to have been arrested arbitrarily on the basis of their ethnic origin or perceived affiliation with JEM, and are held without access to the outside world. Families have not been informed where their relatives are being held, raising fears that detainees have been subject to enforced disappearance. There are allegations of torture, and that the fair trial rights of those who may be charged with criminal offences in connection with the Omdurman events may already have been undermined. In a public briefing on 10 June criminal investigators announced that 113 suspects had been charged with criminal offences and transferred to remand custody, 20 had been released and 72 remained under investigation. The Rapporteur of the ACHR and Ministry of justice insisted that no detainee had been tortured and that those charged would be given access to lawyers. No information was provided on concrete measures taken with a view to upholding the rights of the detainees.

The majority of the arrests were carried out by NISS officers in Omdurman, in many cases during searches targeting neighbourhoods and individual houses inhabited by ethnic Zaghawa in which the male inhabitants of the houses were taken away. Arrests of Zaghawa men and other ethnic Darfurians have also been reported in other areas of Khartoum, as well as Darfur and other parts of northern Sudan. There are frequent incidents of members of the same family being detained. Some may have been arrested on suspicion of being associated with JEM because of their ethnicity or appearance. In some cases, those detained are known Darfurian activists who may have been targeted because of their political or public activities. Six detained Darfurians are members of the Popular Congress Party (PCP), among them a well-known human rights lawyer. According to testimonies from released detainees, students were reportedly threatened in NISS detention that they should not return either to their universities or to their homes, otherwise they would be arrested again. Several students are known to have abandoned their studies and returned to Darfur for fear of renewed arrest. There are several cases of people being subjected to repeated arrests and several released detainees reported that they were threatened that they would be killed should they be arrested again.

In one such case, a student disappeared in the eastern part of Omdurman on the afternoon of 10 May. The following week police reportedly informed the family that he had drowned in the river

and that his body had been found in the water three days after he died. Family members saw photographs of his dead body fully clothed but reportedly did not notice any signs that he had been submerged in water for three days, or any other physical sign of the cause of his death. Despite requests, the family has been unable to obtain the body or a medical certificate establishing the cause of his death. They were reportedly told that the body had been buried but have received no information on the burial place.

On 3 June, the prosecutor announced that some 115 detainees had been charged with terrorist crimes and would be tried by a special court, in accordance with the 2001 law. Their names were not disclosed. As none of the detainees seemed to have had access to lawyers by this time, they may have been effectively deprived of their right to challenge the lawfulness of their pre-trial detention in court. A committee of lawyers acting on behalf of those detained after the Omdurman events made a request to the Ministry of Justice on 3 June in which they sought access to some 200 presumed detainees to ensure their legal defence. In light of fears over the treatment of detainees and their unacknowledged detentions, there are concerns about reports in the Sudanese media that several suspects allegedly recorded “confessions”, in the absence of legal counsel or other measures that would prevent the recording of forced statements. Lawyers requesting to visit the detainees at Kober prison on 11 June were reportedly denied access and told that, according to instructions by the Ministry of Justice, they would only be granted access to the detainees 48 hours before the trials.

#### **Assessment of Implementation of Recommendation 1.4.1**

Information received shows that cases of summary executions, torture and arbitrary arrest and detention continue to be widespread.

#### **Recommendation 1.4.2**      *Short-term*

Refrain from detaining anyone incommunicado. Close all unofficial places of detention. Ensure that all persons, including any civilians held by Military Intelligence and National Security are promptly brought before a judicial arrest following arrest and regularly thereafter. Ensure that accessible, complete, accurate and fully up-to-date lists of detainees are kept, and shared with families of the detainees. Refrain from detaining civilians in military installations.

*Indicators: No instances of secret or incommunicado detention reported. Up-to-date lists of detainees available.*

## **Response of the Government of the Sudan on Recommendation 1.4.2**

### Written information submitted to the Special Rapporteur 10 July

UNAMID in North Darfur has been visiting places of detention in the region on a regular basis.

### **Information Received from Other Sources on Recommendation 1.4.2**

Human rights monitors documented several cases of *incommunicado* detentions. In the context of the conflict, Government security apparatus and proxy groups with no powers of arrest have resorted to arresting civilians and detaining them for prolonged periods in military installations. Detainees were often not informed of the reasons for their arrest or charged with an offence and denied legal counsel.

#### Darfur:

##### (i) West Darfur

A 31 year old man from the Gimir tribe was arrested by NISS, held *incommunicado* for three days and subjected to severe beatings. The man was accused of having ties with Ibrahim Abaker Hashim, a suspected rebel leader and a rival of the Sultan of the Gimir tribe. The man was picked up from his office by three men in civilian clothes on 5 January 2008. They first took him to an NISS unofficial place of detention and later to another NISS office. He was kept for three days in a cell so small that he could barely stretch his legs and was made to sleep on the bare floor without any blanket. During this period, he was repeatedly beaten with a stick after he refused to eat the food provided him. After three days of interrogation, he was informed by NISS that his arrest was a mistake and that he had been arrested based on inaccurate information provided by NISS field officers. He was released but warned that he could be rearrested if the information he provided to the NISS turns to be incorrect.

On 6 January 2008, a 30-year-old Fur male living in Hamediya IDP camp was arrested by NISS in Zalingei at the checkpoint on the road towards Abata and Nertiti. An NISS official at the checkpoint confirmed to a relative that the victim had been detained by NISS in Zalingei. On 16 January the Deputy Head of NISS Zalingei confirmed the arrest and detention of the victim, and informed that the victim was part of an investigation as a suspect in the October 2007 incident in Hamadiya IDP camp in which some members of the military were killed by IDPs. NISS declined the request to see the victim and insisted that the victim was not allowed any visitors. The victim was reportedly released on 23 April 2008.

On 8 April 2008, ten SAF soldiers arrested and detained a 52-year-old man from Abu Suruj. The man was detained incommunicado for eight days without bringing him before a judicial authority. He was accused of being a rebel and associating with rebel groups. The victim reported that SAF beat him with sticks and whips during interrogation and throughout his detention, and was kept in a hole in the ground in the military camp for one day. He was released without charge on 15 April.

On 8 April, NISS agents arrested a 26 year old Zaghawa man at El Geneina airport, West Darfur. The detainee was taken to NISS offices in Geneina and held incommunicado. The detainee is an employee of Adala Organization for Environment and Development, an NGO headquartered in Khartoum and that the detainee was in Geneina to carry out field activities and to establish a branch of the organisation. NISS agents went to his brothers house where they questioned him about his brother and searched his house and seized documents related to the NGO. NISS confirmed the arrest. They informed that the detainee was under investigation because the NGO was not registered. The detainee was released on 16 April.

On 8 April, eight civilians including two medical professionals were arrested in Abu Suruj town, West Darfur by SAF soldiers. No reason was given for the arrest, the detainees were held incommunicado. The local SAF commander confirmed the arrests and detentions of the civilian staff. He informed that the basis of the arrest was an order from Military Intelligence. The four detainees were transferred to Military Intelligence headquarters for further investigation and were released on 10 April without any charge.

On 10 April, UNAMID received confirmed information of detainee charged with several offences including 'Waging War against the State' under Article 50 of the Criminal Act, 1991. The detainee was arrested on 28 February by military intelligence after he filed a case against JEM to Popular Defence Forces (PDF) for forced recruitment and torture. He was not informed of the reasons for the arrest. The detainee was initially taken to SAF military base in Kulbus where he was subjected to torture including being beaten with the butts of their guns, being drenched in cold water and suspended from the ceiling and interrogated about his association with JEM. After ten days, on 10 March, the detainee was transferred to a police station in Kulbus, West Darfur where he was informed that he was under investigation for several offences. The detainee was transferred to Ardamata prison on 14 March where he remains in detention. The detainee appeared in Geneina Special Court on 9 June, the case was adjourned until 23 June.

On 2 April, a 55 year old Zaghawa merchant, detained incommunicado by NISS agents in Geneina for 50 days was released after signing a statement that he would not support JEM and its

leader, that NISS officers would be deployed to his home and shop to monitor his activities. The merchant was arrested from his shop by NISS agents on 13 February and taken to NISS office in Geneina where he was interrogated about his relationship with JEM, and its leader, Dr. Khalil Ibrahim. NISS agents accused him of providing financial support to JEM and sending Zaghawa men to the north to fight the government. The victim reported that he was subjected to death threats while in NISS custody. Reportedly, NISS agents would call him from his detention cell once a week and interrogate him asking the same questions, that they would be released if he confessed to providing financial assistance to JEM, and threatened to hang and kill him. On the 19 day of his detention, the victim fell seriously ill. NISS agents took him to a local clinic where he received medical treatment. He was brought back to the detention centre but was kept outside in the passage of the cells, where he remained until his released

Between 7 and 15 April, six Fur men were arrested at different locations by NISS agents and detained for allegedly painting anti-census slogans on public and private buildings in Zalingei town, and inciting the population against the census. Witnesses reported that the men were subjected to ill treatment and physical assault during their arrest. The detainees were held incommunicado throughout their detention, without access to legal representation or visits from relatives. Human rights monitors were also denied access to the detainees. Reports received indicate that the detainees, amongst others, suffered from ill treatment several evenings during their detention period. No charges were brought against any of the detainees. The six detainees were released on 10 July 2008.

On 1 June, National Intelligence and Security Services (NISS) in Kulbus arrested a UNAMID local contractor who is Gimir by tribe, on charges of alleged involvement in the Omdurman attack in May 2008. NISS authorities reportedly detained him at the NISS detention centre in Kulbus for approximately fifteen days and then transferred him to Geneina. NISS authorities in Geneina and in Kulbus confirmed that the man has been transferred to Khartoum for further investigation. Although information is not available to assess whether or not the arrest was arbitrary, the man was detained incommunicado and did not have access to his family. Information available also indicates that the man was not brought before a judicial authority.

(ii) North Darfur

Two SLA/MM members held in custody by military intelligence were reportedly ill-treated. The two men were detained by military intelligence on 2 May at El-Fasher's airport tarmac, after travelling from Um Sidir to El -Fasher by a UNAMID helicopter carrying injured persons. They have now been released, after 18 days in custody. Although the detention was reportedly carried out by military intelligence (one of the arresting officers was dressed in military uniform), the two men were held in the Security building in El Fasher. During their time in custody they stated that they did not receive visits from their families and were reportedly ill-treated by being

whipped and by being forced to stand all night. One of them was also reportedly handcuffed for five days. They were questioned on the division of the rebel movements in the northern area and on the whereabouts of specific persons. Both of them have been released, one of them conditionally; he now has to report to the police every morning.

(iii) Places of Detentions

No access to places of detention in Khartoum-relevant for Darfur related detainees as there are transfers to the capital (either for trial or interrogation.) Human rights monitors were granted limited access to Government detention facilities in West and South Darfur.

In West Darfur, human rights monitors' visit to the State Prison at Ardamata, El Geneina on 3 April and the follow up visit on 8 April was the first general visit since 2005 since the Federal Ministry of the Interior prohibited visits to prisons under its jurisdiction by foreign organizations without prior personal authorization from the Federal Minister of the Interior. According to the prison officials, the prison had a total of 242 inmates, of which 19 were female, one minor aged 14 years detained on charges under article 130 (murder) of the 1991 Criminal Act, and two inmates suffering from mental illness. Human rights monitors were able to hold private interviews with individual detainees on this occasion.

In South Darfur, human rights monitors were given access to two government places of detention, Kass Prison and Kass Police Custody centre. In Kass prison, human rights monitors were informed that there were eighty seven inmates, all male, nine of whom were on remand awaiting trial. Human rights monitors were informed by the Prison Director that twenty five of the prison inmates had been transferred to Singita Camp, 29 km west of Kass to work; it is unknown whether the prisoners were paid for their labour. Human rights monitors observed extremely poor conditions in the prison; forty four prisoners shared two medium 4mx7m & 4mx9m cells. In Kass police custody centre, human rights monitors observed two cells, reportedly for male and female. The male cell had five detainees, one of whom was a 12 year old boy and a man reportedly from Niger, detained on immigration charges. The Officer-in-Charge of the facility agreed with human rights monitors on the need to separate adults and child detainees and in the presence of human rights monitors, the Officer-in-Charge moved the child to the empty women cell.

(iv) SLA/MM Detention Centres

On 25 March, UNAMID visited SLA/MM controlled detention facility in Dar El Salam, North Darfur. According to information gathered, there were twenty three inmates; most were arrested for criminal offences and or the failure to pay blood money (diya). All the detainees interviewed

reported having been ill-treated and denied access to legal representation and have yet to appear before judicial authorities. UNAMID interviewed five of the inmates, one of the detainee informed human rights monitors that he was arrested on 27 December 2007 for theft of two camels. He alleged that he was severely beaten by SLA/MM members in the early days of his detention, that they tied his hands behind his back and periodically took him to the yard and poured water on him while insulting him. Human rights monitors interviewed two other prisoners chained together. According to the men, aged 30 and 31 respectively, they had been chained together since their arrest on 25 February for stealing 19 goats. Another detainee informed human rights monitors that he was arrested on 20 November 2007 for an alleged murder committed by his brother.

On 2 April, human rights monitors visited SLA/MM controlled detention facility in Zamzam IDP Camp, North Darfur and interviewed five inmates, one of whom was a minor aged 13 years detained in the same cell with four adults. The boy reported that he was arrested on suspicion of raping a 7 year old girl at Zamzam IDP Camp on 24 March. The SLA/MM Commander informed human rights monitors that the case was under investigation. All the detainees reported ill-treatment. They stated that they were denied food prepared and brought to them by their relatives, and that they were only allowed out of the cell once a day for toilet breaks.

#### **Assessment of Implementation of Recommendation 1.4.2**

Suspects continue to be held *incommunicado*. Violations of rights of detainees continue to be reported especially those in the custody of MI and NISS.

#### **Recommendation 1.4.3**     *Short-term:*

Issue and enforce clear instructions that detainees must be provided all guarantees provided for under international law to ensure they are being lawfully detained and have access to fair trial. This includes notification of reasons for arrest upon arrest, immediate access to a lawyer upon arrest, access to family members, and being presented promptly before a judicial authority.

*Indicators: Instructions issued and widely disseminated. Number of incidents of denial of such guarantees.*

Response of the Government of the Sudan on Recommendation 1.4.3

No information received.

**Information Received from Other Sources on Recommendation 1.4.3**

No such instructions issued. See illustrative examples recounted under recommendation 1.4.1

**Assessment of Implementation of Recommendation 1.4.3**

Incidents continue to be reported of violations of the minimum guarantees. NISS detentions in particular routinely violate minimum guarantees.

**Recommendation 1.4.4**      *Mid-term*

Ensure institutional and legislative reform of the National Security Service in accordance with the CPA and Interim National Constitution. In particular, broad powers of arrest and detention should be reformed (art. 31 and art. 33 of the national security act) and judicial oversight mechanism established.

Emergency laws should not grant security agencies broad powers to arrest and to restrict freedom of movement, assembly and expression.

*Indicators: National Security reformed in accordance with CPA. Emergency laws repealed. Number of incidents of harassment, arrests and detention by National Security.*

**Response of the Government of the Sudan on Recommendation 1.4.4**

No information received.

Information Received from Other Sources on Recommendation 1.4.4

No such reform. See illustrative examples recounted under recommendation 1.4.1

#### **Assessment of Implementation of Recommendation 1.4.4**

No action taken to reform the NISS in accordance with the CPA. A large number of cases of harassment, arrest and detention by NISS documented.

#### **Recommendation 1.4.5**      *Mid-term*

Ratify Convention Against Torture.

*Indicator: Ratification of CAT.*

#### **Response of the Government of the Sudan on Recommendation 1.4.5**

No information received.

#### **Information Received from Other Sources on Recommendation 1.4.5**

The Government has not ratified the CAT.

#### **Assessment of Implementation of Recommendation 1.4.5**

CAT not ratified.

#### **1.5 Protection of witnesses and victims**

#### **Recommendation 1.5.**      *Short-term*

Ensure that human rights monitors have full and unimpeded access to witnesses and victims of human rights violations, that witnesses and victims are not subjected to any violence, reprisals or harassment due to their cooperation with human rights monitors; and that all necessary and feasible measures are taken to protect witnesses and victims against violence, reprisals and harassment by third parties.

*Indicator: Number of reported incidents of non compliance.*

### **Response of the Government of the Sudan on Recommendation 1.5.1**

No information provided.

### **Information Received from Other Sources on Recommendation 1.5.1**

The deteriorated security situation, carjacking and banditry targeting UN assets combined with logistical limitations as well as intimidation by Government security apparatus hindered the ability of human rights monitors to document cases of violations and to gain access to victims and witnesses. Government clearance for air missions have in some cases been delayed, and in some instances denied, further impeding the monitoring work of HROs.

Human rights monitors in West Darfur were unable to interview civilian casualties from clashes between government forces and the Justice and Equality Movement (JEM) in Kish Kish (15km North West of Silea) on 10 April. At the hospital, HROs were obligated to register their names at NISS offices located inside the hospital compound and were continuously followed throughout their visit to the hospital. Also in Abu Suruj, West Darfur, human rights monitors were forced to abandon an assessment mission following intimidation from SAF soldiers based in the town.

Human Rights monitors in South Darfur have also been forced to abandoned interviews with victims and witnesses due to the presence of armed rebel groups. On 10 April, HROs were unable to conduct interviews with victims following allegations of serious human rights violations including torture, arbitrary detentions, and extortion of money by JEM/PW and SLA/PW inside Dereig Camp.

### **Assessment of Implementation of recommendation 1.5.1**

No information was provided on measures taken to protect witnesses and victims against violence, reprisals and harassment by third parties. Access for human rights monitors was impeded by the authorities on some occasions.

## **1.6 Protection of human rights defenders**

### **Recommendation 1.6.1** *Short-term*

Do not subject human rights defenders to arbitrary detentions, physical abuse and harassment as a tool for silencing their criticisms of human rights violations in the Darfur region and for providing legal assistance to victims.

*Indicator: Number of reported cases.*

## **Response of the Government of the Sudan on Recommendation 1.6.1**

### Written information received on 10 July

Human rights defenders in Darfur have not been subjected to any form of harassment and detention.

### **Information Received from Other Sources on Recommendation 1.6.1**

In the absence of fundamental institutional and legal reforms, human rights defenders continue to operate in a restrictive environment and are regularly subjected to violations, especially due to the powers of NISS.

On 18 April 2008, a 31 year old human rights defender, an employee of a national NGO was arrested by officers from NISS at the Nyala-El Fasher check-point following an argument at the checkpoint. UNAMID HR obtained access to the detainee on 6 May, during the visit, a human rights monitor heard an NISS officer inform the detainee that, “*We could have released you today but this would be attributed to the UN’s interference, therefore, we will keep you for another week*”. On 19 May, the detainee was released on the conditions that he presents himself to NISS on a daily basis and not leave Nyala town. Additionally, during his detention, he reportedly spent two weeks in a two-by-two meter cell without any visits being allowed. Two days before his release he started a hunger strike which he believes accelerated his release. No charges have been filed against the human rights defender nor has he been provided with any explanations as to the reasons behind the conditional nature of his release. He fears being targeted by NISS and the pressing of criminal charges.

On 22 April 2008, Zalingei NISS, detained and intimidated a UNAMID Human Rights Officer. The Head of NISS informed UNDSS that the life of the HRO was at risk although he did not provide elaboration about the alleged threat.

On 5 May 2008 UNAMID HR received a human rights defender case that was referred to Amel Centre for Treatment and Rehabilitation of victim of torture. In March 08 the organization submitted application to renew registration for the year 2008 with HAC Nyala office. To date, HAC has not yet renewed the registration of the organization. Therefore the organization cannot conduct field missions outside Nyala, go to IDP camps and follow up on other human rights defender cases.

There were reports that human rights defenders working on Darfur-related issues in Khartoum were subjected to intimidation and harassment by the NISS, and in some cases arbitrary arrests. Among the hundreds of civilians arbitrarily detained following the 10 May rebel attacks on Omdurman were Khartoum-based Darfurian lawyers, journalists and political activists. Among them was Barood Sandal Rajab, a lawyer, prominent member of the Popular Congress Party and also the Secretary-General of the Darfurian Lawyers Committee. He was arrested from his home on 12 May by NISS officers and continued to be detained without charge and without contact with the outside world at the time of finalising this report. Barood Sandal Rajab had previously been detained three times between 2003 and 2006 because of his political and human rights activities.

Journalists who publicly expressed views critical of Government policy in Darfur were harassed and intimidated, and at least two journalists were arbitrarily arrested by the NISS in May 2008 and reportedly humiliated and ill-treated because of the views they had expressed in connection with the JEM attacks on Omdurman.

#### **Assessment of Implementation of recommendation 1.6.1**

Implementation has not begun.

#### **Recommendation 1.6.2**      *Short-term*

Remove restrictions in the National Press Laws that can be used to threaten the work and independence of journalists acting as human rights defenders and bring them into line with the Interim Constitution, the International Covenant on Civil and Political Rights and other applicable international standards.

*Indicator: Reformed in accordance with the Interim Constitution, the International Covenant on Civil and Political Rights and other applicable international standards.*

#### **Response of the Government of the Sudan on Recommendation 1.6.2**

No information provided.

### **Information Received from Other Sources on Recommendation 1.6.2**

No significant changes. On 22 May, following events in Omdurman, the Government Press Council imposed a ban prohibiting reporting/publishing statement of Darfurian rebel groups. Restrictions and enforcement of the National Press Law through seizure of all copies of a newspaper edition, daily inspections of newspapers offices and printing houses by NISS continues to be a common practice.

Journalists have been summoned by NISS in connection with their writing on the events. One journalist, who also heads a Darfurian journalist association, was reportedly arrested in Khartoum on 15 May and his whereabouts are currently unknown. On 14 May, *Alwan*, an Arabic-language newspaper was closed on orders by the NISS for allegedly disclosing sensitive security information, after it had reported about a missing plane and pilot. Other newspapers have been subjected to tight censorship on reporting related to the Omdurman attacks. The Arabic-language daily *Ajrass Al Huriya*, for example, was prevented from printing and publishing on three occasions since the Omdurman events. On one occasion, on 16 May, NISS censors objected to seven articles in the paper, thereby preventing it from going to print. The NISS officials who objected to the articles reportedly told journalists that from now on the newspaper should stick to the “official line”. A journalist from *Ajrass Al Huriya* was summoned by NISS on 18 May after the censored articles had been published on the internet, along with criticism of the continuing practice of arbitrary press censorship by the NISS. He was held at an NISS office between 1pm on 18 May and 2.15am on the following day and interrogated at length about his personal life and political views, subjected to humiliation and ridicule, and told that he should stop writing for Sudanese newspapers. Another journalist who works as a newspaper for the Arabic daily *Al Sudani* was detained by NISS for four hours in the late evening of 26 May because he defended an article which NISS officers had decided to censor. He was taken to an NISS office at 9.30pm and kept standing for nearly four hours. He was reportedly forced to stand facing a wall with his hands raised and insulted as “dirty”, following which he had containers of cold water and sewage poured over his head.

### **Assessment of Implementation of Recommendation 1.6.2**

Implementation has not started. No action taken to remove restrictions. Harassment and detention of journalists, censorship and closure of newspapers reported.

## 2. HUMANITARIAN ACCESS

### 2.1 Protection of humanitarian workers from harassment and attack

#### **Recommendation 2.1.1**     *Short-term*

Publicly express support for the role of humanitarian workers in providing life-saving assistance to populations at risk.

*Indicators: Public declaration made; no subsequent retraction.*

#### **Response of the Government of the Sudan on Recommendation 2.1.1**

No information received

#### **Information Received from Other Sources on Recommendation 2.1.1**

The Government has publicly expressed support for the role of humanitarian workers. During the Sudan Consortium in May 2008 in Oslo, the Government expressed its commitment to remove bureaucratic impediments affecting the Humanitarian Community; ensure safety for humanitarian assistance and supplies; guarantee unimpeded access to affected population and agreed on the need to monitor the implementation of the Joint Communiqué and regular High Level Committee (HLC/ Tripartite Joint Technical Committee (TJTC) meetings as part of its 'Oslo Commitments'. Furthermore, the government agreed to increase humanitarian and early recovery outreach to rebel controlled areas and other communities; improve humanitarian access; promote humanitarian advocacy; and promote joint initiatives to advance humanitarian principles and priorities through the HLC, TJTC, Joint Field Missions, General Directory for Procedures, State committees, HAC/Humanitarian Community.

While occasionally, Government of Sudan authorities would publicly express support for humanitarian operations and workers; there have been also some instances in which Government controlled newspapers have publicly accused some NGOs and humanitarian workers of having a different, political agenda.

### **Assessment of Implementation of Recommendation 2.1.1**

Positive public statements have been made to the international community agreeing to improve humanitarian access and promote joint initiatives; while at the same time negative statements have also been made in Government controlled media against the humanitarian community.

#### **Recommendation 2.1.2**     *Short-term*

Assist aid organizations and workers who have been forced to suspend their work to return to their work areas and ensure their security on return.

*Indicator: Number of aid workers allowed to return.*

### **Response of the Government of the Sudan on Recommendation 2.1.2**

Written information submitted on 10 July

UNAMID has officially requested the Government to provide police patrols to escort aid convoys from Khartoum to El Obeid and to Darfur.

### **Information Received from Other Sources on Recommendation 2.1.2**

The number of security incidents affecting humanitarian workers and their assets has increased dramatically in 2008 in comparison to previous years. As of 27 July, 11 humanitarian staff members have been killed in 2008, compared to five during the first seven months of 2007. In the same period of 2008, 183 humanitarian vehicles have been hijacked, compared to 85 during the first seven months of 2007. During these hijackings, 146 humanitarians were abducted so far in 2008 compared to 106 in the first seven months of 2007. Armed men assaulted 87 humanitarian premises so far in 2008, compared to 50 in the period January to July 2007.

Humanitarian access in Darfur remains severely constrained, with access rates to the 4.25 million conflict-affected populations just above 70% according to UN security standards. One of the solutions to offset the serious access constraints has been the increased use of local community workers and volunteers. The number of humanitarian workers in Darfur has increased over the past year from 12,300 to some 17,100, mainly due to this trend. However, a number of NGOs are finding it increasingly difficult to cope with the implications of legal or other challenges by former employees, incentive workers or volunteers. The most serious challenge for many NGOs

is that the concept of volunteers for non-profit organizations has not been recognized under Sudanese labour law and, as a result, NGO volunteers are treated as if they are full employees for 'profit' organizations after they have completed three months of 'employment'. Ongoing court-cases over pay for volunteers might force some NGOs with limited resources to decrease their operations.

### **Assessment of Implementation of Recommendation 2.1.2**

The security situation for humanitarian work in Darfur remains critical and the number of security incidents has increased dramatically in 2008.

#### **Recommendation 2.1.3**      *Short-term*

Do not use any vehicle or aircraft markings that might blur the line between humanitarian operations and Government military operations.

*Indicator: No such incidents reported.*

### **Response of the Government of the Sudan on Recommendation 2.1.3**

No information received

### **Information Received from Other Sources on Recommendation 2.1.3**

Several white aircrafts were spotted during the reporting period; none of them had any distinctive markings. Nonetheless, the practice of using white aircraft poses a security threat to UN and to humanitarian operations, and therefore should be strongly discouraged.

Between 01 January 2008 and 01 May 2008, eye witnesses in Zalingei saw white Government vehicles in Zalingei, and white Government helicopters being used in South of Zalingei, in the localities of Wadi Salih and Mukjar. During a Government aerial attack on Abu Suruj, Silea and Sirba on 8 February 2008 Sirba, eyewitness reported the use of a White Antonov plane. On 26 March 2008, eye witnesses observed a white military helicopter flying over Silea and then proceeding to Kish Kish. A Government aircraft used to carry out bombing campaigns in late April and early May 2008 in North Darfur was a white Government Antonov, again bearing no distinctive markings, based in El Fasher. The Government also has a second white Antonov based in Fasher.

### **Assessment of Implementation of Recommendation 2.1.3**

Recommendation not implemented. Incidents reported.

#### **Recommendation 2.1.4**     *Short-term*

Do not subject humanitarian workers to arbitrary detentions, physical abuse, sexual assaults, and harassment. Issue clear written instructions to instruct authorities at all levels, including military, and any militias under the Government's control in this regard. Publish and widely disseminate these instructions.

*Indicator: Instructions issued and widely disseminated. Number of reported incidents of harassment or attacks on humanitarian workers.*

### **Response of the Government of the Sudan on Recommendation 2.1.4**

#### Written information received 10 July 2008

The Government reported that none of the hundreds of humanitarian workers in Darfur have been subjected to harassment and detention by the authorities January-June 2008. On 22 June 2008 Susanna Malkora met with Under-Secretary of the Foreign Ministry and requested the Government for the increase of equipment convoys from El Obeid to Darfur and for such convoys to be escorted by the police. In collaboration with UNAMID seven police checkpoints were established on the outskirts of the city to help combating attacks and looting of car/convoys. The police succeeded in the return of 3 cars which were looted by rebels. The police in West Darfur were able to return a car belonging to Rescue Child organization in Kring locality. The police force chased the looters; a police officer and a police man were killed in the exchange of fire. Another incident at the Chadian border the police succeeded in regaining a car belonging to an American child organization. Five policemen including an officer were killed two suspects were detained with another car.

#### **Information Received from Other Sources on Recommendation 2.1.4**

Increased attacks on humanitarian targets and lack of assured overall safety for humanitarian workers continued to hinder the freedom of movement of humanitarian workers and placed civilians who depend on humanitarian services at increased risk. In some instances, vehicles

were looted and the drivers and other civilians on board were abducted along with the vehicles. Thus far in 2008, there has been 120 hijacking of humanitarian vehicles, 51 attacks on humanitarian facilities and compounds, and 7 humanitarian workers killed. In addition, 28 WFP contracted drivers are currently missing. Among some of the incidents documented were the following:

On 01 January 2008 three national NGO (SUDO) staff members were arrested and detained by NISS at the Zalingei checkpoint on the road to Nertiti. The three staff members were transporting medicine in a civilian vehicle to Nertiti. The NGO met with NISS who promised repeatedly that the staff members would be released in few days and requested that UNAMID-HRT not to intervene. On 14 January 2008 an apology letter was written by the NGO in Zalingei to HAC Zalingei. In the letter the NGO stated that 'they apologized for the mistake of not having a permit to take medicine to the Nertiti clinic, and that they would not repeat this mistake again'. On 15 January 2008 at 5:00 pm the three staff members were released by NISS. The release was on the condition to report back to NISS on a daily basis, every morning for four days. HRT met with the Deputy Head of NISS, who confirmed that all three staff members had been arrested and detained for transporting medicine without license, in a non-INGO vehicle and on a holiday, and that they had been released after confessing and after the NGO had apologized for wrongdoing.

In the month of April, three human rights monitors' vehicles driven by HROs were hijacked by armed men. Two of the incidents occurred in Zalingei, West Darfur while the third took place in El Fasher town. In two of the cases, the vehicles were recovered in a damaged state. All HROs involved in the incidents were unharmed.

On 24 March, one WFP driver was shot dead and his assistant seriously injured by unidentified armed men while en route to Nyala, South Darfur.

On 13 April, a contract driver with the International Organisation for Migration (IOM) was killed during an ambush by unknown armed men between Kurgi and Nyubu, two hours drive from El Daein, South Darfur. Again on 21 April, a truck driver with WFP was killed while transporting food 40 km north of Nyala town, South Darfur. His guard was also injured in the attack.

On 19 May a vehicle belonging to a humanitarian NGO was hijacked at Al Salam IDP camp. As a result, healthcare providers in the camp have temporarily reduced their presence in the camp until increased security measures are implemented. Armed men reportedly broke into an NGO compound in El Ferdous. Humanitarian missions from Ed Daein to El Ferdous have been put on

hold. Two NGOs decided to relocate 19 staff members from Muhajiriya as a precautionary move following a report of attack in that area.

On 19 May three unknown armed men approached the office area of a UN agency and stole a car at gun point. On 21 May, five UNAMID peacekeepers were stopped at gunpoint by a group of 20 armed men on horses while returning from UNAMID Super camp (east of Ardamata) to the UNAMID military camp. Their belongings and three AK 47 rifles were stolen.

From January to July 2008, 12 humanitarian workers were temporarily detained by Government authorities in Darfur. One NGO international staff member was expelled by HAC in South Darfur for allegedly not cooperating with Government authorities.

#### **Assessment of Implementation of Recommendation 2.1.4**

No such instructions issued. The security situation in Darfur has deteriorated in the past six months.

## **2.2 Facilitating access to civilians, including those displaced**

### **Recommendation 2.2.1**      *Short and Mid-term*

Respect and fully implement the Status of Forces Agreement (SOFA), the Moratorium on Restrictions of Humanitarian Work in Darfur, agreed with the United Nations in 2004, and the Joint Communiqué between the Government of the Sudan and the Deputy SRSG on Facilitation of Humanitarian Activities in Darfur 2007.

*Indicators: Number of instances of non compliance with the commitments made therein.*

### **Response of the Government of the Sudan on Recommendation 2.2.1**

#### Written information submitted to the Special Rapporteur on 10 July

The Government has been committed to the enforcement of the Fast track Understanding which was signed in 2004 and renewed in March 2007 which allows for custom free aid requirements which amounted to 155 million dollars for the period January-June 2008.

During this period the humanitarian indicators have been positively on the rise. The malnutrition indicator has been declining from 21.8 in previous years to 11.9. Mortality rates decline from 75% to 35%, and mortality rate under 5 years from 1.3% - 77%.

### **Information Received from Other Sources on Recommendation 2.2.1**

On 22 September 2007, the Government of Sudan finalized the General Directory of Procedures for NGOs operating in northern Sudan, based on the March 2007 Joint Communiqué, including special provisions for Darfur based on the Moratorium. The GDP, available in English and Arabic, outlines in detail all necessary requirements and may also be valid for southern Sudan if no other specifications are in place. Two joint committees, a High Level Committee and a Joint Tripartite Joint Committee involving Government, UN and NGOs, have been established to follow up on the implementation of the Joint Communiqué. In addition, OCHA trained Government officials and NGO personnel on the GDP, and installed a database at the Joint Procedures Centre (JPC).

On 22 January 2008, the Government of Sudan extended the Darfur Moratorium until 31 January 2009. The Moratorium facilitates a series of fast track procedures to facilitate the humanitarian operations in Darfur. As the former Moratorium expired on 31 January 2008, HAC granted a one month grace period to allow NGOs to complete their paperwork.

However, various forms of harassment as well as access denials by different parties to the conflict continued to constrain humanitarian operations in Darfur.

In March, a special UNHAS flight to Birmaza was blocked by National Security at El Fasher. A number of NGO rented vehicles were denied access to Zam Zam camp by Government soldiers at the nearby checkpoint stating that they had received strict orders not to allow access to rented vehicles. Five SLA-MM soldiers forced an NGO team to transport them from Wana to Kafod, while suspected SLA-Unity elements stopped a UN convoy and stole fuel. A representative of an NGO was stopped by National Security in El Fasher and told that he could not stay in North Darfur as the NGO does not have programmes in the state. In West Darfur, local Government authorities are requesting NGOs to transport medical supplies in NGO trucks only. In Nyala, South Darfur, the majority of technical agreements are not processed by local authorities, which in turn cause delays in stay visas for expatriate staff and may result in fines for the NGOs. In addition, three UNAMID teams were temporarily obstructed by PDF forces between Shaeria and Labado, by SLA-MM elements at Zam Zam camp by SLA-Unity forces in Um Sidir. Armed confrontations between Government and SLA-MM forces in Tawilla, Shangil Tobayi and Zam Zam add to the humanitarian access constraints in North Darfur.

In April, local authorities in North Darfur continued to deny travel permits for NGOs travelling in rented vehicles. In West Darfur, local Government authorities were requesting NGOs to transport medical supplies in NGO trucks only. In Nyala, South Darfur, local authorities were slow in processing technical agreements, which in turn caused delays in stay visas for expatriate staff. However, most worrisome of all is that all nutritional surveys by NGOs and the dissemination of their results have been postponed or delayed pending clearance from the Government's Humanitarian Affairs Commission. With waiting periods of up to four months before receiving permission to share results even informally within nutrition coordination mechanisms, the ability to mobilize appropriate responses in a timely manner is undermined.

In May, following the JEM attack on Omdurman, UN flights from Khartoum to Darfur did not receive Government clearance and airports in Darfur were temporarily closed for humanitarian flights. Humanitarian activities were particularly constrained in North Darfur, the northern corridor of West Darfur and the area north of Ed Daein (South Darfur). In North Darfur, the Wali issued a decree on 15 May, giving directives for the cessation of all UN and international organizations' flights in and out of El Fasher and the suspension of road travel outside El Fasher for both NGOs and UN. While UNAMID and UNHAS flights resumed as from 16 May, the road travel blockage effectively curtailed humanitarian access throughout the state except inside and around the major humanitarian hubs. The restrictions seem to have been eased as from 22 May, when some NGOs received travel permits to the Dar El Salaam area. For three months, local government authorities had already imposed access restrictions on international NGO staff travelling in rented vehicles.

In June, National Security refused for weeks permission to bring fuel into Kalma camp, resulting in severe water shortages, increased tensions and health problems. Although on 26 June, NISS allowed small quantities of fuel into the camp, the problems persist and some IDPs have resorted to collecting water at the wadi. There is also a series of events which result in increased tensions in the camp, including the destruction of humanitarian facilities. In addition, the South Darfur Wali ruled out a food distribution to 8,000 registered IDPs living in Nyala town who had fled Kalma in October last year. These IDPs have been allowed only one food distribution since then.

In July, Government imposed restrictions continued to further erode humanitarian space. Ten UN and two NGO staff members were prevented by National Security at Khartoum airport from boarding a UN flight to El Fasher. In North Darfur, HAC informed NGOs of a new set of strict regulations before they can obtain travel permits when traveling in rented vehicles. Travel in rented vehicles is one of the mitigating actions taken by humanitarians to reduce the debilitating effect of hijackings. In Nertiti, four out of six NGO staff members were prevented from boarding a UN flight. The decision was later retracted as there had reportedly been a

misunderstanding between different Government authorities, and the staff members were allowed to fly out the next day. In Geneina, two UN vehicles were stopped by Government police/National Security demanding travel permits. This is in contrast to HAC reassurances in the three Darfurs of continued cooperation with the UN and NGOs, and appeals to the humanitarian community to continue deliver services. An NGO was summoned by HAC in Geneina after they relocated their staff from Beida.

On the positive side, in July, a Joint Tripartite Technical Committee team has held training workshops in Nyala and El Fasher on the General Directory of Procedures for Government and NGO representatives. The GDP outlines the fast track procedures foreseen by the 2007 Joint Communiqué.

### **Assessment of Implementation of Recommendation 2.2.1**

Instances of non-compliance with agreements for humanitarian work in Darfur continue to be reported. Government imposed restrictions, access denials, delays in processing visa requests and obstruction constrained humanitarian operations in Darfur.

#### **Recommendation 2.2.2**      *Mid-term*

Ensure that aid workers have access to people not only in camps but in remote villages that have been cut off from aid supplies by fighting.

*Indicator: Percentage of areas under Government limit for international humanitarian organizations control being off-limit for international humanitarian organizations.*

### **Response of the Government of the Sudan on Recommendation 2.2.2**

No information received

### **Information Received from Other Sources on Recommendation 2.2.2**

See above 2.2.1 regarding security incidents affecting humanitarians.

In December 2007, Government restricted humanitarian access to rebel-held areas around Kutum (North Darfur). The restriction was lifted in January 2008, allowing the resumption of food distributions to 140,000 conflict-affected people in the area. In early January 2008, Government

army staged a major military campaign and Government authorities banned all humanitarian access to the northern corridor of West Darfur. The ban was lifted after 40 days, allowing humanitarian aid to reach the 58,000 people newly displaced by the military campaign.

### **Assessment of Implementation of Recommendation 2.2.2**

Security incidents affecting humanitarians continue and humanitarian access to many parts of Darfur remain off-limits. The Government lifted its ban on humanitarian access to two areas of Darfur in January 2008 allowing resumption of humanitarian assistance to the conflict affected populations.

### **Recommendation 2.2.3**      *Mid-term*

Reform the Organization of Voluntary and Humanitarian Work Act of 2006 so as to not restrict the work of groups through unnecessary procedural requirements confined definitions of what humanitarian organizations should do, and lack of judicial oversight of decisions by Ministry of Humanitarian Affairs and HAC.

*Indicator: Reformed in accordance with the Interim Constitution, the United Nations Declaration on Human Rights Defenders and other relevant international standards.*

### **Response of the Government of the Sudan on Recommendation 2.2.3**

No information received

### **Information Received from Other Sources on Recommendation 2.2.3**

No such reform conducted.

### **Assessment of Implementation of Recommendation 2.2.3**

Not implemented

### 3. ACCOUNTABILITY AND JUSTICE

#### **Recommendation 3.1**      *Short-term*

Carry out thorough investigations, in accordance with relevant international standards, into all reported cases of human rights abuses and breaches of international humanitarian law, including allegations of torture, violence against women, arbitrary detentions and killings, including incidents which have been reported publicly by the Office of the High Commissioner for Human Rights, in particular in the following cases:

- Attacks in Bulbul area, South Darfur, in January March 2007 with involvement of Border Intelligence Guards and other Government forces.
- Attacks on the village of Deribat and eight other villages along the road from Kujur to Deribat in late December 2006 with involvement of Government forces and allied militia.
- Killing of civilians in the area of Buram, South Darfur, in October 2006.
- Arrests of at least 19 Massalit men in Gereida, South Darfur, in September 2006 by soldiers of the Special Presidential Assistant and Chairman of the Transitional Darfur Regional Authority Minni Minnawi.
- Attacks on villages around Jebel Moon area on 29 October 2006 and the failure of the Sudanese Armed Forces to prevent the attack or protect the population during the attacks.
- Law enforcement operation on NGO compounds on 19 January 2007 in Nyala with 20 United Nations, NGO and AMIS staff arrested, physically and verbally abused, including 2 cases of sexual assault.
- Attack on 4 NGO compounds in Gereida by SLD/Minni Minnawi forces on 18 December 2006 with 12 vehicles stolen and allegedly 7 aid workers raped.

Provide information on thorough and transparent investigations undertaken into the allegations of torture brought to the Government's attention by the Special Rapporteur on torture, in particular those contained in the reports E/CN.4/2006/6/Add.1, and A/HRC/4/33/Add.1.

In cases where investigation committees were established, make public their findings. Take legal action against the perpetrators and especially against those with command responsibility. Immunities should be waived in such cases.

Take appropriate disciplinary action against police and other officials who fail in their primary responsibility to protect civilians. Compensate and rehabilitate victims.

*Indicators: Number of investigations; Number of prosecutions; Number of convictions. Number of perpetrators, especially those with command responsibility prosecuted. Findings of investigation committees made public. Number of compensated and rehabilitated victims.*

### **Response of the Government of the Sudan on Recommendation 3.1**

No information received.

### **Information Received from Other Sources on Recommendation 3.1**

Attacks in Bulbul area, South Darfur, in January March 2007 with involvement of Border Intelligence Guards and other Government forces- No information was provided.

Attacks on the village of Deribat and eight other villages along the road from Kutur to Deribat in late December 2006 with involvement of Government forces and allied militia – No information was provided.

Killing of civilians in the area of Buram, South Darfur, in October 2006 - No investigation  
Arrests of at least 19 Massalit men in Gereida, South Darfur, in September 2006 by soldiers of the Special Presidential Assistant and Chairman of the Transitional Darfur Regional Authority Minni Minnawi – No information was provided.

Attacks on villages around Jebel Moon area on 29 October 2006 and the failure of the Sudanese Armed Forces to prevent the attack or protect the population during the attacks- No information was provided.

Law enforcement operation on NGO compounds on 19 January 2007 in Nyala with 20 United Nations, NGO and AMIS staff arrested, physically and verbally abused, including 2 cases of sexual assault - Three criminal cases lodged against a male international staff member and a

female national staff member under Criminal case file no. 282/2007 under articles 152, 77 and 78 Criminal Act 1991; Criminal case file no, 283/2007 under article 77 Criminal Law Act 1991 and Criminal case no. 284/2007 under article 77 Criminal Law Act 1991. In February 2007 the cases files were sent to Khartoum to the Minister of Justice by the Attorney General under section 58 Sudan Criminal Procedure Act 199. In April Nyala Criminal Court dismissed charges filed under case nos. 283/2007 and 284/2007 and ordered a fine of 250 Sudanese Pounds under criminal case no. 283/2007. Five UN staff members did not appear for trial because of the immunity provisions contained in the UNMIS SOFA.

### **Assessment of Implementation of recommendation 3.1**

Not implemented.

### **Recommendation 3.2**      *Short-term*

Ensure that there are no laws that provide legal immunities for state agents for human rights violations; in particular, repeal article 33 National Security Forces Act of 1999 (criminal and civil immunity), and article 46 of the 1999 Police Forces Act (immunity for police on official duty). As long as immunity laws are in force, the responsible authorities should issue a blanket waiver for immunities for war crimes and crimes involving torture, violence against women, arbitrary detention, enforced and arbitrary disappearances and extrajudicial killings in Darfur or in relation to the situation in Darfur.

*Indicators: Legal immunities for armed state agents abolished. Blanket waiver issued.*

### **Response of the Government of the Sudan on Recommendation 3.2**

Written information submitted to the Special Rapporteur on 10 July

The National Assembly approved the new Police Act in 2007 and it came into law in 2008. The act includes legal provision that confirm respect of police individuals to the rule of law and human rights provisions while performing their work. The Act gives police personnel procedural immunity which shall be lifted automatically at the request of the aggrieved persons. It also provides for accountability procedures in cases of transgressions. The act also provides for formation of community and child police.

### **Information Received from Other Sources on Recommendation 3.2**

Legal immunities for armed state agents continued to be enshrined in law. See illustrative examples recounted under recommendation 1.4.1 and 1.2.2.

The new Police Act touches on immunity of police personnel in its Article 45: “1) No criminal procedures shall be taken against any Policeman, who committed any act which is deemed to be an offence, during or because of executing his official duties and he may not be tried except by a permission issued by the Minister of Interior or whoever authorizes. 2) The State shall bear the payment of the compensation or the blood money (Diyya) for any police man in case he committed an act which is considered a crime during or because of his official duty. 3) Any Policeman who faces any legal procedures, which require placing him under legal custody, shall be confined to the police barracks, pending the decision on procedures; and the regulations , shall specify the placing him to confinement”

### **Assessment of Implementation of Recommendation 3.2**

Recommendation partially implemented as the new Police Act allows for procedural immunity to be lifted at the request of the aggrieved persons. No action was taken with regards to NISS.

### **Recommendation 3.3**      *Short-term*

Fully cooperate with the International Criminal Court mandated by the Security Council to investigate and prosecute international crimes committed in Darfur.

*Indicator: Number of alleged perpetrators of international crimes committed in Darfur handed over to the International Criminal Court.*

### **Response of the Government of the Sudan on Recommendation 3.3**

No information received. The government did not accept the recommendation.

### **Assessment of Implementation of Recommendation 3.3**

Not implemented.

**Recommendation 3.4**      *Short-term and Mid-term*

Start to review the compatibility of domestic legislation with the interim national constitution and bill of rights, and harmonize laws with Sudan's obligations under international human rights law. Undertake legal reform to include, especially, National Security Act, Police Act, Emergency Laws, Armed Forces Act.

*Indicator: Number of laws reformed in accordance with international human rights law.*

**Response of the Government of the Sudan on Recommendation 3.4**

Written information submitted to the Special Rapporteur on 10 July

The new Police Act came into law in 2008. The act includes legal provision that confirm respect of police individuals to the rule of law and human rights provisions while performing their work. The Act gives police personnel procedural immunity which shall be lifted automatically at the request of the aggrieved persons. It also provides for accountability procedures in cases of transgressions. The act also provides for formation of community and child police.

On 7 June 2008 Parliament passed the Election Act 2008. The Act allocated 40% of seats for proportional representation to enable a better representation for small parties and regional groups. 60% of the seats designated for the geographical constituents. 25% of seats were allocated for women who may also compete for other seats. The Act also provides for establishment of the Electoral Commission.

On 19 June 2008 the Council of Ministers approved the UN Convention on the Rights of Persons with Disabilities and referred it to Parliament for ratification.

**Information Received from Other Sources on Recommendation 3.4**

The National Assembly adopted the new Sudan Armed Forces Act during its regular session on 5 December 2007.

**Assessment of Implementation of Recommendation 3.4**

Recommendation partially implemented with some law reform, including the Police Act. The Armed Forces Act continues to fall short of international human rights law and principles.

**Recommendation 3.5**      *Mid-term*

Ensure the effective functioning of judicial and legislative oversight mechanisms. Ensure there are sufficient numbers, resourced, and trained prosecutors to meet the demands of justice in all three Darfur States.

Ensure that the law enforcement and the judiciary in Darfur is adequately financed, reformed in accordance with international standards and staffed with professionals.

*Indicator: Judicial and oversight mechanisms in place. Number of resourced and trained prosecutors in the three Darfur states. Number of resourced and trained police in Darfur. Action taken to reform law enforcement and the judiciary in accordance with international standards.*

**Response of the Government of the Sudan on Recommendation 3.5**

No information received.

**Information Received from Other Sources on Recommendation 3.5**

In South Darfur: The Appeal Court (Mahkama Estenaf) is the highest court in South Darfur State and consists of a five-judge court under the chair of the South Darfur Chief of Justice. With regard to the general courts (Mahkama El-Aama) there are just four general courts in the South Darfur State located in Nyala, El Daein, and Buram and Edd el Fursan localities. There are district courts (Mahkama El-Jouziah) in just six localities (administrative districts) out of the 11 localities. According to him there are no regular courts (general courts and the district courts) in the following five localities in South Darfur State; Adila , Shearia, Tulus, Bahr El Arab and El-Salam localities. The last two localities are new localities based on the recent geographical administrative division. However, South Darfur Chief of Justice stated that they usually send judges on missions to the localities that have no ordinary courts. This means that about one-third of the South Darfur population has no access to the justice system for serious crimes except the tribal leaders' efforts to search for solutions for community problems through traditional and customary law. Serious crimes are beyond the rural courts mandate. Tribal leaders intervene in such cases based on their identity and role as tribal leaders.

The prosecution offices are not fully functional due to the conflict in Darfur, just like the courts. On 31 July 2007, the Higher Deputy (Prosecution office in Nyala), stated that there are currently fifteen prosecutors in South Darfur State. There are nine prosecutors in Nyala and a further six prosecutors covering the following localities respectively: Rehad el Birdi, Buram, Edd el Fursan, El Daein, Adila and Kass.

#### **Assessment of Implementation of Recommendation 3.5**

Recommendation partially implemented more action required to ensure the effective functioning of judicial and legislative oversight mechanisms.

### **4. MONITORING OF IMPLEMENTATION OF RECOMMENDATIONS**

#### **Recommendation 4.1**      *Short-term*

Establish a National Human Rights Forum where relevant members of the international community, including the United Nations, and the Government can openly discuss human rights issues, concerns, trends, recommendations, and actions taken by the Government on specific cases and more generally to improve the human rights situation in Darfur.

*Indicator: National Human Rights Forum established and functioning.*

#### **Response of the Government of the Sudan on Recommendation 4.1**

Written information submitted to the Special Rapporteur 10 July 2008

Meetings were held with UNAMID to discuss human rights issues in Darfur. In June a meeting was held in El Fasher to discuss the necessity of bringing incidents to the cognizance of the government authorities before putting it in reports and to reach on agreement about regular meetings of the mechanism.

#### **Information Received from Other Sources on Recommendation 4.1**

Discussions are underway between UNAMID, UNMIS and the Sudanese government's Advisory Council on Human Rights on the establishment of such a Forum.

## **Assessment of Implementation of Recommendation 4.1**

The National Human Rights Forum has not yet been established.

### **Recommendation 4.2**      *Short-term*

Give the United Nations human rights monitors full access to the investigation records, allow them to interview victims in private, and brief them on at least monthly basis on progress made in each investigation.

*Indicator: UN Human rights monitors granted full access to the investigation records, allowed to interview victims in private, and provided monthly reports on progress made in each case.*

## **Response of the Government of the Sudan on Recommendation 4.2**

No information received

## **Information Received from Other Sources on Recommendation 4.2**

People arrested in Darfur are frequently transferred to detention facilities in Khartoum for interrogation or trial purposes. Despite repeated requests, human rights monitors in Khartoum had no access to detention facilities and were unable to maintain regular dialogue with prosecutors or access investigation records.

UNAMID HR monitors in South Darfur still have no full access to the investigation records. They are not allowed to interview victims in private, and briefed, at least, on a monthly basis on progress made in each investigation, without any breach of the secrecy and confidentiality required in such cases.

## **Assessment of Implementation of Recommendation 4.2**

UN Human Rights monitors have not been granted full access to the investigation records, allowed to interview victims in private, and provided monthly reports on progress made in each case.

**Recommendation 4.3**

*Short-term*

Grant the United Nations human rights monitors full and unimpeded access to all those detained in Darfur or in other parts of the Sudan in relation to the Darfur conflict, including national security installations and military bases. Make a public declaration that full and unimpeded access has been granted and send a written order to all authorities to grant access.

*Indicator: Number of reported incidents of non access.*

**Response of the Government of the Sudan on Recommendation 4.3**

Written information submitted to the Special Rapporteur on 10 July

UNAMID mission in North Darfur has been visiting the detention centres in the region on a regular basis.

**Information Received from Other Sources on Recommendation 4.3**

Human rights monitors were granted limited access to Government detention facilities in West and South Darfur. In West Darfur, the visit to the State Prison at Ardamata, El Geneina on 3 April and the follow up visit on 8 April was the first general visit since 2005 since the Federal Ministry of the Interior prohibited visits to prisons under its jurisdiction by foreign organizations without prior personal authorization from the Federal Minister of the Interior.

In South Darfur, human rights monitors were given access to two government places of detention, Kass Prison and Kass Police Custody centre. In Kass prison, human rights monitors were informed that there were eighty seven prisoners, all male, nine of whom were on remand awaiting trial. Human rights monitors were informed by the Prison Director that twenty five of the prison inmates had been transferred to Singita Camp, 29 km west of Kass to work; it is unknown whether the prisoners were paid for their labour. Human rights monitors observed extremely poor conditions in the prison; forty four inmates shared two medium 4mx7m & 4mx9m cells. In Kass police custody centre, human rights monitors observed two cells, reportedly for male and female prisoners respectively. The male cell had five detainees, one of whom

### **Assessment of Implementation of Recommendation 4.3**

United Nations human rights monitors have not been given full and unimpeded access to all those detained in Darfur or in other parts of the Sudan in relation to the Darfur conflict, including national security installations and military bases. No public declaration that full and unimpeded access has been granted and a written order to all authorities to grant access has been provided. Ad-hoc access to places of detention in Darfur has been granted.

#### **Recommendation 4.4**      *Short-term*

Issue a standing invitation to all human rights mechanisms (whether standing or ad hoc) of the United Nations and the African Union to investigate the situation in Darfur and give these mechanisms full and unimpeded access to the Darfur region. Respond to all communications regarding cases addressed to the Government by special procedures of the United Nations.

*Indicator: Standing invitation extended no subsequent obstructions of full and unimpeded access. Number of responses received.*

#### **Response of the Government of the Sudan on Recommendation 4.4**

No information provided.

#### **Information Received from Other Sources on Recommendation 4.4**

No standing invitation extended to special procedures. The Special Rapporteur on the situation of human rights in the Sudan was invited by the Government to undertake two country visits to Sudan in March and July 2008. The Representative of the Secretary General on IDPs, the Special Rapporteur on Freedom of Expression and Special Rapporteur on Food have requested to visit the Sudan. Dates for the missions are still to be agreed. In May 2008 the Government extended an invitation to Special procedures of the African Commission for Human and Peoples Rights to visit Sudan in August 2008. The regional mechanisms accepted the offer however the dates have not yet been agreed.

Between July 2007 and July 2008, 15 communications were sent from special procedures of the UN to the Sudan. The communications concerned a range of alleged human rights violations including adequate housing; arbitrary detention; freedom of expression; human rights defenders;

torture; and summary executions. The communications concerned 289 individuals, 8 of which were women. The government replied to one of the communications to inform that several detainees had been released and one person remained in detention.

#### **Assessment of Implementation of Recommendation 4.4**

Not implemented.

#### **Recommendation 4.5**      *Mid-term*

Set up systems for documentation and recording of violations of human rights and ensuring access for human rights defenders to this information. Ensure the effective functioning of documentation centers within the human rights units of the Ministries of the Interior, Defence, Welfare and others.

*Indicator: Systems in place and documentation centres functioning effectively.*

#### **Response of the Government of the Sudan on Recommendation 4.5**

No information provided.

#### **Information Received from Other Sources on Recommendation 4.5**

No relevant information provided.

#### **Assessment of Implementation of Recommendation 4.5**

Not implemented.

#### **Recommendation 4.6**      *Mid-term*

Evaluate, together with the United Nations, the functioning of the State Committees to Combat Violence Against Women, the implementation of their work plans as well as the implementation of the National Action Plan.

*Indicator: Evaluation conducted and made public.*

#### **Response of the Government of the Sudan on Recommendation 4.6**

See A/HRC/6/19

#### **Information Received from Other Sources on Recommendation 4.6**

No information received

#### **Assessment of Implementation of Recommendation 4.6**

See A/HRC/6/19 Evaluation completed in 2007.

#### **Recommendation 4.7**      *Short-term*

Establish an Independent National Human Rights Commission in accordance with the Paris Principles and with a dedicated mandate, resources and capacity to address the situation in Darfur.

*Indicator: NHRC in accordance with Paris Principles established.*

#### **Response of the Government of the Sudan on Recommendation 4.7**

No information received

#### **Information Received from Other Sources on Recommendation 4.7**

The NHRC has not been established.

#### **Assessment of Implementation of Recommendation 4.7**

Not implemented.

#### **Recommendation 4.8**      *Medium-term*

Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

*Indicator: OP-CAT ratified.*

Response of the Government of the Sudan on Recommendation 4.8

No information provided

**Information Received from Other Sources on Recommendation 4.8**

No ratification.

**Assessment of Implementation of Recommendation 4.8**

Not implemented.

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