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## مجلس حقوق الإنسان

الدورة الثامنة عشرة

البند ٤ من جدول الأعمال

حالات حقوق الإنسان التي تتطلب اهتمام المجلس بها

تقرير الخبير المستقل المعني بحالة حقوق الإنسان في السودان بشأن حالة تنفيذ مجموعة التوصيات المقدمة من فريق الخبراء إلى حكومة السودان لتنفيذ قرار مجلس حقوق الإنسان ٨/٤، عملاً بقرارات المجلس ٣٤/٦ و٣٥/٦ و١٦/٧ و١٠/١١ و٢٧/١٥\*

### موجز

قرر مجلس حقوق الإنسان في قراره ١٠/١١ تكليف الخبير المستقل المعني بحالة حقوق الإنسان في السودان بالولاية والمسؤوليات التي حددها المجلس في قراراته ٣٤/٦ و٣٥/٦ و١٦/٧ و١٧/٩. وفي هذا الصدد، يقدم الخبير المستقل تقريراً عن تنفيذ ما تبقى من التوصيات القصيرة والمتوسطة الأجل المحددة في التقرير الأول لفريق الخبراء (A/HRC/5/6)، مع مراعاة التقرير الختامي لفريق الخبراء (A/HRC/6/19) والردود المقدمة عليه من حكومة السودان. وقرر المجلس في قراره ٢٧/١٥ تمديد ولاية الخبير المستقل وطلب منه تقديم تقرير إلى المجلس للنظر فيه في دورته الثامنة عشرة.

وتابع الخبير المستقل فعالية تنفيذ التوصيات عن طريق إجراء حوار مع حكومة السودان. وقام بتقييم التدابير التي اتخذتها الحكومة لتنفيذ التوصيات التي جمّعها فريق الخبراء، وقدم إلى المجلس وصفاً وتحليلاً، مفصلين قدر الإمكان، لحالة التنفيذ.

\* يُعمم الموجز بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيعمم باللغة التي قُدم بها فقط.

واستناداً إلى المعلومات المقدمة، خلص الخبير المستقل إلى أن حكومة السودان لم تتخذ، منذ تقريره السابق إلى المجلس، أي خطوات كبيرة نحو تنفيذ غالبية التوصيات. كما أشار إلى عدم تنفيذ عدد كبير من التوصيات بالرغم من مرور أكثر من ثلاثة أعوام على انقضاء المهلة الزمنية المحددة لتنفيذها. كما يلاحظ الخبير المستقل أن الحكومة اتخذت خطوات أولية تتعلق بتنفيذ بعض التوصيات، غير أن ذلك لم يؤدي إلى حدوث تأثير ملحوظ على أرض الواقع. وكرر تأكيد أن الغاية المنشودة من التدابير التي تتخذها الحكومة لتنفيذ مجموعة توصيات فريق الخبراء ينبغي أن تتمثل في حدوث تحسن ملموس في حالة حقوق الإنسان في دارفور.

ويحث الخبير المستقل حكومة السودان على اتخاذ كافة التدابير الضرورية لتنفيذ هذه التوصيات في دارفور دون المزيد من التأخير، وزيادة العمل البناء مع مجلس حقوق الإنسان ومنظومة الأمم المتحدة بشكل عام والمجتمع الدولي.

وبالرغم من الجهود التي تبذلها الحكومة في سبيل العمل التعاوني لتعزيز التنفيذ الفعلي للتوصيات، فهناك توصيات رئيسية لم تُنفذ بعد. وعليه، يوصي الخبير المستقل بأن يواصل المجلس عملية الاستعراض، وفقاً لمؤشرات تقييم التنفيذ التي وضعها فريق الخبراء، إلى أن يكتمل تنفيذ جميع التوصيات. وقد يرغب المجلس في النظر في تحديد الإجراءات الإضافية اللازمة لحماية وتعزيز حقوق الإنسان لسكان إقليم دارفور.

## Annex

### **Status of implementation of the compilation of recommendations of the Group of Experts to the Government of the Sudan for the implementation of Human Rights Council resolution 4/8 pursuant to Council resolutions 6/34, 6/35, 7/16, 11/10 and 15/27**

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## I. Introduction

1. The Human Rights Council adopted, without a vote, on 30 March 2007, resolution 4/8 on the follow-up to its decision S-4/101. 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 the resolutions and recommendations on Darfur adopted by the Council, the Commission on Human Rights and other United Nations human rights institutions, as well as to promote the implementation of relevant recommendations of other United Nations human rights mechanisms, taking into account the needs of the 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 the Special Rapporteur on the situation of human rights in the Sudan, and comprised the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Rapporteur on violence against women, its causes and consequences, the Special Representative of the Secretary-General on the situation of human rights defenders, the Representative of the Secretary-General on the human rights of internally displaced persons, and the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment.

2. In its 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- and 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.

3. 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 to provide support and technical assistance to the Sudan for the implementation of the recommendations of the Group of Experts, and called upon donors to continue to provide 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.

4. The present report is submitted pursuant to resolution 11/10, in which the Council created the mandate of the independent expert and requested him to assume the mandate and responsibilities set out by the Council in its resolutions 6/34, 6/35, 7/16 and 9/17, including following up and fostering the implementation of the remaining recommendations of the Group of Experts through open and constructive dialogue, and to include information thereon in his report. In resolution 15/27, the Council extended the mandate of the independent expert for one year and requested the expert to report to the Council during its eighteenth session. The present report reflects information received from the Government of the Sudan and from other sources including UNAMID, UNMIS and United Nations agencies, bodies and programmes with operational competence in Darfur.

5. Using the indicators contained in the annex to the Group's report submitted to the Council (A/HRC/5/6), the independent expert provides an assessment of the Government's activities in implementing the recommendations to be achieved in the short- and medium-term, as well as the degree of impact reported on the ground in Darfur. Accordingly, the present report focuses on developments in Darfur from May 2010 to June 2011.

## II. Methods of work

6. The independent expert 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.

7. 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 independent expert to conclude, in relation to each recommendation, whether (a) 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); (b) significant activities have been undertaken and a tangible impact has been reported from the ground; (c) significant activities have been undertaken but little or no practical impact has been reported; (d) initial steps towards implementation have been taken; or (e) there was no implementation at all. While this report synthesizes the findings of the independent expert, the appendix sets out in detail information received from the Government and other sources as well as the independent expert's assessment for each of the recommendations contained in the first report of the Group of Experts to the Council (A/HCR/5/6).

8. The independent expert summarizes 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; and (d) monitoring of implementation of recommendations. The report ends with the independent expert's main conclusions and recommendations.

9. The independent expert sought to ensure, as far as possible, that the information was based on first-hand observations, careful verification and, wherever appropriate, inter-agency corroboration. The independent expert 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 Experts on Darfur.

### III. Status of implementation of recommendations

#### A. Protection of the human rights of civilians

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

10. Regarding the protection of the civilian population, the 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).

11. Compared to previous years, very few aerial bombardments and indiscriminate attacks on civilians were documented. However, the security situation in Darfur deteriorated significantly from December 2010 onwards as a result of renewed fighting between Government forces and the armed movements. Fighting between the Sudanese Armed Forces (SAF) and the SLA/MM in Shangil Tobaya and Dar el Salaam in North Darfur and Khor Abeche in South Darfur began in early December 2010 and continued throughout January and February 2011. Fighting also broke out between the SAF and the Justice and Equality Movement (JEM) around the same period in Dar es Salaam. It continued intermittently and involved ground attacks by soldiers, militia, and rebels and aerial bombardments by the SAF.

12. Bombing of several villages in North Darfur including Um Shisha, Sortony and Wadi Mura were reported in February. While it did not appear that civilians were specifically targeted, close to about 40,000 civilians were displaced from these clashes. More than 15,000 of them sought temporary shelter around a UNAMID team site in Khor Abeche where UNAMID provided limited assistance. The rest migrated northwards to Zamzam IDP camp near El Fasher and to Tawila, north west of El Fasher estimated 2,000 households (recommendation 1.1.1).

13. Civilians continued to be attacked by all parties to the conflict, including by the Sudanese Armed Force, the armed movement, militia groups and unknown armed elements. On 2 September 2010, an unidentified armed group attacked a market in the village of Tabarat, in North Darfur, killing more than 30 civilians. In Shangil Tobaya, civilians were reportedly killed when clashes erupted between members of a local Zaghawa community and an unidentified militia group between 31 May and 3 June. UNAMID's investigation confirmed that at least 4 people belonging to the Zaghawa tribe were killed when they attempted to retrieve their stolen livestock from the militia group. Inter-tribal clashes, however decreased considerably during the reporting period. This may be attributable to UNAMID's increasing robust military and police presence and the Government's efforts in promoting reconciliation between communities.

14. The Government did not make any new effort to send regular patrols to protect vulnerable populations. However, it facilitated the deployment of more UNAMID troops on the ground. UNAMID in turn conducted more regular patrols to most camps for internally displaced persons in Darfur. Nevertheless, security in the camps remained precarious. Incidents of night time shooting and sexual violence against women who ventured out of the camp continued to be reported in spite of UNAMID's 24/7 patrols. There have been no joint patrols carried out between UNAMID and Sudanese forces (recommendation 1.1.5).

**2. Protection of women against violence**

15. Several statements were made by Government officials during the reporting period publicly acknowledging and condemning violence against women. For example the Governor of North Darfur in a keynote address commemorating the 16 Days of Activism against Violence Against Women on November 25, 2010 called on all Darfurians to join in the struggle to stop violence against women. In spite of the significant measures taken by the Government to address sexual violence in Darfur, the persistent climate of impunity continues to create an environment conducive to the perpetration of sexual violence. Many incidents of sexual violence were not reported due to fear of social stigma associated with rape, fear of reprisal and the victims' lack of trust in the police to effectively investigate and prosecute offenders. From May 2010 to June 2011, UNAMID documented more than 70 cases of sexual and gender based violence. Furthermore, the police do not have the capacity to follow up and investigate cases of sexual violence in areas under the control or influence of armed groups. Notwithstanding these challenges, there have been a number of positive steps taken by the Government to combat sexual and gender based violence. UNAMID document 41 reported cases of sexual and gender based violence that were fully investigated by the police. In North Darfur, the authorities have significantly increased the number of female police investigators while in West and South Darfur, female police investigators have recently been posted in Family and Child Protection Units of the Police solely to handle cases of violence against women; statements were made by State officials regarding the overall weakness of the justice system to hold perpetrators accountable (recommendation 1.2.2).

**3. Children and armed conflict**

16. In May 2010, the high ranking officers of the Sudan Armed Forces met with child protection representatives of UNAMID, UNMIS and UNICEF to discuss Sudan's preparation of and commitment to an action plan to end the use of child soldiers. In a follow up meeting in October 2010, the Government agreed to include basic child protection principles proposed by the UN in the action plan and to submit regular progress reports through UNMIS and UNAMID. While the UN team acknowledged that the Sudan Armed Forces do not have a policy to recruit children for combat, it expressed concern over continuous association of children with armed elements. The Ministry of Defence agreed to enable access to all its facilities by the UN. (recommendation 1.3.2).

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

17. The Government security apparatus, notably the National Security Service and the Sudan Military Intelligence continued to commit human rights violations including arbitrary arrests and detentions, torture and ill treatment of detainees. Individuals targeted included human rights activists, community leaders and people perceived to have ties with the armed movements. During the reporting period, UNAMID documented at least more than one hundred cases of arbitrary arrests and detentions involving over two hundred victims. The detainees were often held for prolonged periods without charge and not given the opportunity to contest the lawfulness of their detention before a court of law. The Government did not issue new instructions that summary executions, arbitrary detention, enforced or involuntary disappearances and torture are illegal and will not be tolerated, and that they can amount to war crimes and crimes against humanity.

18. The state of emergency in Darfur and the application of the NSS Act 2010 and the Emergency and Public Safety Protection Act 1997 continue to curtail fundamental rights and freedoms. The law grants wide discretionary powers of arrest and detention to the State governors of Darfur without any effective judicial review. In October 2010, two IDPs who took part in a meeting with a visiting UN Security Council delegation to Abu Shouk IDP camp were arrested and detained by the NSS. They were subsequently released but never charged with an offense. One of them was rearrested in November but released again. Two UNAMID staff arrested in April and May this year in South and North Darfur were detained for several weeks, without being charged with an offence. (recommendations 1.4.1 and 1.4.2).

19. UNAMID human rights monitors do not have unfettered access to detention centers in Darfur especially access to persons held under emergency and national security laws. Access to NSS and Military Intelligence detention centers remain a challenge while limited access to the prisons have been granted on ad hoc basis usually after the submission of written requests. (recommendations 1.4.3 and 1.4.4). The Convention against Torture has not been ratified by the Sudan (recommendation 1.4.5).

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

20. The Government did not provide any information on measures taken to protect witnesses and victims against violence, reprisals and harassment by third parties. Human rights monitors were routinely denied full and unimpeded access to witnesses and victims of human rights violations. In South Darfur, the NSS denied human rights monitors, access to detainees reportedly arrested on 23 May 2010 without any justifiable reasons. Again in South Darfur, Military Intelligence declined UNAMID's request for access to the Head of the SPLM in Duma village who was detained in early October 2010, (recommendation 1.5.1).

21. Human rights defenders working on Darfur related issues in Khartoum were subjected to intimidation and harassment by the NSS. Between late October and early November 2010, a group of human rights activists from Darfur affiliated with a radio station (Radio Dabanga) were arrested and held incommunicado by the NSS. The detainees were not charged nor were they provided with counsel or given the opportunity to challenge the lawfulness of their detentions. Nine of the activists were released between 13 and 21 January 2011 while five remained in custody. One of the released activists told human rights monitors that he was beaten by NSS agents during interrogation sessions. On 13 February, four of the released activists were rearrested. Six of them are currently standing trial for various offences under the Criminal Act 1991, three of which carry the death penalty (recommendation 1.6.2).

## **B. Humanitarian access**

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

22. Compared to previous years, the reporting period witnessed a considerable decrease in targeted attacks on humanitarian actors and UNAMID peacekeepers. This may be attributable to UNAMID's increasing robust military and police presence and the Government's efforts in promoting reconciliation between communities. Three crew members of the UN Humanitarian Air Service, the last of humanitarian actors to be held in captivity, were released unharmed almost 5 months after being kidnapped. There were, however, several serious incidents of attacks on UNAMID peacekeepers, two of them resulting in fatalities. On 30 June, a UNAMID peacekeeper was shot and mortally wounded in an ambush by unidentified gunmen in EL Geneina, West Darfur and on 5 April 2011, a UNAMID policewoman was killed in an ambush by unidentified gunmen near Kutum in North Darfur.



23. The Government has not taken any measures to reform the Organization of Voluntary and Humanitarian Act of 2006 which continues to restrict the work of humanitarian groups including through cumbersome procedural requirements (recommendation 2.2.3).

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

24. Humanitarian access in Darfur remained uneven during the reporting period. Access to urban areas outside the State capitals improved thanks to the presence of UNAMID team sites, while access to other areas, such as Jebel Marra and Jebel Moon, in West Darfur, continues to be restricted due to persistent fighting between Government and the armed movements.

**C. Accountability and justice**

25. On the issue of Darfur crimes, the Minister of Justice decreed the appointment of a Special Prosecutor of Darfur Crimes in October 2010. The Special Prosecutor announced that his office planned to establish a witness protection programme. He however announced his resignation in April 2011. The Government announced the establishment of commissions of inquiries to investigate two major incidents of gross human rights violations during the reporting period. In October 2010, the Government established a commission of inquiry to investigate the circumstances surrounding an attack on a marketplace in Tabarat, North Darfur which killed over 30 civilians including women and children. A second commission of inquiry was set up to investigate a case involving the killing of civilians during fighting between a local Zaghawa community and an unidentified militia group between 31 May and 3 June. To date, the Government has not published the findings of the commissions and the perpetrators of the two incidents have not been brought to justice.

26. Legislations granting immunities to security personnel have effectively prevented the prosecution of security personnel in the regular courts. Immunities continue to exist for law enforcement and security agents under various laws, including the Police and Armed Forces Acts and NSS Act. While the Government has maintained these immunities are only procedural and could easily be lifted when the need arises, practice has shown that the waiver of such immunities is very cumbersome and time consuming, and very often requires decisions from authorities in Khartoum.

27. The Government of the Sudan has not cooperated with the International Criminal Court in investigating and prosecuting international crimes committed in Darfur. The Government maintains that it is not obligated to cooperate with ICC as Sudan is not a party to the Rome Statute which established the court, (recommendation 3.3).

28. The Government points to the reform NSS law as a significant step in guaranteeing the rights of detainees in NSS custody. However, many of the safeguards in the new law fall short of international standard. For example, while the NSS act grants detainees the right to communicate with family members or a lawyer, the exercise of this right is only assured if the NSS determines it will not prejudiced ongoing investigations. Furthermore, the new law does not provide detainees access to a judge or allow them the right to file a habeas corpus petition to challenge their detention, (recommendation 3.4 and 3.5).

## D. Monitoring implementation of recommendations

29. The Government suspended the operation of the Darfur Human Rights Forum which has served as a useful mechanism for the exchange of information and dialogue on human rights concerns between the Government, the UN and international partners. The Forum has not met since the independent expert's last report to the Council in September 2010. The Government has informed that it is evaluating the effectiveness of the Forum as a means of constructive dialogue and hopes to resume it shortly. In the meantime, the human rights sub-forum which was created to enhance local participation in the Darfur wide forum has operated successfully in West Darfur. The sub-forum in North Darfur has been repeatedly postponed is yet to get off the ground.

30. Human rights monitors continued to be denied unfettered access to detention facilities and were not allowed to interview victims and witnesses in private. Monitors were also not granted full access to police records, (recommendations 4.1, 4.2, 4.3 and 4.7).

31. The Government did not extend a standing invitation to special procedures during the reporting period. However, it provided full support and assistance to the independent expert during his mission to the Sudan in March and May/June 2011. The Government also participated effectively in the Universal Periodic Review of the country which took place in May this year. Over 160 recommendations ranging from the establishment of a National Human Rights Commission compliant with the Paris Principles to the reform of Sudan's national security apparatus were proposed for adoption by the Government of the Sudan.

## IV. Conclusions and recommendations

32. **The independent expert notes that a significant number of the recommendations of the Group of Experts still remain without implementation in spite of the fact that the time frame for implementation elapsed more than three years ago. He also notes that, while initial steps have been taken by the Government with regard to some recommendations, they have not had a sufficient impact on the ground. The Government needs to take additional measures to improve the human rights situation on the ground in Darfur.**

33. **The information provided on the human rights situation from UNAMID, United Nations agencies, bodies and programmes with operational competence in Darfur and other relevant sources reflects a situation that requires further action from the Government.**

34. **In particular, the independent expert assesses the status of implementation of the recommendations contained in the report of the Group of Experts (A/HRC/5/6, annex) as follows (see also the appendix):**

(a) **Full implementation (i.e. all recommended activities were carried out to lay the framework for improving the situation on the ground): recommendations 1.2.1, 1.2.6, 1.3.1 and 4.1;**

(b) **Significant activities undertaken and implementation in process: recommendations 1.1.4, 1.2.4, 1.2.7, 1.3.2, 1.3.3, 1.6.2, 3.4, 4.4 and 4.6;**

(c) **Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations 1.1.1, 1.1.2, 1.1.3, 1.1.5, 1.2.2, 1.2.3, 1.2.5, 1.2.8, 1.4.4, 1.5.1, 2.1.1, 2.1.2, 2.1.4, 2.2.1, 2.2.3 and 4.7;**

(d) **Initial steps towards implementation undertaken: recommendations 2.2.2, 3.1, 3.5, 4.2 and 4.3;**

(e) No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground: recommendations 1.2.9, 1.4.1, 1.4.2, 1.4.3, 1.4.5, 1.6.1, 2.1.3, 3.2, 3.3, 4.5 and 4.8.

35. The independent expert, 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 led to an improvement in the situation of human rights in Darfur.

36. The independent expert acknowledges that full implementation of certain recommendations may be complex and that tangible impact could take time, especially where recommended activities have been undertaken only recently. He 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 on protection against summary execution, arbitrary detention and torture, 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 independent expert reiterates that the lack of resources cannot justify any act of violence against the civilian population or the lack of action to prevent such acts.

37. The independent expert recalls the consensus of the Human Rights Council, welcoming the initial measures taken by the Government to implement the recommendations of the Group of Experts on Darfur and to address human rights concerns, but noting that a number of recommendations had not yet been implemented.

38. The independent expert 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 time frame for implementation of the short- and medium-term recommendations elapsed on 20 June 2008 and the Government of the Sudan still needs to effectively implement the majority of recommendations requested by the 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. The transparent engagement and cooperation of the Government of the Sudan with the Council and other relevant partners of the international community will play an important role in the protection and promotion of human rights on the ground. It will also help to identify obstacles to the implementation of previous recommendations. The Council may also wish to consider what further practical action is required to protect the human rights of people in Darfur.

## Appendix

### Status of implementation of recommendations for the protection of human rights in Darfur (May 2010 – June 2011)

#### 1. Human rights protection

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

1.1.1 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.

Short-term/accepted by GoS

- Orders issued and widely disseminated
- Number of such attacks reported that are attributable to Government forces, any allied militia and SLA/MM

Large-scale land and air attacks on civilians (number of attacks and number of civilian casualties)

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

UNAMID Human Rights Section (HRS) recorded twenty (21) attacks [some not verified due to lack of access because of security reasons] on civilians that resulted in the deaths of 98 civilians and 102 injured (UNAMID HRS figures for 8 incidents where figures were available). Below are some instances:

In North Darfur

On 20 May 2010, HRS was informed by victims of alleged air strikes by SAF on 5 May in Galab and surrounding villages which killed two (2) women and one (1) child. A 25-year-old woman and an 18-month-old child were reportedly killed in their house at Galab (about 40 km north west of Shangil Tobaya) while a 40-year-old woman was reportedly killed at the water point at Gorbiya village (east of Galab). The bombings allegedly targeted the Justice and Equality (JEM) elements who were heading towards El Fasher. During HRS mission to the area, HRS interacted with the area commander of SLA/MM (Sudanese Liberation Army/Mini Minawi), the Sheiks of Galab and

Umsiala villages, family members of the deceased, injured victims, and other residents. One the interviewees intimated to HRS that properties were destroyed by the bombing; he claimed that twenty five (25) houses were completely destroyed; five (5) donkeys and six (6) goats were killed while thirteen (13) goats were poisoned. He also reported that residents of Galab and surrounding village residents were suffering from cough and experiencing urine infection. During this visit, HRS also noted what appeared to be two (2) unexploded ordinances in the southern part of the village in question.

On 02 September 2010, a group of Arab militias attacked the Tabara market, approximately 30km South West of Tawila. According to information gathered by HRS during a mission to Tabara from 7 to 8 September, the assailants entered the market and shot indiscriminately at the crowd. Reportedly, thirty-seven (37) people were killed and fifty-three (53) injured. The reason of the attack is unclear. A committee of inquiry set up by the Government to investigate the incident is yet to make its findings public. .

On 16 December 2010, HRS was informed that about 25,000 to 30,000 people were displaced following clash between SAF and SLA/MMs in Shangil Tobaya. The IDPs headed to the nearest IDP camps, namely Nifasha, Shaddad and Um Dresay. Two (2) children were reportedly shot and injured during the clashes; they received medical treatment at the UNAMID clinic in Shangil Tobaya team site.

A clash between Sudan Liberation Army/Minni Minawi (SLA/MM) and the Sudan Armed Forces (SAF) was reported on 7 January 2011, at Thabit Market. The local population claimed that nine (9) civilians were killed and several other persons injured.. In Kulbus, West Darfur, a clash between SAF and Justice and Equality Movement (JEM) was also reported on 11 January at Habila and Jeljela areas. Due to restrictions of movement, HRS could not confirm the exact number of civilian casualties.

On 25 January 2011, clashes were reported in Thabit, 37 km north of Shangil Tobaya between SAF and joint forces of SLA/MM, SLA/AW and LJM. The clashes were reportedly followed by aerial raids by GoS from 26 to 27 January near Foula village, 14km north of the new IDP camp, blocking UNAMID verification patrols. It was alleged that ten (10) civilians were killed. However, due to security reasons, HRS could not confirm the number of casualties. Thabit is reported to be one of the strongholds of SLA/MM.

On 23 February 2011, SAF soldiers and members of armed militia reportedly attacked Linda village, leaving one woman and her child wounded. A boy aged 16 years, was also reportedly abducted. The soldiers reportedly looted animals and groceries. During the attack, SAF allegedly also told the people to leave for Umderesay or Shangil Tobaya; the village has subsequently been deserted. SAF also reportedly carried out aerial raids around Tabellidia Dawa, leaving behind about twenty (20) unexploded UXOs in the area.

#### In West Darfur

On 16 May 2010, HRS received information that about military operations conducted by SAF in the Northern Corridor. Sudan Armed Forces (SAF) soldiers reportedly committed several human rights violations especially around Kulbus. The attacks by SAF on villages around Jebel Mun started on 2 May, went from Grijegirje east of Jebel Mun and then spread to Jebel Om (NW of Jebel Mun). SAF soldiers together with armed Arab militia men stormed into villages early in the morning and attacked Hilelat harassing and torturing civilians on 2 May. Many women in Duhush were allegedly sexually assaulted. The soldiers reportedly contaminated all water points in Jebel Mun during the military operations, leaving the water unsuitable for human consumption. They were alleged to have carried their own water with them when they went into Jebel Mun and avoided using the contaminated water.

On 25 February 2011, UNAMID Teamsite in Sortoni (North Darfur) reported aerial manoeuvres and raids around Sortoni during which an unspecified number of bombs were allegedly dropped by GoS in the Jebel Marra area bordering North and West Darfur. The source also informed of aerial raids of Burgo, Rowata and Ows wajin, in West Darfur between 24 and 25 February. From 13 to 15 March 2011, HRS conducted a fact-finding mission to the area to verify reports of GoS air strikes from 23 to 28 February. HRS was able to visit three (3) villages out of the twenty (20) villages reportedly air raided by GoS and abandoned by the civilian population. Through interviews with community leaders, relatives, victims and eyewitnesses, HRS concluded that twenty eight (28) people were killed, while eighteen (18) other were injured. It was also reported that over 65,000 people were displaced.

On 6 May 2010, GoS air strikes were launched on Chawa village located 15 kms east from Labado, resulting in the displacement of civilians. Fleeing IDPs reported that an unknown number of people and animals were killed as a result of the bombings. Efforts by UNAMID Military and Police to verify and confirm the incident in Labado were unsuccessful, as the fleeing IDPs became aggressive, stating that UNAMID was unable to protect them even after they had sent messages to UNAMID through the community of Labado.

On 10 December 2010, Khor Abeche village was attacked by SAF and following the attack, about 500 civilians, most of them women and children, sought refuge at the nearby UNAMID team site. On 11 December, house burnings and mass displacement of civilians continued to be reported. According to HRS findings, the 10 and 11 December clashes resulted in two (2) people dead and twenty-two (22) sustaining injuries, including eight in serious condition. On 11 December, house burnings and mass displacement of persons was reported; persons who refused to leave their homes/houses were allegedly subjected to beatings.

Again on 17 December 2010, another clash between SAF and SLA/MM broke out in Khor Abeche. During a UNAMID integrated mission to Khor Abeche from 13 to 14 December, eyewitnesses and victims of the earlier clashes of 10 and 11 December informed HRS that on 10 December, SAF allegedly looted 28 shops and beat people in the market. Two people who were heading to the market at the time were also interrogated by SAF soldiers and were requested to reveal the whereabouts of SLA/MM fighters; HRS observed lacerations on their bodies consistent with their stories.

On 15 May 2011, GoS aerial raids in Labado and Al-Shariya reportedly resulted in at least nine (9) deaths, the injuring of seven (7) and destruction of civilian properties. HRS was able to interview some of the victims and witnesses of this incident.

Efforts by the government to prevent such attacks

In 2007 the Government adopted the Armed Forces Act which penalizes violations of international humanitarian and human rights law and amended in 2009, the Criminal Act to include provisions on war crimes, crimes against humanity, and genocide. However, HRS has not received any information that orders were given to the armed forces and militias under Government's control to prohibit attacks against civilians and civilian objects.

On the contrary, civilians have, and continue to be attacked by SAF and militias allegedly supported by Government.

During the reporting period, there were four (4) serious incidents in which UNAMID peacekeepers and those assisting humanitarian efforts were targeted.

On 22 March 2011, armed assailants fired on a UNAMID team travelling from Masteri, West Darfur, to a nearby team site, and wounded two (2) UNAMID soldiers. The UNAMID quick reaction force deployed to the scene, apprehended three (3) suspects and handed them over to the GoS, which is investigating the incident.

#### Response of the Government of the Sudan

A new Arm Forces Act has been promulgated in 2007 containing a whole chapter about protection of civilians and civilians' installations.

A Declaration on the regulations and rules of conduct of armed forces personnel in conflict zones has also been issued and widely circulated to all units of the Sudanese Armed Forces (SAF).

Also a Directive on the Code of Conduct of the Armed Forces during Armed Conflicts has been issued by the Headquarters of the Army Joint Operations.

The IE was also furnished with copies of lists of the SAF and Police members whose immunities were lifted and were presented to trials for violations of the laws and HRs.

**1.1.2 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 Defense 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.**

Short-term / not accepted by GoS

- 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

Although this was not accepted by the government but the following actions were taken:

Within the context of the Disarmament, Demobilization and Re-integration program, 23670 combatants have been registered and disarmed in North and South Sudan Also the DDR program in Darfur started with demobilizing 787 members of the Sudanese Armed Forces in El-Fasher and El-Ginena in the first phase. The plan of the DDR Commission is to disarm and demobilize 29,000 combatants and to re-integrate 19,500 disarmed combatants in Darfur by the end of this year.

Some activities undertaken or reported, but little or no tangible impact reported on the ground:  
recommendations



## **Response of the Government of the Sudan**

**Two framework agreements were signed between the Government and JEM (on the 23 February 2010) and LJM (on...2010). At the core of these agreements were the immediate cease-fire.**

**Within the context of the Disarmament, Demobilization and Reintegration program, 23670 combatants have been registered and disarmed in north and South Sudan. 2690 individuals have been re-integrated in South-Kordofan, 2780 in Blue Nile State and 1177 in the Eastern States. Also a number 63 of war related females have been re-integrated in South Sudan. Also the DDR program in Darfur started with demobilizing 787 members of the Sudanese Armed Forces in El-Fasher and El-Ginena in the first phase. The plan is to disarm and demobilize 29,000 combatants and to re-integrate 19,500 disarmed combatants in Darfur by the end of this year.**

### **1.1.3 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.**

Short-term / not accepted by government

- 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

During the reporting period, the IDP camps remained highly insecure with incidents of night shootings routinely reported by IDPs and several fatalities inside the camps. In addition HRS also documented several cases of sexual and gender based violence in most of the IDP camps.

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

### **Incidents of attacks against IDPs in and outside the camps**

During the reporting period, HRS recorded 84 attacks on IDP camps, with 181 victims recorded including 32 killed. *(It should be noted that some of the incidents of killings could not be verified or investigated due to lack of access because of security reasons).*

The Government has facilitated deployment of UNAMID troops, resulting in more troops on the ground than the previous reporting period. As of the reporting time, UNAMID Military stands at 88 per cent being 17,726 personnel (226 military observers not included) against its approved strength of 19,555 military while UNAMID Police stands at 73 per cent being 5,177 against its approved strength of 6,432. *(UNAMID official figures 30 April 2011)*

The civilian population in parts of Darfur continues to remain unprotected against a number of attacks. A significant number of these attacks have been perpetrated by non-signatories to the Darfur Peace Agreement and unidentified armed elements.

### **Response of the Government of the Sudan**

**The National Commission for IHL and the Advisory Council for Human Rights in collaboration with UNAMID Human Rights held on the 2nd of July 2008 – in El Fasher, North Darfur, an awareness raising workshop on the national and international principles for the protection of civilians and children in armed conflicts. The workshop coincided with the launching of the Swiss funded project for the building capacities of human rights in Sudan particularly Darfur, in North Darfur state.**

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

Any Government efforts to register children recruited into any kind of armed forces in Darfur or of any efforts to demobilize such children.

- Number of reported cases

##### **Information from UNAMID Child Protection**

*Dialogue with the parties to the armed conflict for commitment to Action Plan to end recruitment and use of child soldiers*

On 23 May 2010, UNAMID and UNMIS Child Protection Advisers together with UNICEF Country Representative, held a meeting with high ranking Officers at the Sudan Armed Forces Headquarters to discuss the preparation of and commitment to an action plan to end use of child soldiers. The meeting coincided with the release of the annual global Report of the Secretary-General on Children and Armed Conflict of 2010 (A/64/742-S/2010/181) in which SAF and armed groups in Sudan had been listed for the use of child soldiers since 2005.

In a follow-up meeting with UNAMID/UNMIS Child Protection and UNICEF on discussion of preparation and commitment to an action plan to end the use of child soldiers, on 21 October 2010, the Government of the Sudan (Ministry of Defence) agreed to the elements proposed by the UN which would be included in the action plan and to the submission to UNAMID, UNMIS (copied to the African Union), of progress reports on its implementation. UNAMID agreed to inform SAF of visits to military camps and the Ministry of Defence agreed that SAF would facilitate access during such visits. Any sightings of child soldiers would be brought to the attention of SAF leadership for immediate action.

These criteria submitted to SAF and the armed groups include: acknowledgement of the definition of a child soldier as set out in the Cape Town Principles and the Paris Principles; acknowledgement of the seven Security Council resolutions on children and armed conflict; commitment to immediately end recruitment and use of child soldiers; commitment to release all children within their ranks; commitment to fully cooperate with the North Sudan DDR Commission assisted by UNICEF commitment to take measures to prevent recruitment and re-recruitment of children; designation of a high-level focal point to liaise with the United Nations team during the implementation of the action plan; issuance of Commander Order prohibiting recruitment and use of child soldiers; arrangements to grant unhindered access by the United Nations team for

Significant activities undertaken and implementation in process: recommendations

monitoring and verification of the implementation of the action plans; open door policy and transparency on children issues as part of an early engagement process; and submission of progress reports on the implementation of the action plans to the Joint Special Representative of UNAMID and UNMIS Head of Mission.

On 3 December 2010, SLA/Abu-Gasim submitted an action plan to the UN. Under the action plan, SLA/Abu Gasim acknowledged the broad definition of a child soldier under the Paris Principles and made commitments to: end recruitment and use of child soldiers; release all children found within its ranks; fully cooperate with the North Sudan DDR Commission; take measures to prevent recruitment and re-recruitment of children; issue a Command Order prohibiting all its members from recruitment and use of child soldiers (which it had already done in April 2010); designate high-level focal points to liaise with the United Nations team during the implementation of the Action Plan; grant access by the United Nations team for monitoring and verification of the implementation of the Action Plan and submit Progress Reports on the implementation of the Action Plan to the Joint Special Representative for the African Union-United Nations Mission in Darfur. Given the presence of the armed group in West Darfur including: in Mara in Sullu, Selma in Kereinik, South West Mourni, and Telga in Wadi Salih (confirmed to UNAMID in August 2010). UNAMID expects the release of children in these areas.

On 22 December 2010, JEM/Peace Wing submitted an action plan to the UN, to be implemented in El Geneina and Zalengi (Western Darfur). In April 2011, JEM/Peace Wing identified and submitted to the UN a list of 65 former child soldiers identified in three localities in West Darfur (Um Dukhun, Baida, Mugurni). This list has been submitted to the North Sudan DDR Commission (NSDDRC) for registration.

On 23 December 2010, UNAMID Child Protection Adviser together with UNICEF Rep and two UNAMID Child Protection Officers visited Gur Lumbung (Golum Bay) in Jabel Mara, a strong hold of SLA Wahid, to discuss the issue of recruitment and use of child soldiers with the armed group. The Team was warmly received by a group of commanders and members of the community including women. SLA Wahid confirmed that they previously had 83 child combatants in their ranks between 2003-2004. They however indicated that all the children have now been released for reintegration in four locations (Fina, Saboun-al fagour, Daya and Baldoung) with the support of NGOs and UNICEF partners present in the area in 2005. The armed group acknowledged the adverse impact of armed conflict on child combatants citing as an example a former child soldier (now an adult) who is mentally ill and is currently

under their care. The group's spokesperson and legal adviser explained that they do not have child soldiers but acknowledged that children may be associated with them for various reasons but not as combatants and expressed their commitment to continue to comply with the international norms and standards protecting children.

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#### **Response of the Government of the Sudan**

**As per the information provided by UNAMID/ Child Protection, it is very clear that the government is committed to combating recruitment of children into any kind of regular or irregular armed forces.**

**These developments took place through legislations, (Armed forces Act 2007, Child Act 2009) policies and continuous training and awareness programmes initiated by the Government.**

**1.1.5 Set up effective regular police patrols to protect vulnerable populations in Darfur, supported by AMIS, 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.**

Mid-term

- Number of IDP camps and other vulnerable populations benefiting from regular and effective patrols
- Reduction in number of attacks in areas patrolled

During the reporting period, UNAMID patrols totalled 93,640, out of which, 65,383 were police patrols while 28,257 were military patrols. Police patrol - 32,562 were IDP/CPC patrols; 1,291 farming patrols; 12,661 villages, town and market patrols and 18,869 IDP camps patrols. (Data from the previous reporting period - June 2009 to 21 April 2010 - indicated that the total number of UNAMID police was 28,581) – *UNAMID official figures*

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

HRS does not have any information regarding patrols conducted by the GoS

The security in the camps is very relative. Incidents of night shooting and sexual violence are still reported in the camps. In addition in several areas where UNAMID provides 24/7 patrols to IDP camps and vicinities of townships, women are still being attacked and assaulted when they venture outside the camps.

UNAMID cannot provide overall patrol services for all IDP camps and the Government in most (especially rural) areas is reportedly not able to provide enough staff/equipment for patrolling.

UNAMID patrols have improved confidence and the general security situation and in curbing SGBV incidents. Patrols schedules are more flexible and frequent in several locations.

Police check points have been established in several locations and there is improved protection of women and girls through the establishment of Community policing by UNAMID police. Volunteers have better understanding of the local context and have access to local information.

No firewood patrols are being conducted by the government of the Sudan. In addition there still exists mistrust between IDPs and SAF. For instance in some camps including Otash and Alsalam in South Darfur, GoS Police are stationed in the camp, and make regular patrols within the camps, but lack the capacity to investigate cases in and outside the camps. As at now, Kalma IDPs do not allow GoS forces to enter Kalma camp. Similarly, GoS security forces are not allowed to enter IDP camps in Zalingei (West Darfur)

**Response of the Government of the Sudan**

**The Police forces in Darfur have been increased to ensure protection of IDPs. In North Darfur the forces amounted to 2300 members, 2500 in South Darfur and 2600 in West Darfur.**

**The Police forces continued to regularly patrol the IDPs camps and accompany women in fetching fire-wood and water. The result is a visible decrease in the cases of violence committed against women and children.**

## 1.2 Protection of women against violence

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

Short-term

- Plan published
- Level of implementation

The National Action Plan on Combating Violence against Women is available.

Full implementation (i.e. all recommended activities were carried out to lay the framework for improving the situation on the ground): recommendations

UNAMID Gender Advisory ensures that knowledge about the National Action Plan is shared through its regular trainings with state institutions such as State Committees and GBV working Groups.

The content of the National Action Plan are shared with the IDP community through IDP GBV working groups and community dialogues.

Awareness raising campaigns through our Darfur make reference to the National Action Plan on GBV.

#### **Response of the Government of the Sudan**

**National Action Plan usually developed in full consultation with the United Nations Core Group on Gender Based Violence chaired by UNFPA**

### 1.2.2 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.



Short-term

- 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.

**Public Statements**

Senior government officials have made public statements condemning violence against women (VAW). For example in his keynote address commemorating the 16 Days of Activism against VAW on November 25, 2010, the Wali of North Darfur referred to VAW as ‘an *evil that the Muslim religion does not tolerate*’ and called on all to join the struggle to stop it.

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

41 reported SGBV cases were investigated by police. 9 cases were not reported to police for diverse reason including fear of reprisal, cultural stigma associated with rape and disenchantment with police’s alleged inaction when cases are reported.

5 cases were prosecuted; including one regarding 14 a year old minor subjected to 20 lashes.

4 cases were settled-out of court: all involving 3 Central Reserve Police (CRP) and 3 SAF soldiers.

On 31 May 2011, Zalingei General Court sentenced a police officer to 5 years imprisonment for raping a minor following an appeal by the Prosecutor and the victim’s family. The police officer had earlier been acquitted on bases of immunity covering police on duty.

On 25 May 2011, HRS was informed of the alleged rape of two minor girls, aged 9 and 12, on 9 May by three GoS police officers on 9 May. The GoS commander acknowledged that the alleged perpetrators are his subordinates and also informed that investigation was ongoing; they are detained at the GoS military camp.

**Examples of Police’s lack of action – lack of prosecution**

On 15 November 2010, HRS was informed that a 22-year-old IDP woman was killed by a GoS soldier on 30 October in Ardamata IDP camp, West Darfur allegedly for refusing to marry him. As at the time of the HRS’ visit to the IDP camp on 15 November, the perpetrator had not been arrested nor had he reported to the military camp. The family members are worried about their safety. HRS continues to follow up the case with police.

On 20 January 2011, a 40-year-old woman from the Dito IDP camp in Graidia, South Darfur informed HRS that on 27 December 2010, she was allegedly shot in the arm by a SAF soldier when she entered the room of her 14-year-old family member and saw a perpetrator attempting to rape the 14-year-old. The victims claimed that the perpetrator was arrested by the GoS police and they were asked to identify him at the military base near the Graidia valley. However, the GoS police alleged that the perpetrator was not arrested and that the investigation had not been concluded. The police thinks there is a possibility that the perpetrator is not a SAF soldier.

In Zalingei, West Darfur, on 24 January 2011, HRS was informed by a relative of a 3-year-old victim that on 1 November 2010, the victim was allegedly raped by a 22-year-old GoS police officer, living near the victim's house. The case was reported to the GoS police on 1 November and confirmed by the Zalingei Civil Hospital. The perpetrator was reportedly arrested and detained for about twenty days by the GoS police and transferred to the Zalingei Court. However, HRS was informed on 26 January that the Zalingei General Court dismissed the rape charge against the perpetrator on the grounds of his immunity as a police officer. The Court advised the complainant to file to appeal the General Court's decision. HRS is following up the case with the Prosecutor and the Court.

On 6 April 2011, the HRS interviewed a 20-year-old female victim of attempted rape and her 70-year-old mother. The victim was allegedly attacked by two men, a soldier from GoS Omsadur military barrack and a civilian on 15 March, in her house GoS police reportedly arrested the civilian suspect while a complaint was lodged at Omsadur barrack where the suspected soldier was said to serve. The officer in-charge of the military barrack mediated between the victim and the suspected soldier to resolve the matter 'amicably'; with the soldier agreeing to pay 550SGD as compensation to the victim, and also giving a guarantee that he will not repeat such an act again. HRS cautioned against out of court settlements of SGBV cases.

#### **Response of the Government of the Sudan**

**According the information provided by UNAMID it is very obvious that the government is very serious in prosecuting cases on GBV (41 cases investigated by the Police).**

**As for the unreported cases (9) it is the role of the HRS to encourage victims of GBV to take legal action through their direct involvement with them or through training programme at the IDP camps and at the community based level.**

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

Short-term

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

See point 1.1.5 above

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

**Response of the Government of the Sudan**

See our comments on point 1.1.5 above

**1.2.4 Make work plans for the State Committees to Combat Violence against Women with clear objectives, targets and time frames available to the public.**

Short-term

- State committee workplans publicly available

Significant activities undertaken and implementation in process: recommendations

**Response of the Government of the Sudan**

**On 12<sup>th</sup> and 13<sup>th</sup> January 2009 a workshop was held to discuss the annual Work Plan combating VAW in the area of Darfur states. The Workshop was held within the framework of the Swiss Funded Project and was attended by members of the three states' committees on VAW besides states' MPs and representatives of the Women Union. The Plan addressed issues like aspects of protections, social component in combating VAW and health and psychotherapy for victims.**

**Also local traditional singers (Hakkama) in Tawila – North Darfur-have attended awareness raising campaigns on the issue of VaW.**

**A work plan was developed and implemented every year.**

**1.2.5 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.**

Short-term

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

**Information on attacks against women and steps taken to redress victims**

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

From May 2010 to date, HRS documented 75 cases of sexual and gender based violence against women and girls with 132 victims. One case of sexual assault on two boys was reported in Tawila, North Darfur on 13 March 2011. In some cases victims described the perpetrators either as armed men dressed in military uniforms or as police/military officers from the regular security forces, men in CRP uniform, men in green/camouflage uniform.

The number of cases on sexual and gender based violence has fluctuated depending on the seasons; during the farming season it increases when women increase farming activities.

The establishment of community based mechanisms (groups of women accompanied by male escorts from their villages, etc) as well as increased sensitization is helping to curb cases.

Any increase in SGBV cases is also due to increased reporting as a result of more sensitization and does not reflect actual trend.

**Response of the Government of the Sudan**

**The Armed Forces Act clearly indicates that rape and other forms of sexual violence are prohibited and are considered as a crime against humanity. Also the Criminal Act was also amended and a chapter was added which also includes rape as one of the war crimes.**

**1.2.6 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.**

Ongoing

- Number of instances of non-compliance with Rules of Application to Criminal Circular No. 2

The Ministry of Health is providing training on clinical management of rape, legal and psychosocial support to service providers while some units of the police and military have been trained by the government and UN agencies.

Full implementation (i.e. all recommended activities were carried out to lay the framework for improving the situation on the ground): recommendations

In North Darfur, UNAMID has instituted a group on collection, verification and analysis on SGBV incidents. The group jointly chaired by Gender and Human Rights holds monthly meetings.

There are also regular coordination meetings with government hospitals.

However there is lack of political will, capacity and mechanisms in government institutions to respond, prevent, mitigate and coordinate GBV issues.

In the state headquarters, there is improved awareness about Form 8 and hospitals are accessible. At most locality levels, accessibility remains a challenge due to factors like non-availability of health services, survivors' inadequate knowledge and lack of awareness of the rules of application of Criminal Circular Number 2 that basically informs about the right of women to medical care irrespective of whether they have filed a police complaint and carry a Form 8

From 6 to 7 December 2010: Workshop on Human Rights, including Women's Rights in Khamsa Dagayeg IDP Camp, Zalingei, West Darfur. 64 IDPs: 44 women; 5 Sheiks; 15 youth.

On 7 Dec. 2010: Community Dialogue on GBV Prevention and Response was held in North Darfur; 41 persons, including local leaders, women parliamentarians, Wali's Advisors, women's union in El Fasher, VaW Unit, North Darfur State Committee members, IDP women and men leaders from El Salam, Abu Shouk and Zam Zam IDP camps.

On 8 Dec. 2010 in El Fasher, North Darfur: Workshop on Developing Standard Procedures for addressing GBV Cases at Police Stations. 76 GoS Police personnel from El Fasher and Mellit, representing various Units: Community Policing, Legal Affairs, Drugs Section, Emergencies, Traffic, and FCPU.

On 11 Dec. 2010: Workshop on the Protection of Women from Gender-Based Violence was held in El Fasher. 40 senior government officials representing various government offices, including the Wali's Advisors, Minister for Agriculture, Director for Public Service, Dir-Gen of the Ministry of Social Affairs, Director of the Ministry of Health, Director of the El Fasher hospital, the State Legal Consultant, Ministry of Education.

11 Dec. 2010: 26 women parliamentarians in South Darfur.

13-14 Feb. 2011: Workshop on the Harmonisation of the Manuals on GBV Investigation; 28 participants who came from Darfur and the Khartoum area, including State Committee members, judges, prosecutors, Family and Child Protection Units, medical doctors, academicians and working group members of the VAW Unit.

22 March 2011 in Mellit, North Darfur: Support for the International Women's Day activity of the North Darfur State Committee on Combating Violence against Women. 43 persons (17 women) representing the locality administration, Mellit GBV Sub Committee, Teachers' Union, Women's Association, Parents' Council and other local groups and organizations.

23 March 2011: in Kutum, North Darfur, Support for the IWD activity of the North Darfur State Committee on Combatting Violence against Women. 66 persons (10 men) representing the Kutum GBV Sub Committee, the Ministry of Social Affairs, the Ministry of Education, the GoS Police Family and Child Protection Unit, some community leaders, the Women's Group, the IDP Women, and Youth, associations.

### **Response of the Government of the Sudan**

**The national Unit for Combating Violence against Women convened a training Workshop in ElTina locality to raise the awareness of the local community and about women's rights, the legal procedures to be followed in cases of violations and on the Criminal Circular No. 2 of the Minister of Justice regarding cases of VaW.**

**The Unit, in collaboration with Amal Organisation (NGO) also convened a workshop in El Fasher – North Darfur State, addressing the same issues.**

**1.2.7 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.**

Mid-term

- Number of trained women policy officers deployed in IDP camps

UNAMID Gender Advisory has trained more than 400 GoS police officers in the three states of Darfur and continues to do so.

Significant activities undertaken and implementation in process: recommendations

Through the established GoS-UNAMID police network UNAMID Gender Advisory is providing SGBV prevention and response training to GOS police.

During the reporting period, awareness raising campaigns during the 16 days of activism against gender violence were held, followed by sequenced and targeted workshops the basis of which is the national Action Plan on Combating VAW. The workshops were first conducted with localities and IDPs, followed by law enforcement officials the results of which were shared and discussed with high level government officials. The workshops resulted in commitments with Government officials including improved service delivery and law enforcement.

North Darfur now has up to 23 female police investigators, while El Geneina and Nyala have female police officers attached to the Family and Child Protection Unit of the Police to handle GBV cases. These numbers are still not enough and even the female police officers that have been deployed need training in handling cases of violence against women.

### **Response of the Government of the Sudan**

**The numbers of female police officers have been increased in the IDP camps and the Family and Child Protection Units (FCPU) in the three states of Darfur.**

**35 female police officers have been deployed in North Darfur State to work in the IDP camps of Abu-Shok and Zamzam and at the FCPU in two police stations.**

**In South Darfur 33 female police officers have been deployed in the IDPs camps of Uttash, Elserf, Elsalam, Sagly and at Nyala localities, Guds, Id EIFursan Rihed El-Birdy, Kas and Eldeain. (Lists attached).**

**1.2.8 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 article 149 of Criminal Act 1991 in a way that ensures no links to the substantive or evidentiary requirements of adultery or sodomy exist.**

Mid-term

- 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)
- 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**

**As part of the Swiss funded project activities a workshop was held in January 2009 to remove discrepancy over definitions of 'rape' and 'adultery' in the Criminal Act of 1991. The workshop concluded that there was a need for amending the Act in terms of the two crimes.**

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

**A second workshop was held with a view to amending articles 146 and 149 of the Criminal Act 1991. The workshop recommended the harshening of the penalty for the rape crime particularly in cases where the victims were children.**

**1.2.9 Ratify the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.**

Mid-term

- CEDAW and Protocol ratified



The government of Sudan is yet to ratify the CEDAW. UNAMID Gender Advisory advocates for the ratification of CEDAW through the Regional Darfur Women Legislative Caucus, UNSCR 1325 State Committees, GBV State Committees and TDRAs.

### **Response of the Government of the Sudan**

**Studies and researches about CEDAW are taking place in various government institutions.**

## **1.3 Children and armed conflict**

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

Short-term

- Gender and Child Units within the national police established and fully resourced.

With the support of UNAMID in some states the women police units are established but need to be expanded.

The Women Police Network between GOS police and UNAMID Police have been established. UNAMID Gender Advisory is supporting the training of women police officers on GBV prevention and response.

The Gender and Child Units within the national police that were established are not fully resourced.

Full implementation (i.e. all recommended activities were carried out to lay the framework for improving the situation on the ground):  
recommendations

### **Response of the Government of the Sudan**

**Units for Family and Child protection were established as part of the Police all over Sudan.**

**The Units in Darfur were allocated with suitable budgets and were given separate premises and provided with trained staff.**

**The Units briefed the IE on its activities upon his visit to Darfur.**

**1.3.2. 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.**

**Mid-term**

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

There have been no new developments with regards to national legislation and several cases against children, especially of sexual nature are not investigated.

Significant activities undertaken and implementation in process: recommendations

In September 2010, the Nyala Special Court tried 11 suspects allegedly being affiliated with JEM and accused of attacking a convoy of the Government of the Sudan in Sanyi Afundu, Southern Darfur. Five of the defendants declared their ages to be between 15 and 17. However, the Court only one of them as a child (age 16), following the opinion of Sudanese medical authorities, and sentenced him to “reform measures for juvenile delinquents” under article 69 of Child Act 2010. The same medical authorities opposed the age declarations of the remaining four and certified their ages to be between 18 and 21. Subsequently, the judge sentenced all four to death by hanging, together with five other adult defendants. The Government of the Sudan has reaffirmed that all necessary legal remedies will be offered to the accused. The United Nations has appealed to the Government of the Sudan to stay the execution of the death sentence, review the cases and take all necessary measures to protect alleged child soldiers from capital punishment in accordance with national and applicable international law. The UN also recommends that JEM should halt its practice of recruiting and using children and of placing them at risk.

**Information on investigation and prosecution of cases of violations against children**

The climate of conflict resulting in insecurity and a breakdown of law and order exacerbates sexual violence against children and women. Monitoring and reporting of rape and sexual violence against children in Darfur, however, remains a challenge as victims, their families and communities are often reluctant to report cases due to fear of retribution or stigmatization. Rape cases that were documented by Child Protection and Human Rights Officers are often allegedly committed by men in uniforms and attributed to military, police personnel, factions of armed groups and militia men. As in the past reporting periods, victims and witnesses, however, often provide little information on the identity of the alleged perpetrators and the uniforms alone do not always provide the required proof of the links of the alleged perpetrators to the armed forces. . Other alleged perpetrators do not wear uniforms and are thus unidentifiable. The incessant allegations indicate that sexual violence against children continues to be a major problem in Darfur. While many cases of sexual violence go unreported, some are brought to the attention of authorities. In one case reported to the police, a 15 year old girl was raped at gunpoint on 2 December 2010 near an IDP camp in Northern Darfur by a soldier from SLA Minnawi, while two other soldiers restrained her. The victim was brought to El Fasher Maternity hospital the following day, where she received treatment and post rape assistance. One of the alleged perpetrators was later arrested and the case referred to the Family and Child Protection Unit. At the time of reporting, investigation was ongoing.

The lack of capacity of the Government of Sudan Police to investigate cases in areas under the control or influence of armed groups constitutes a significant challenge in addressing sexual violence. Limited expertise, equipment and the absence of female police officers in some police stations also hamper efforts to assist victims. While some victims receive basic post-rape-care, psychosocial support and/or counseling services are still not provided or not available in most areas and or hospitals. Most victims of sexual violence encountered during field missions show signs of trauma and are in

dire need of counseling services. The practice of charging fees, no matter how small (1 SDG, equivalent to USD \$0.44) in some hospitals prevents many victims from seeking primary medical assistance.

#### **Response of the Government of the Sudan**

**A new child Act was adopted in 2009. The Act provides for the establishment of special prosecution offices for criminal cases in which children are party.**

**Three child prosecution offices were established in the three Darfur States.**

**The Child Act also provides for the death or imprisonment up to 20 years as a penalty for the offence of raping a child and up to 15 years for sexual harassment for children and child pornography.**

#### **1.3.3 Ensure that DDR 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 DDR Coordination Council should facilitate the inclusion of all relevant stakeholders.**

Mid-term

- Adequate child protection expertise within the DDR Commissions

On 23 May 2010, UNAMID and UNMIS Child Protection Advisers together with UNICEF Country Representative held a meeting with high ranking Officers at the Sudan Armed Forces Headquarters to discuss the preparation of and commitment to an action plan to end use of child soldiers. The meeting coincided with the release of the annual global Report of the Secretary-General on Children and Armed Conflict of 2010 (A/64/742-S/2010/181) in which SAF and armed groups in Sudan had been listed for use of child soldiers since 2005.

Significant activities undertaken and implementation in process: recommendations

In a follow-up meeting on 21 October 2010, Ministry of Defence officials agreed to the elements which would be included in an action plan and to the submission to UNAMID, UNMIS (copied to the African Union), of progress reports on its implementation. UNAMID agreed to inform SAF of visits to military camps and the

Ministry of Defence agreed that SAF would facilitate access during such visits. Any sightings of child soldiers would be brought to the attention of SAF leadership for immediate action.

The government DDR commission has a gender expert. UNAMID Gender Advisory in collaboration with UNAMID DDR, HRS, Rule of Law, UNDP and GoS will conduct gender assessment of combatants across all three states. The assessment will then be utilized to develop gender sensitive recommendations for Darfur DDR programme, upon which it can plan and build its DDR action plan, strategy and capacity building activities. The workshop will be organized by UNAMID Gender Advisory and DDR in collaboration with GoS DDR and SLA/JEM/SAF and those armed movements that are reachable.

#### **Response of the Government of the Sudan**

**535 children have been registered for DDR program in south Darfur (Gus Injamat, Muraya, Otash and Daraj IDPs camps) (16 out of them are girls),**

**54 children from JEM, who had been pardoned by the President, were re-integrated in their societies.**

**250 children have been registered so far for DDR program in AlGenena – West Darfur, the registration process is still going on.**

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

**1.4.1 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.**

Short-term

- Instructions issued and widely disseminated
- Number of reported incidents attributable to the Government

HRS has not received any information that clear instructions were given to law enforcement agencies, armed forces and militias regarding illegality of summary executions, arbitrary detention, enforced or involuntary disappearances.

Rather, arbitrary arrests and detentions continued to be carried out without judicial oversight under the state of emergency (in effect in Darfur)

During the reporting period, HRS documented at least one hundred and two (102) cases of arbitrary arrest and detention involving two hundred ninety-seven (297) alleged victims. Among these, GoS security services such as the National Intelligence and Security Services (NISS) and Military Intelligence (MI) were reported as main perpetrators (66 cases), followed by the GoS police (23 cases) and Sudan Armed Forces (16 cases). During the same period, a total of eight (8) cases of enforced and involuntary disappearance were reported involving sixteen (16) alleged victims.

#### **Response of the Government of the Sudan**

**Immunities were lifted in many cases. Accused persons from the Armed Forces and the Police members were presented to trial before courts in Darfur.**

**1.4.2 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.**

Short-term

- Instances of incommunicado detention, or detention in unofficial places of detention

Incommunicado detention is still routinely practiced in Darfur by all security forces including armed movements

During the reporting period, HRS documented forty three (43) cases of incommunicado detention. At the same time, HRS' access to detainees and detention records also continued to be limited by GoS.

On 19 September 2010, HRS received information that on 17 September 2010, a 23- year-old detainee in MI detention center in Al Geneina, West Darfur, died allegedly due to torture during detention.

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground:  
recommendations

**Responses of the Government of the Sudan**

**UNAMID Human Rights section has been regularly visiting places of detention in Darfur.**

**The UN Independent Expert was also given access to visit places of detention in Darfur during his last January/February 2010 visit to Sudan.**

**Copy of list of suspects on the killing of Fur tribe Sultan in Abushok IDPs camp was given to UNAMID Human Rights**

**1.4.3 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.**

Short-term

- Instructions issued and widely disseminated
- Number of incidents of denial of such guarantees

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground:  
recommendations

**Response of the Government of the Sudan**

**Detainees from the JEM who participated in the attack against Omdurman on 10 May 2008 were given access to: legal defence of their own choice, medical care while under investigation, during trial and post-trial in the prison (for those convicted). They were duly charged before appearing in the courts which were open to the public. Those who were convicted were allowed to appeal the judgments made against them.**

**1.4.4 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.**

The 2010 amended National Security Service Act (NSS) retained a broad range of powers for NSS personnel including on search, arrest and detention. This contradicts the primary advisory mandate of the NISS provided under the Sudanese Constitution and the Comprehensive Peace Agreement, that consists of: "*information gathering, analysis and advice to appropriate authorities*" (Article 151 (1) (3) of the INC, 2005 and article 2.7.2.4 of the CPA).

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

The lack of judicial oversight of arrests and detentions made by NSS (a "competent prosecutor" was never appointed to oversee deprivations of liberty by NSS and inspect NSS detention centers, as required by the NSS Act 2010), detainees' lack of access to justice, the absence of safeguards against arbitrary arrest and detention by NISS personnel, including the immunity granted by law to NSS members, have fuelled the commission of human rights violations by NSS personnel. Prolonged and *incommunicado* detentions, inhuman treatment and torture of persons detained by NSS have been extensively documented by HRS.

During the reporting period, HRS documented at least one hundred and two (102) cases of arbitrary arrest and detention involving two hundred ninety-seven (297) alleged victims with the following breakdowns:

- 51 incidents by NISS
- 23 incidents by GoS police
- 15 incidents by MI and 16 incidents by SAF soldiers
- 2 incidents by unidentified armed men, 1 by PDF soldiers, 1 by SLA/Historical

## **Response of the Government of the Sudan**

**A new National Security Act has been issued reducing the period of detention by the security apparatus, for investigation reasons, to only one month instead of three months in the previous Act subject to the close monitoring by the Ministry of Justice and the Judiciary.**



**The newly Adopted Act of the Security provided in article 52 for a number of safeguards for detainees including the notification of the reasons for arrest, access to lawyers and family members.**

**The state of emergency has been lifted except in Darfur. Nonetheless, campaigns of candidates for the elections in Darfur have neither been hampered nor affected by this state of emergency.**

**The Minister of Justice appointed a legal counsel with powers of inspection to all security detention's cells.**

#### **1.4.5 Ratify Convention against Torture**

Mid-term

- Ratification of CAT

Sudan has not ratified the CAT.

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground:  
recommendations

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

**1.5.1 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.**

Short-term

- Number of reported incidents of non-compliance.

In South Darfur, during the reporting period, the HRS visited the NISS to follow up on the detention of three (3) persons reportedly arrested on 23 May 2010 from Al Malaja market. Visits to the NISS Director's office to request access to the three detainees, on 11, 14 and 17 June remained futile as NISS continued to deny the HRS, access to the detainees, without providing any justifiable reasons. So far, the reasons behind the arrest and the conditions of the detainees remain unknown.

Some activities undertaken or reported, but little or no tangible impact reported on the ground:  
recommendations

In South Darfur, on 18 November, HRS followed up with the Military Intelligence (MI) and the SPLM office on the case of the head of the SPLM office in Duma village who was arrested by MI on 6 October in Nyala. On 11 October, HRS submitted a letter to the MI HQ to request access to the detainee to no avail. Meanwhile, SPLM officials confirmed the release of the victim but could not ascertain the date of his release nor the reason of his arrest and detention. HRS continues to follow up the case with the SPLM office to interview the released SPLM member.

### **Examples where victims or witnesses have been targeted after contacting with HRO**

**No information available**

### **Response of the Government of the Sudan**

**No complaints have been received as to denial of access by human rights monitors to witnesses and alleged victims of human rights violations and no reports have been received as to any acts of reprisals or harassment committed against any person cooperating with the human rights monitors. The regular reports submitted by UNAMID as far as the human rights situation in Darfur is concerned continue to reflect stories of alleged victims and accounts of witnesses without any reference to interference by the Government.**

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

**1.6.1 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.**

Short-term

- Number of reported cases

During the reporting period, HRS documented nine (9) cases of abduction, nine (9) arrests, three (3) harassments, two (2) attacks on human rights defenders including UNAMID and UN staff members.

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground: recommendations

Below is an example of arrest targeting at human rights defender in Darfur:

Ten Darfur activists including human rights lawyers were arrested and detained in Khartoum from 30 October to 2010 13 January 2011(7 released), 16 January (2 released) and 21 January (1 released), leaving three others in detention. On 23 January 2011, HRS met with four of them after their release by NISS.

**1.6.2 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.**

Short-term

- Reformed in accordance with the Interim Constitution, the International Covenant on Civil and Political Rights and other applicable international standards
- HRS received information that the National Council for Press and Publication continued to suspend the issuance of some presses for days and even months pursuant to the Press and Printing Press Act.
- Restrictions in the National Press Laws have not been removed.

Significant activities undertaken and implementation in process: recommendations

**Response of the Government of the Sudan**

**The 2009 Press Act was promulgated. It provides for an automatic licensing for newspapers, prohibits the detention or harassment of a journalist because of his opinion.**

**Since the inception of the Act no cases were reported pertaining to arrest or threatening of a journalist.**

**Pre-printing censorship was immediately lifted following the promulgation of the Press Act.**

**An elected Press Council was established**

**Political Parties were licensed to issue their own independent newspapers.**

## 2. Humanitarian access

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

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

##### Short-term

- **Public declaration made; no subsequent retraction**

HRS has not received any information that the GoS made any public statement supporting humanitarian agencies.

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

#### 2.1.2 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.

##### Short-term

- Number of aid workers allowed to return

Information not available

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

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

##### Short-term

- No such incidents reported

##### **Response of the Government of the Sudan**

**No complaints were received to this effect.**

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground: recommendations

**2.1.4 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.**

Short-term

- Instructions issued and widely disseminated
- Number of reported incidents of harassment or attacks on humanitarian workers

**Response of the Government of the Sudan**

**No complaints were received to this effect.**

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

**2.2.1 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.**

Short- and mid-term

- Number of instances of non-compliance with the commitments made therein.

Violations reported, including information on denial of visas to humanitarian agencies and workers (see 2.1.1 above)

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

There have been instances of violations to the SOFA with arrests and detention of UNAMID staff and restrictions of movement of UNAMID peacekeepers and civilian personnel in the course of their duty

HRS does not have precise information regarding denial of visas to humanitarian agencies and workers however as of 31 March 2011, 1,237 visas applications were pending for UNAMID (including 898 for police officers, 157 for military staff and observers)

**2.2.2 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.**

Mid-term

- Percentage of areas under Government limit for international humanitarian organizations control being off

Access has increased but the GoS continues to restrict access to populations in need every now and then, under the pretext of ongoing military operations

Initial steps towards implementation undertaken: recommendations

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

Mid-term

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

Violations reported, including information on denial of visas to humanitarian agencies and workers (see 2.1.1 above)

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

There have been instances of violations to the SOFA with arrests and detention of UNAMID staff and restrictions of movement of UNAMID peacekeepers and civilian personnel in the course of their duty

HRS does not have precise information regarding denial of visas to humanitarian agencies and workers however as of 31 March 2011, 1,237 visas applications were pending for UNAMID (including 898 for police officers, 157 for military staff and observers)

### **3. Accountability and justice**

**3.1 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.**
- **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.**
- **Killing of civilians in the area of Buram, South Darfur, in October 2006.**

- **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.**
- **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.**
- **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.**
- **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.**

**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.**

Short-term/accepted

- 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

On 17 October 2010, the Minister of Justice decreed the appointment of a Special Prosecutor for Darfur crimes, who announced that his office was planning to establish a witness-protection programme. The Special Prosecutor however resigned on 11 April 2011. Initial steps towards implementation undertaken: recommendations

A Commission of Inquiry was established to investigate the killing of villagers by a group of armed men in Tabarat on 2 September 2010. (no information available on the progress of its investigation)

Number of convictions: n/a

Number of perpetrators, especially those with command responsibility prosecuted: n/a

Findings of investigation committees made public: n/a

And rehabilitated victims: n/a

**3.2 Ensure that there are no laws that provide legal immunities for State agents for human rights violations; in particular, repeal article 33 of the 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.**

Short-term

- Legal immunities for armed State agents abolished
- Blanket waiver issued

Sudanese legislation still provides immunities which in practice have prevented prosecution in the regular courts of security personnel, including police officers and military soldiers who may have perpetrated crimes and/or are accused of committing human rights violations in Darfur.

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground: recommendations

- Article 34 (2) of the Armed Forces Act 2007 provides immunity of military personnel from criminal prosecution for any offence committed in discharge of official duties or in compliance with lawful superior orders.
- Article 45 (1) of the Police Act 2007 states that criminal procedures and trial may not be initiated against any policemen who committed an act deemed to be a crime during his official duties, except with the permission issued by the Minister of Interior.
- Article 33 of the National Security Forces Act of 1999 granted immunity to members of the security forces against ordinary civil or criminal proceedings for any act connected with official duties. The Act was amended in 2010 but retains immunities provisions and grants the security services extraordinarily broad powers of arrest and detention (Article 52)



- There are administrative guidelines for obtaining waivers of immunity. The process is, however, often cumbersome, time-consuming and requires decisions from authorities in Khartoum. Thus in many cases, immunity provisions seem to have stalled judicial proceedings pending ministerial-level decisions about whether to waive immunity.

Below are examples of cases which illustrate problems with lifting of immunities for police and military officers, or other official personnel

On 24 January 2011, HRS was informed by a relative of a 3-year-old victim that on 1 November 2010, the victim was allegedly raped by a 22-year-old GoS police officer, living near the victim's house. The case was reported to the GoS police on 1 November and confirmed by the Zalingei Civil Hospital. The perpetrator was reportedly arrested and detained for about twenty days by the GoS police and transferred to the Zalingei Court. However, HRS was informed on 26 January that the Zalingei General Court dismissed the rape charge against the perpetrator on the grounds that his immunity as a police officer had not been uplifted by the Prosecutor. The Court advised the complainant to go to the Court of Appeal. HRS is following up the case with the Prosecutor and the Court.

On 31 May 2011, Zalingei General Court convicted a 22 year old GoS police to 5 years imprisonment for raping a minor, only after an appeal by the Prosecutor and the victim's family. He had been earlier acquitted because his immunity was not lifted.

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

#### Short-term

- Number of alleged perpetrators of international crimes committed in Darfur handed over to the International Criminal Court

The Sudan has not cooperated with the International Criminal Court with respect to two warrants issued for the arrest of the President of the Republic

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground: recommendations

## Response of the Government of the Sudan

**Sudan has not ratified the Rome Statute and accordingly will not cooperate with the ICC.**

**3.4 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, and Armed Forces Act.**

Short-term/mid-term

- Number of laws reformed in accordance with international human rights law.

The National Security Act (2010)

Article 51 of the Act grants the right to communicate with family members or a lawyer. However, the exercise of these safeguards is conditional upon not prejudicing the investigation. The NISS may therefore still hold detainees without contact to the outside world where it sees fit. This is contrary to international standards that provide access to a lawyer of one's choice at the earliest stages of investigation, which constitutes an important safeguard against torture and unfair trials. Detainees do not have access to a judge or the right to file a habeas corpus petition within the period of 45 days or four and a half months respectively, depriving them of any judicial protection.

Significant activities undertaken and implementation in process:  
recommendations

On positive note, the Child Act of 2010 has seemingly abolished the death penalty for children. However, the death penalty for adults still remains in force for numerous offences, including those that cannot be considered to be the most serious. Sudan's courts have imposed the death penalty in several instances where the defendants alleged that they had been tortured into making confessions or claimed to be under age but not referred for proper medical examination for their ages to be determined.

**3.5 Ensure the effective functioning of judicial and legislative oversight mechanisms. Ensure there are sufficient numbers of 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.**

Mid-term

- 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.

In North Darfur, there are 29 Judges and 9 Prosecutors; in South Darfur, 45 Judges and 11 Prosecutors and in West Darfur, 30 Judges and 8 Prosecutors. In total there are 132 magistrates across Darfur which is largely insufficient for a population of about 7 million.

Initial steps towards implementation undertaken: recommendations

HRS has organized 15 different thematic trainings for 458 personnel of different security services forces: the NISS, the MI, the CRP and the Police (GoS & SLA/MM) across Darfur.

West Darfur

HRS held a workshop on 18 May 2010 on the use of Form 8 (sexual violence) in accordance with the Criminal Circular No.2 of 2005. The workshop was intended for Police, medical personnel and 20 women participants. The objective of the workshop was to raise awareness amongst the Police, Medical Personnel in Governmental Sector, the Prosecutor, and IDP women on the use and purpose of Form 8.

From 25 to 27 May 2010, HRS trained the Central Reserve Police (CRP), in El Geneina. It was attended by 35 participants.

From 21 to 23 June 2010, HRS trained 30 officers of the CRP in El Geneina. The training covered basic human rights concepts; the concept of human rights in law enforcement; international human rights standards on police conduct and ethics; national legal standards of police conduct and ethics; law enforcement and rights of women as well as basic concepts of international humanitarian law.

From 17 to 18 August 2010, HRS conducted a workshop in Kulbus town on basic human rights concepts. Thirty (30) people were in attendance including law enforcement officials and members of Native Administration. The workshop covered two main topics: introduction to the UDHR and the Code of Conduct for Law Enforcement Officials.

On 28 November 2010, UNAMID Rule of Law organized a workshop on “*Introduction to prison and prison security*” organized for 30 police officers, including 6 women of the Zalingei Central Prison. HRS made a presentation on “*Human rights and prison security*” based on international human rights law such as basic principles on the use of firearms by law enforcement officials, the prevention of the use of force in prison and the minimum standards for treatment of prisoners.

From 1 to 2 May 2011, HRS organized training for 64 junior and senior officers of the Military Intelligence of West Darfur. The training focused on *arrest, detention and treatment of detainees* in response to issues of concern in the daily activities of law enforcement officers.

From 3 to 4 May 2011, HRS in collaboration with the West Darfur Prosecution Office, organized a workshop on *Women’s Rights and Sexual and Gender-Based Violence (SGBV)* for State Prosecutors and members of law enforcement units from across West Darfur. 15 participants attended the workshop.

#### North Darfur

From 28 to 29 June and 29-30 June 2010, HRS organized two trainings for SLA/MM Police officers drawn from SLA/MM areas of responsibility in North Darfur State. The training focused on human rights standards, gender issues and crowd control.

From 2 to 3 September 2010, HRS trained thirty (30) police investigators, social workers, judges and prosecutors from North Darfur on sexual and gender based violence (SGBV) investigation, psycho-social support for Children as well as International and Regional Child Rights Standards and the newly adopted North Darfur 2010 Child Act. Sixteen (16) female participants attended the training which was organized in collaboration with the NGO Save the Children Sweden and the Family and Child Protection Unit of the Police in El Fasher.

#### South Darfur

From 27 to 29 May 2010, HRS trained CRP in South Darfur. It was attended by 29 participants.

From 12 to 16 November 2010, UNAMID Rule of Law trained 30 GoS prison officers (including two women). HRS presented five sessions on the Standard Minimum Rules for the Treatment of Prisoners, Basic Human Rights & the United Nations system, the Universal Declaration of Human Rights, the Prevention of Torture and Human Rights-Based Approach to Prison Management.

On 11 April 2011, HRS trained 24 GoS police investigators on arbitrary arrest and detention. The training was intended to provide GoS police investigators with opportunities to familiarize themselves with the *Standard Minimum Rules for the Treatment of Police Investigators*.

On 12 April, HRS trained on *Procedures of Arrest, Detention, Use of Force and Firearms*, 36 law enforcement officers – GoS police, NISS and MI. National and International human rights standards were discussed in relation to arrest, detention, interrogation, prohibition of torture and fair trial standards.

UNAMID Police trained 1,118 Police personnel (864 from GoS police and 245 from the Armed Movements) in crowd control, community policing, Child Protection, SGBV, Criminal Investigations, Detention and Treatment of Suspects and Crime Scene Management. Prior to the National Elections in May 2010, UNAMID trained approximately 10,000 police personnel in Election Security.

#### **4. Monitoring of implementation of recommendations**

**4.1 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**

The Darfur Human Rights Forum was established. However no meeting was held during the reporting period

Full implementation (i.e. all recommended activities were carried out to lay the framework for improving the situation on the ground): recommendations

#### **GOVERNMENT'S RESPONSE**

**During the reporting period the ACHR was very busy with the preparation of Sudan's report under the UPR, being the reason for not holding the Forum's meeting.**

HRS monitors do not have access to police records and are very often denied by the GoS authorities' requests to interview victims in private. Further they are rarely briefed on progress made on investigations.

Initial steps towards implementation undertaken: recommendations

**4.2 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 a monthly basis on progress made in each investigation.**

**4.3 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.**

Initial steps towards  
implementation undertaken:  
recommendations

**4.4 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.**

HRS has not received any information regarding the issuance by the GoS of standing invitation to any human rights mechanisms to investigate the situation in Darfur.

Significant activities undertaken  
and implementation in process:  
recommendations

The Government participated effectively in the Universal Periodic Review of the country which took place in May this year. Over 160 recommendations ranging from the establishment of a National Human Rights Commission compliant with the Paris Principles to the reform of Sudan's national security apparatus were proposed for adoption by the Government of the Sudan

**4.5 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 centres within the human rights units of the Ministries of the Interior, Defence, Welfare and others.**

Mid-term

- Systems in place and documentation centres functioning effectively

No information made available.

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground:  
recommendations

**4.6 Evaluate, together with the United Nations, the functioning of the State Committees to Combat Violence against Women, the implementation of their workplans as well as the implementation of the National Action Plan.**

Mid-term

- Evaluation conducted and made public

Significant activities undertaken and implementation in process: recommendations

**4.7 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**

Short-term

- NHRC in accordance with Paris Principles established

A NHRC is yet to be established despite the passage of an enabling act by the National Assembly in Khartoum.

Some activities undertaken or reported, but little or no tangible impact reported on the ground: recommendations

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

Mid-term

- OP-CAT ratified

The protocol is yet to be ratified.

No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground: recommendations