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CONSEIL DES DROITS DE L'HOMME  
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**SITUATIONS RELATIVES AUX DROITS DE L'HOMME  
QUI REQUIÈRENT L'ATTENTION DU CONSEIL**

**Rapport final sur la situation des droits de l'homme au Darfour établi par le groupe d'experts mandaté par la résolution 4/8 du Conseil des droits de l'homme, présidé par le Rapporteur spécial sur la situation des droits de l'homme au Soudan et comprenant le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, la Représentante spéciale du Secrétaire général pour les enfants et les conflits armés, la Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, le Représentant du Secrétaire général pour les droits de l'homme des personnes déplacées dans leur propre pays et le Rapporteur spécial sur la question de la torture et des autres peines ou châtimens cruels, inhumains ou dégradants \***

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\* Les annexes au présent rapport sont distribuées telles qu'elles ont été reçues, dans la langue d'origine; elles seront ultérieurement distribuées en arabe et en français.

## Résumé

Le groupe d'experts est composé de sept titulaires du mandat établi le 30 mars 2007 par le Conseil des droits de l'homme dans sa résolution 4/8 et consistant à assurer le suivi effectif et à encourager l'application des résolutions et recommandations sur le Darfour adoptées par ledit conseil, l'ex-Commission des droits de l'homme et d'autres organes de protection des droits de l'homme de l'ONU, ainsi qu'à promouvoir la mise en œuvre des recommandations pertinentes d'autres mécanismes de défense des droits de l'homme de l'ONU, en tenant compte des besoins du Soudan, en assurant la cohérence de ces recommandations et en contribuant à la surveillance de la situation des droits de l'homme sur le terrain.

Le groupe d'experts a présenté son premier rapport au Conseil à la cinquième session de celui-ci (A/HRC/5/6). Ce rapport, dans lequel le groupe explicitait sa méthode, contenait dans son annexe I une liste de recommandations. Présentées sous forme de tableau, ces recommandations précisaient les mesures qu'il était demandé au Gouvernement soudanais de prendre pour appliquer chaque recommandation, pour le court et le moyen terme.

Dans sa résolution OM/1/3, adoptée le 20 juin 2007, le Conseil a prié le groupe d'experts de continuer son travail pendant six mois et de lui soumettre un rapport mis à jour à sa session de septembre 2007 puis un rapport final à sa session suivante. Ayant présenté son rapport intérimaire en septembre 2007 (A/HRC/6/7), le groupe d'experts soumet à présent son rapport final conformément à cette résolution.

Dans le présent rapport, le groupe d'experts passe en revue les efforts faits par le Gouvernement soudanais pour appliquer ses recommandations, en utilisant à cet effet les indicateurs qu'il a présentés dans son premier rapport et en partant des informations qu'il a reçues du Gouvernement soudanais, oralement et par écrit, ainsi que d'autres sources, notamment les institutions, organes et programmes des Nations Unies et de l'Union africaine dotés d'une compétence opérationnelle au Darfour.

La conclusion du groupe d'experts est que la coopération avec le Gouvernement soudanais a bien fonctionné au niveau de la procédure. Sur le fond, toutefois, il constate que peu de recommandations ont été pleinement appliquées ou auraient eu un impact notable sur le terrain. Plusieurs recommandations classées parmi celles relevant du court terme et qui auraient pu être appliquées dans les trois mois, parce que ne nécessitant ni de longues démarches administratives ni des ressources supplémentaires, n'ont pas encore été appliquées. Le Gouvernement a certes fait les premiers pas vers l'application de bon nombre de recommandations mais, selon les informations reçues des organisations opérant au Darfour, ces premières mesures n'ont pas encore eu un impact suffisant sur le terrain. Enfin, un nombre non négligeable de recommandations n'ont pas été abordées du tout par le Gouvernement. Le groupe d'experts prend certes acte des efforts faits par le Gouvernement soudanais jusqu'ici mais il juge préoccupantes les informations qui lui sont parvenues d'où il ressort clairement que, à de rares exceptions près, ces efforts n'ont pas encore débouché sur une amélioration de la situation des droits de l'homme au Darfour.

Le groupe d'experts rappelle le consensus au sein du Conseil quant à la gravité des violations en cours des droits de l'homme et du droit international humanitaire et à l'urgente nécessité de se concentrer sur l'application des recommandations existantes afin d'améliorer

la situation des droits de l'homme au Darfour, et il demande instamment au Gouvernement d'appliquer intégralement et sans plus tarder les recommandations désignées comme étant prioritaires.

Le groupe recommande au Conseil des droits de l'homme de maintenir ce processus d'examen régi par les délais et les indicateurs d'évaluation de la mise en œuvre établis par le groupe. Tout en soulignant que, comme il ressort clairement de la résolution 4/8 du Conseil des droits de l'homme, le groupe a été créé pour veiller au suivi et à la mise en œuvre efficaces des résolutions et recommandations existantes sur le Darfour et que son mandat et celui du Rapporteur spécial sur le Soudan, plus vaste et couvrant l'ensemble du pays, sont complémentaires, le groupe est disposé à poursuivre le processus d'examen, si cette tâche n'est pas confiée audit rapporteur spécial. Il propose que l'on envisage le renouvellement de son mandat, l'envoi éventuel d'une mission d'évaluation au Soudan, y compris la région du Darfour, et l'octroi d'un délai suffisant pour l'analyse de la mise en œuvre des recommandations pour le moyen terme, qui arrivent à expiration le 20 juin 2008.



## I. INTRODUCTION

1. Profondément préoccupé par les violations en cours des droits de l'homme et du droit international humanitaire au Darfour, le Conseil des droits de l'homme a adopté par consensus à sa quatrième session ordinaire, le 30 mars 2007, la résolution 4/8 sur la suite donnée à la décision S-4/101 du 13 décembre 2006 adoptée par le Conseil des droits de l'homme à sa quatrième session extraordinaire intitulée «Situation des droits de l'homme au Darfour».
2. Dans sa résolution 4/8, le Conseil des droits de l'homme a décidé de réunir un groupe de sept titulaires de mandat et de le charger de travailler avec le Gouvernement soudanais et les organes de protection des droits de l'homme compétents de l'Union africaine et d'engager d'étroites consultations avec le Président du Comité pour le dialogue et la consultation Darfour-Darfour en vue d'assurer le suivi effectif et d'encourager l'application des résolutions et recommandations sur le Darfour adoptées par le Conseil des droits de l'homme, l'ex-Commission des droits de l'homme et d'autres organes de protection des droits de l'homme de l'ONU, ainsi que pour promouvoir la mise en œuvre des recommandations pertinentes d'autres mécanismes de défense des droits de l'homme de l'ONU, en tenant compte des besoins du Soudan à cet égard, pour préserver la cohérence de ces recommandations et contribuer à surveiller la situation des droits de l'homme sur le terrain.
3. Le groupe d'experts est présidé par M<sup>me</sup> Sima Samar, Rapporteuse spéciale sur la situation des droits de l'homme au Soudan, et comprend M. Philip Alston, Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, M<sup>me</sup> Radhika Coomaraswamy, Représentante spéciale du Secrétaire général pour les enfants et les conflits armés, M<sup>me</sup> Yakin Ertürk, Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences, M<sup>me</sup> Hina Jilani, Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, M. Walter Kälin, Représentant du Secrétaire général pour les droits de l'homme des personnes déplacées dans leur propre pays, et M. Manfred Nowak, Rapporteur spécial sur la question de la torture et autres peines ou traitements cruels, inhumains ou dégradants. M. Kälin fait office de rapporteur du groupe d'experts. Les services fonctionnels dont le groupe d'experts a besoin sont essentiellement assurés par le Groupe Afrique du Service du renforcement des capacités, par le Service des procédures spéciales et par un coordinateur.
4. Le groupe d'experts rappelle qu'il interprète son mandat comme consistant à assurer le suivi effectif et à encourager l'application des résolutions et recommandations pertinentes sur le Darfour dans le cadre d'un processus de facilitation et de dialogue avec le Gouvernement soudanais.
5. Dans son premier rapport au Conseil des droits de l'homme (A/HRC/5/6), présenté le 8 juin 2007, le groupe d'experts a réaffirmé ses préoccupations concernant la situation des droits de l'homme au Darfour exprimées par la résolution 4/8 du Conseil, défini les domaines prioritaires pour l'application des recommandations, signalé une série de recommandations concrètes considérées comme particulièrement importantes pour améliorer la situation des droits de l'homme au Darfour et devant être appliquées à court et moyen terme et prié instamment le Gouvernement soudanais de donner suite sans tarder aux recommandations qu'il s'était engagé à mettre en œuvre (A/HRC/5/6, par. 26) et de poursuivre son dialogue avec le groupe d'experts sur l'application des autres recommandations formulées par ce dernier. En annexe audit rapport,

figuraient un récapitulatif des recommandations, ainsi que des délais et des indicateurs pour mesurer les progrès dans leur mise en œuvre.

6. Dans sa résolution OM/1/3, le Conseil des droits de l'homme a prié le groupe d'experts de continuer son travail pendant six mois et de lui soumettre un rapport mis à jour à sa session de septembre 2007 et un rapport final à sa session suivante. Dans son rapport intérimaire au Conseil (A/HRC/6/7), le groupe a remercié le Gouvernement soudanais de sa coopération en cours en vue de fournir des renseignements dans un esprit de dialogue constructif. Il a décidé de ne pas soumettre d'évaluation détaillée de l'application des différentes recommandations dans son rapport intérimaire. Le groupe a en effet estimé qu'il importait de laisser au Gouvernement soudanais, autant que faire se peut, le temps pour prendre des mesures en vue de donner suite à ses recommandations et faire rapport sur ces mesures et sur les éventuels effets qu'elles auront produits. En outre, le groupe avait à cœur d'obtenir autant de renseignements détaillés que possible auprès de toutes les sources fiables afin de pouvoir évaluer les informations sur les effets de la mise en œuvre sur le terrain, au moyen des indicateurs définis dans le premier rapport du groupe. Le groupe a conclu que même si certaines des recommandations avaient été partiellement appliquées, il ne pouvait affirmer qu'un impact manifeste pouvait être constaté sur le terrain. En ce qui concernait certaines autres recommandations, les premiers pas avaient été franchis vers leur application, alors que pour d'autres recommandations encore, le groupe ne disposait pas d'informations suffisantes pour confirmer une quelconque application.

7. Dans le présent rapport, soumis en application de la résolution OM/1/3, le groupe d'experts passe en revue les efforts faits par le Gouvernement soudanais pour appliquer les recommandations établies par le groupe, à partir des renseignements que ce dernier a reçus du Gouvernement soudanais, oralement et par écrit, et d'autres sources, notamment les institutions, organes et programmes des Nations Unies et de l'Union africaine dotés d'une compétence opérationnelle au Darfour.

8. Utilisant les indicateurs qu'il a présentés dans l'annexe à son premier rapport au Conseil, le groupe procède à un bilan des activités du Gouvernement visant à mettre en œuvre les recommandations pour le court terme et des effets qu'elles auraient eus au Darfour. Le groupe relève également tout progrès que le Gouvernement aurait enregistré en ce qui concerne les recommandations pour le moyen terme. En conséquence, le groupe s'intéresse essentiellement aux événements survenus au Darfour entre l'adoption de la résolution OM/1/3 du Conseil, le 20 juin 2007, et le milieu de novembre 2007. Dans l'annexe I au présent rapport, le groupe d'experts présente un bilan plus détaillé de l'état actuel de la mise en œuvre des recommandations formulées dans son premier rapport. L'annexe II contient une liste de documents reçus du Gouvernement soudanais depuis juin 2007.

## **II. MÉTHODES DE TRAVAIL**

9. Pour établir le présent rapport, le groupe d'experts a continué d'appliquer les méthodes qu'il a suivies jusqu'à présent consistant à:

a) Engager une coopération et travailler de manière transparente avec le Gouvernement soudanais et d'autres partenaires concernés au sein de la communauté internationale;

b) Repérer les obstacles à l'application des précédentes recommandations;

c) Établir une distinction entre les recommandations pour le court terme et celles pour le moyen terme en vue d'aider le Gouvernement soudanais à appliquer toutes les recommandations formulées dans l'annexe de son premier rapport, à faire en sorte que les victimes des violations passées et en cours des droits de l'homme et du droit humanitaire restent au cœur des préoccupations et à réduire le nombre de ces violations dans l'avenir.

10. Muni des indicateurs définis dans son premier rapport, et conscient que le Conseil, dans sa résolution 4/8, ne lui demande aucune activité d'établissement des faits, le groupe d'experts s'emploie essentiellement dans le présent rapport à déterminer le degré d'application des recommandations à deux niveaux. D'une part, il s'agit de déterminer dans quelle mesure le Gouvernement soudanais a entrepris les activités recommandées, et ce, à partir des renseignements et de la documentation fournis par le Gouvernement. D'autre part, il s'agit d'analyser les renseignements reçus de la Mission des Nations Unies au Soudan (MINUS), d'organismes des Nations Unies et d'autres organisations opérant au Darfour afin de déterminer si, et dans quelle mesure, des effets concrets ont été constatés sur le terrain. Cette méthode permet au groupe de déterminer, au regard de chaque recommandation, si a) elle a été intégralement appliquée (c'est-à-dire que toutes les activités recommandées ont été menées à bien et, de ce fait, la situation sur le terrain s'est améliorée en conséquence); b) des activités notables ont été entreprises et un effet concret a été constaté; c) des activités ont été entreprises mais les effets constatés sont faibles ou nuls; d) les premiers pas vers l'application ont été faits; ou e) il n'y a eu aucune mise en œuvre. Le présent rapport récapitule les constatations du groupe d'experts et son annexe I expose dans le détail les renseignements reçus du Gouvernement et d'autres sources ainsi que l'évaluation du groupe pour chacune des recommandations figurant dans son premier rapport au Conseil.

11. Le groupe d'experts décrit les activités qu'il a menées depuis son rapport intérimaire puis récapitule ses constatations quant à l'état actuel de la mise en œuvre de chacun des quatre grands groupes de recommandations identifiés dans son premier rapport, à savoir: a) protection des droits de l'homme; b) accès humanitaire, y compris la protection des travailleurs humanitaires contre le harcèlement et les attaques et la nécessité de faciliter l'accès aux civils, notamment aux personnes déplacées; c) responsabilisation et justice; et d) suivi de l'application des recommandations. Le rapport s'achève par les principales conclusions et recommandations du groupe.

### III. ACTIVITÉS

12. On trouvera une description des précédentes activités du groupe d'experts dans le premier rapport du groupe au Conseil (A/HRC/5/6) et dans son rapport intérimaire (A/HRC/6/7). Le rapport intérimaire décrit dans le détail les consultations que le groupe a menées avec l'Union africaine et ses mécanismes de protection des droits de l'homme. Depuis, le rapporteur du groupe a eu des consultations avec la Commissaire aux affaires politiques de l'Union africaine, Julia Dolly Joyner, et le Commissaire à la paix et à la sécurité de l'Union africaine, Said Djinnit.

13. Depuis la présentation de son rapport intérimaire, le groupe a pris contact avec la composante Droits de l'homme de la MINUS pour recueillir des informations auprès des institutions, organes et programmes des Nations Unies concernés opérant au Darfour. Le présent rapport intègre les informations reçues de ces sources. Par ailleurs, le 25 octobre 2007, à New York, le groupe s'est entretenu avec les représentants de ces institutions, organes et

programmes et des organisations non gouvernementales concernés par la situation des droits de l'homme et du droit humanitaire au Darfour afin d'obtenir des renseignements qui permettraient une évaluation plus précise de l'état actuel de l'application des recommandations formulées par le groupe. Celui-ci a voulu s'assurer autant que faire se peut que l'abondante information recueillie auprès de ces sources était le fruit d'une observation directe, d'une vérification minutieuse et, le cas échéant, d'un travail de corroboration interinstitutions.

14. Le 9 octobre 2007, comme suite à une demande d'éclaircissement de la Mission permanente du Soudan à propos des renseignements demandés par le groupe, celui-ci lui a adressé une série de questions précises propres à l'aider à apporter une réponse aussi complète que possible sur l'état actuel de la mise en œuvre des recommandations. Par la suite, le Gouvernement a présenté au groupe, pour examen, une série de projets de lois et d'ordonnances relatifs à la police et aux forces armées, ainsi qu'un certain nombre de documents contenant des renseignements que le groupe avait demandés à propos de certaines questions pertinentes (voir annexe II).

15. Le 15 novembre, le groupe s'est entretenu, pour la troisième fois depuis le début de son mandat, avec une délégation interministérielle de haut niveau du Gouvernement soudanais venue de Khartoum et des représentants de la Mission permanente du Soudan auprès de l'Office des Nations Unies à Genève afin d'examiner l'état de l'application des recommandations et clarifier un certain nombre de questions en suspens<sup>1</sup>. Le lendemain, le groupe s'est réuni pour prendre connaissance de la mise à jour fournie par le Gouvernement et établir le présent rapport.

16. Le groupe d'experts sait gré au Gouvernement soudanais de sa coopération continue pour ce qui est de la présentation au groupe d'informations tant écrites qu'orales en temps voulu, du dialogue très ouvert et constructif avec la délégation interministérielle de haut niveau et les représentants de la Mission permanente du Soudan auprès de l'Office des Nations Unies à Genève et de sa disponibilité pour répondre aux questions et aux demandes d'éclaircissement émanant du groupe. Le groupe apprécie les efforts faits par le Gouvernement pour fournir également des informations sur les recommandations qui n'étaient pas expressément désignées comme étant acceptées dans le premier rapport (A/HRC/5/6, par. 26). Le groupe estime que, au niveau de la procédure, la coopération avec le Gouvernement a bien fonctionné.

17. Le groupe d'experts remercie également la MINUS, les organismes des Nations Unies établis à New York et Genève et d'autres parties, notamment les organisations non gouvernementales, qui ont fourni des informations sur l'état actuel de l'application des

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<sup>1</sup> La délégation interministérielle du Gouvernement soudanais était conduite par M. Abdeldaiem Zumrawi, Sous-Secrétaire à la justice. Elle comprenait également M. Abdelmuniem Osman Taha, Rapporteur du Conseil consultatif des droits de l'homme au Ministère de la justice; M. Hassabo Mohamed Abdelrahman, Commissaire à l'aide humanitaire; le général de brigade Hassan Hamid, du Ministère de la défense; et M. Muddathir Abdelrahim, du Service national du renseignement et de la sécurité. Les membres de la délégation étaient accompagnés des membres suivants de la Mission permanente du Soudan auprès de l'Office des Nations Unies à Genève: l'Ambassadeur Ibrahim Mirghani Ibrahim Mohamed Kheir, Représentant permanent; l'Ambassadeur Omer Dahab; l'Ambassadrice Rahma Salih Elobeid, M. Salah Elmubarak et M<sup>me</sup> Iqbal Iss-hag.

recommandations à la lumière des délais et indicateurs fixés par le groupe d'experts dans son premier rapport. Il apprécie également la coopération de l'Union africaine et de ses mécanismes de protection des droits de l'homme.

#### **IV. ÉTAT DE L'APPLICATION DES RECOMMANDATIONS**

##### **A. Protection des droits de l'homme**

##### **1. Protection de la population civile, y compris les personnes déplacées**

18. En ce qui concerne la protection de la population civile, le groupe d'experts avait proposé que le Gouvernement soudanais adresse aux forces armées et à toute milice sous son contrôle et fasse appliquer des ordres clairs interdisant de prendre pour cibles de leurs attaques des personnes ou des objets civils (y compris les terres cultivées et le bétail) ou de lancer des attaques aveugles (notamment l'incendie de villages et les bombardements aériens); et précisant que de telles attaques peuvent être constitutives de crimes de guerre et de crimes contre l'humanité, que les personnes suspectées d'avoir commis de tels actes, notamment celles exerçant des fonctions de commandement, feront l'objet d'enquêtes et seront traduites en justice; et que les immunités éventuelles seraient levées (recommandation 1.1.1) et des poursuites engagées (voir plus loin, section C sur la responsabilisation et la justice). Le Gouvernement soudanais a donné au groupe d'experts des informations sur le projet de loi sur les forces armées de 2007 (voir plus loin, par. 45), qui contient un chapitre sur le droit international humanitaire et les crimes de guerre et est actuellement examiné par le Parlement. Le 30 octobre 2007, le groupe d'experts a reçu une copie d'une déclaration des forces armées soudanaises concernant le règlement et les règles de conduite régissant le personnel des forces armées dans les zones de conflit, que le Gouvernement dit avoir fait distribuer à toutes les unités des forces armées. Le groupe a été également informé d'une directive relative au code de conduite des forces armées dans les conflits armés, publiée par le quartier général de l'Unité des opérations militaires conjointes. Dans ce code de conduite, il est expliqué que les dispositions du droit international humanitaire sont parfaitement compatibles avec la loi islamique, en insistant sur le fait que la responsabilité de mettre fin aux violations du droit humanitaire incombe aux commandants militaires et à tout chef militaire qui, dans le secteur dont il est responsable, doit veiller à ce que la loi soit appliquée et s'assurer personnellement que tous ses subordonnés sont conscients de leurs responsabilités en vertu de la loi. Le code stipule que toute personne participant à des opérations militaires doit éviter de porter atteinte à la population civile ou à des objets civils, à moins que ces derniers ne deviennent des objectifs militaires; que toutes les précautions voulues doivent être prises; que des réparations doivent être accordées si une erreur est commise; et que tous les types d'attaques contre les femmes doivent être interdits. Sont également interdits les attaques, les assassinats, la torture ou la détention de civils pris dans les hostilités. Les civils qui participent à des actions hostiles doivent être confinés dans certains secteurs et ne pas subir de traitements inhumains. Les personnes et organisations qui apportent une aide humanitaire doivent être protégées. Le code s'adresse aux forces armées soudanaises et aux forces de défense populaire et ne mentionne aucune milice opérant sous le contrôle du Gouvernement ou en coopération avec celui-ci.

19. Le Gouvernement a affirmé que ces mesures et d'autres prises en application des recommandations du groupe avaient débouché sur des progrès manifestes au Darfour, dont témoignait, en particulier, le retour dans leurs foyers de 359 000 personnes déplacées et réfugiés,

une diminution du nombre de cas déclarés de violence contre les civils, les femmes en particulier, et la présence massive de travailleurs humanitaires au Darfour. Sans se prononcer sur la nature et le caractère plus ou moins durable des retours de personnes déplacées dont il est fait état, le groupe d'experts note que, selon les chiffres des Nations Unies, plus de 267 000 personnes ont été déplacées depuis le début de 2007, avec des pointes en août, septembre et octobre. Le groupe prend note également des rapports très détaillés faisant état de la poursuite d'actes de violence commis contre des civils dans différentes parties du Darfour (voir annexe I), ce qui donne à penser que les mesures prises n'ont eu qu'un effet limité ou nul sur le terrain. Selon des sources onusiennes, entre le 20 juin et le milieu de novembre 2007, au moins 15 attaques terrestres et aériennes ont été lancées contre des centres civils dans les trois États du Darfour par les forces gouvernementales, les milices supplétives et la faction Minni Minawi de l'Armée de libération du Soudan (SLA/MM). À plusieurs reprises, des heurts entre parties rivales ont fait des victimes civiles, faute d'une volonté de distinguer entre combattants et non-combattants et par un usage disproportionné et aveugle des moyens de combat. Plus de 170 civils ont péri dans ces attaques, qui ont en outre donné lieu à un pillage et une destruction généralisés de biens civils, notamment de centaines de maisons, au vol et à l'abattage d'un grand nombre de bêtes et au déplacement de milliers de personnes. Outre ces attaques à grande échelle, les civils, en particulier les personnes déplacées, seraient victimes au Darfour d'attaques individuelles prenant la forme de violences physiques, de harcèlements, d'intimidations et de chantages. Ces incidents, qui sont survenus essentiellement autour des camps de personnes déplacées, ont restreint la circulation des civils et fortement perturbé leur vie quotidienne. Le Gouvernement a certes pris quelques mesures de prévention et de protection de la population civile contre ces attaques (recommandation 1.1.3) mais cette population serait encore dans une large mesure privée de protection contre de telles attaques au Darfour.

20. Le Gouvernement a informé le groupe d'experts de l'existence d'un plan de contrôle et de désarmement des milices en coopération avec l'ONU et la Mission de l'Union africaine au Soudan (MUAS) mais en ajoutant que, faute de disposer de fonds suffisants et parce que la situation au Darfour ne favorise pas de telles mesures tant que le conflit durera, aucun progrès n'a été enregistré sur ce plan. Il n'a pas fourni de renseignements sur le tri à effectuer dans des forces de sécurité telles que les forces de défense populaire, les gardes frontière chargés du renseignement, la police de réserve centrale, la police populaire ou la police nomade, afin d'en exclure les auteurs de violations graves des droits de l'homme et les traduire en justice (recommandation 1.1.2).

21. S'agissant de la recommandation tendant à mettre sur pied, en consultation avec les communautés concernées, des patrouilles de police régulières et efficaces pour protéger les populations vulnérables au Darfour, avec le soutien de la MUAS, notamment autour des camps et villages de personnes déplacées, le Gouvernement a évoqué un mémorandum d'accord entre le Ministère soudanais de l'intérieur et la Mission de l'Union africaine concernant un plan de sécurisation des camps, en vertu duquel la sécurité à l'intérieur des camps serait assurée par la police soudanaise tandis que la MUAS assurerait la sécurité et la protection des zones situées autour des camps. Le Gouvernement a également informé le groupe d'experts que les effectifs suivants avaient été déployés: dans le Darfour-Nord, 142 officiers et 6 353 sous-officiers et hommes de troupe assurant la sécurité de 20 camps de personnes déplacées; dans le Darfour-Sud, 119 officiers et 6 148 sous-officiers et hommes de troupe assurant la sécurité de 25 camps de personnes déplacées; et dans le Darfour-Ouest, 114 officiers et 5 413 sous-officiers et hommes de troupe assurant la sécurité de 28 camps de personnes déplacées (recommandation 1.1.5).

Le groupe d'experts n'a pas reçu, du Gouvernement ou d'autres sources, des renseignements concrets et détaillés sur les lieux et les fréquences des patrouilles ni sur leur éventuel effet positif quant au nombre d'attaques dans les zones patrouillées.

## **2. Protection des femmes contre la violence**

22. Les comités d'État existants chargés de la lutte contre la violence à l'égard des femmes jouent un rôle qui pourrait devenir important dans l'amélioration de la protection des femmes contre la violence. Le Gouvernement a informé le groupe qu'un plan national d'action avait été publié et que les trois comités d'État avaient élaboré un plan de travail pour la lutte contre la violence à l'égard des femmes mais n'a pas fourni de copie de ce plan de travail pour les comités du Darfour-Nord et du Darfour-Ouest (recommandations 1.2.1 et 1.2.4). Le groupe d'experts a reçu le 30 octobre un complément d'information d'où il ressort que des plans d'action avaient été établis pour les comités d'État du Darfour pour les six mois suivants (juillet-décembre 2007), essentiellement axés sur les ateliers de renforcement des capacités. Les institutions, organes et programmes des Nations Unies opérant au Darfour ont signalé que les comités d'État du Darfour-Sud et du Darfour-Nord avaient adopté leur plan de travail. Le Comité d'État du Darfour-Sud se réunissait régulièrement, ce qui n'est pas le cas des deux autres comités. Un groupe relevant de l'Équipe spéciale conjointe pour l'évaluation des comités d'État, composé du Président, de deux membres du Conseil consultatif des droits de l'homme et de représentants du Ministère de l'intérieur et de la composante Parité entre les sexes et droits de l'homme de la MINUS, a effectué une mission dans les trois comités d'État du 3 au 6 septembre. Dans le cadre de cette mission, il a eu des entretiens avec des responsables gouvernementaux, des organisations non gouvernementales et les comités d'État. À l'issue de cette mission, ce groupe a soumis un rapport contenant ses constatations.

23. Le 18 août 2007, le Ministre de la justice a publié une déclaration sur les mesures propres à éliminer la violence contre les femmes au Darfour, dans laquelle le Gouvernement condamnait la violence contre les femmes et réaffirmait une politique de tolérance zéro à l'égard de tels crimes. Par une lettre du 29 octobre 2007, le groupe d'experts a été informé de l'existence d'un code de conduite des forces armées durant les conflits armés (voir plus haut, par. 18) qui interdit, entre autres, la violence contre les femmes (recommandations 1.2.2 et 1.2.5). Le Gouvernement informait aussi le groupe qu'il avait entrepris d'enquêter sur les auteurs de tels crimes, de les identifier et de les traduire en justice, d'indemniser conformément à la loi les victimes et de mettre en œuvre avec une volonté plus résolue le plan national d'action de 2005. À titre d'exemple, le Ministère de la justice a dépêché 21 spécialistes des enquêtes criminelles dans les trois États du Darfour et créé des services du ministère public là où il n'y en avait pas, le but étant de faciliter l'accès à la justice. Le Gouvernement a aussi déclaré que 40 agents de police femmes avaient été formées et déployées au Darfour pour aider les victimes de violences sexuelles et d'autres formes de violence liées au sexe. Il a fourni des statistiques sur les plaintes et les verdicts en matière de violence contre les femmes dans le Darfour-Nord, le Darfour-Sud et le Darfour-Ouest et a informé le groupe que le nombre de cas signalés de viol demeurait faible (24 cas pour le Darfour depuis le début de 2007).

24. Les institutions, organes et programmes des Nations Unies opérant au Darfour ont fait observer que, nonobstant la déclaration du 18 août du Ministère de la justice, le problème de la violence contre les femmes au Darfour persistait. De juin à octobre, les organismes des Nations Unies ont établi la véracité d'incidents de violence sexuelle pratiquement chaque

semaine, soit 46 victimes au total (45 femmes et un garçon de 10 ans). En raison des problèmes logistiques qui empêchent de se rendre sur le terrain et considérant que les cas de violence sexuelle ou liés au sexe ne sont pas systématiquement déclarés, les organismes des Nations Unies tablaient sur un nombre effectif d'incidents nettement supérieur à celui des déclarations. Plusieurs cas de violence sexuelle ou liés au sexe ont été vérifiés dans le Darfour-Sud, dont la plupart touchaient des femmes déplacées dans les camps de Kalma et Al Salam, ainsi qu'à Umbraida et Gereida. Dans la plupart des cas vérifiés, les victimes n'avaient pas fait de déclaration à la police, par crainte de la stigmatisation sociale ou parce qu'en d'autres occasions la police n'avait pas donné suite. Dans la partie occidentale du Darfour-Ouest, moins de cas ont été signalés en 2007 par rapport à la même période les années précédentes. Dans le couloir sud-ouest du Darfour-Ouest, la prévalence des incidents de violence sexuelle ou liés au sexe était bien plus faible que dans la zone nord d'El Geneina. Aucun cas n'a été signalé au cours de cette période dans le sud du Darfour-Ouest. Dans le Darfour-Nord, on comptait 30 cas vérifiés, soit 19 cas de viol, 4 cas de tentative de viol et 7 cas d'agression physique et de harcèlement. Dans 23 de ces 30 cas, les victimes étaient des personnes déplacées. Les Nations Unies n'ont recueilli sur le terrain aucune information indiquant que des agents de police femmes avaient été effectivement déployées dans les camps de personnes déplacées et les postes de police du Darfour entre juin et novembre 2007.

25. En ce qui concerne la recommandation tendant à mettre ou remettre sur pied, en consultation avec les membres des communautés, notamment les femmes, des patrouilles de ramassage de bois de chauffe pour les camps et villages de personnes déplacées (recommandation 1.2.3), le groupe n'a pas pu obtenir du Gouvernement ou d'autres sources des renseignements concrets et détaillés à ce sujet. Le Gouvernement a toutefois expliqué que, compte tenu des difficultés que pose le transfert de femmes agents de police de Khartoum au Darfour, il envisageait de recruter localement des femmes dans les rangs de la police.

26. Le Gouvernement a signalé que le Ministère de la justice surveillait l'application de la circulaire n° 2 supprimant la condition selon laquelle les femmes victimes de violence devaient signaler leur cas à la police et obtenir de celle-ci le formulaire n° 8 pour pouvoir bénéficier de l'accès aux soins de santé; il n'avait eu connaissance d'aucun cas de femme qui se serait vu refuser l'accès aux soins médicaux. Une circulaire sur les soins médicaux prodigués aux victimes de viol a été établie par le Ministère de la santé, en coopération avec l'Organisation mondiale de la santé, et a été distribuée aux prestataires de soins de santé. Le groupe d'experts n'a reçu d'aucune autre source des informations indiquant que l'accès aux services de soins de santé aurait été refusé à des femmes au motif qu'elles n'étaient pas en possession du formulaire n° 8 des services de police, mais il a eu connaissance de certaines difficultés rencontrées par les femmes qui avaient été traitées dans les dispensaires d'organisations non gouvernementales puis avaient essayé de déclarer leur cas à la police (recommandation 1.2.6).

27. Quant à la question de savoir si les victimes de viol pouvaient être sanctionnées pour adultère, le Gouvernement a insisté sur le fait que l'interprétation correcte de l'article 145 du Code pénal de 1991, celle retenue par les tribunaux soudanais, excluait une telle possibilité et qu'il ne voyait donc pas de problème à ce niveau (recommandation 1.2.8).

28. Selon le Gouvernement, une recommandation en vue de la ratification du Protocole sur les droits des femmes en Afrique avait été soumise au Ministre de la justice. S'agissant de la

ratification de la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes (recommandation 1.2.9), le Gouvernement a organisé des ateliers, des séminaires et des consultations. Il s'inquiétait du fait que le traitement des réserves formulées par certains pays islamiques fragilisait les réserves qu'il pourrait lui-même être amené à formuler s'il adhéra à la Convention.

### **3. Les enfants et les conflits armés**

29. En ce qui concerne le recrutement d'enfants soldats (recommandations 1.1.4 et 1.3.1), le Gouvernement a informé le groupe d'experts qu'il avait identifié 857 enfants soldats dans les zones orientales de Jebel Marra/Sharia. Il a également signalé que l'UNICEF et la SLA/MM s'étaient accordés sur un plan d'action et que la SLA/MM avait fait part de sa volonté d'engager le processus de vérification. Le Gouvernement a également fourni des informations sur un atelier relatif à la démobilisation des enfants soldats qui devait être organisé en septembre 2007 à l'intention des membres des forces régulières et des forces mixtes. Les institutions, organes et programmes des Nations Unies opérant au Darfour ont signalé moins de cas de recrutement d'enfants entre juin et octobre 2007 par rapport aux chiffres d'une période comparable antérieure. Au cours de la période qui fait l'objet du présent rapport, les membres du personnel des Nations Unies ont rassemblé des éléments de preuve attestant que le JEM/PW (faction «Peace Wing» du Mouvement pour la justice et l'égalité) recrutait des enfants parmi les communautés de personnes déplacées à Dereig, dans le Darfour-Sud. Ils ont également signalé que l'UNICEF et l'Armée du Mouvement de libération du Soudan (SLM/A) s'étaient accordés, le 11 juin 2007, sur un plan d'action commun en vue du désarmement, de la démobilisation et de la réinsertion des enfants associés à la SLM/A. La mise en œuvre de ce plan a été retardée en raison de la reprise imminente des pourparlers de paix. Cela étant, au milieu d'août 2007, les commandants de la SLA ont réitéré à l'UNICEF leur attachement à ce plan. Des commissions du désarmement, de la démobilisation et de la réinsertion ont été créées à Nyala, Geneina et El Fasher et dotées d'effectifs. Toutefois, ce personnel n'avait pas été formé à la protection de l'enfance ou à la démobilisation et la réinsertion des enfants (recommandation 1.3.3). Qui plus est, ces commissions ne peuvent commencer à travailler qu'en cas d'accord clair entre le Gouvernement et les groupes armés sur la façon de procéder.

30. Le Gouvernement a certes indiqué que plusieurs lois protégeaient les enfants mais il n'a donné aucune information sur ce qui est fait pour veiller à ce que les violations dont sont victimes des enfants fassent l'objet d'enquêtes et de poursuites rigoureuses et systématiques pour mettre fin au sentiment d'impunité qui prévaut actuellement pour ces violations (recommandation 1.3.2). Le groupe a été néanmoins informé par le Gouvernement que des unités chargées des questions relatives à l'égalité entre les sexes et à l'enfance avaient été créées au sein des services de police dans le Darfour-Ouest en mai et dans le Darfour-Nord en août. Selon les informations reçues, le Gouvernement n'a pas encore créé une unité de ce type dans le Darfour-Sud. Le groupe d'experts n'a pas eu connaissance d'un éventuel impact de cette mesure sur le terrain.

### **4. Protection contre les exécutions sommaires, la détention arbitraire, les disparitions et la torture**

31. Le groupe d'experts a recommandé au Gouvernement d'adresser aux organismes chargés de l'application des lois, aux forces armées et aux milices qu'il contrôle, et de faire appliquer par

eux, des instructions indiquant clairement que les exécutions sommaires, la détention arbitraire, les disparitions forcées ou involontaires et la torture sont illégales et ne seront pas tolérées, qu'elles peuvent être constitutives de crimes de guerre et de crimes contre l'humanité, que les personnes soupçonnées de tels actes feront l'objet d'enquêtes et seront traduites en justice et que les immunités éventuelles seront levées (recommandations 1.4.1 et 1.4.3). À ce propos, le groupe note que des mesures ont été prises pour donner suite à ces recommandations, par exemple l'ordonnance n° 58/2007 interdisant toute forme d'agression contre des civils placés en garde à vue et demandant aux autorités pénitentiaires de traiter les détenus d'une manière qui protège leurs droits. De même, le 12 août 2007, le Directeur général du Service de la sécurité nationale et du renseignement (NISS) a donné des instructions concernant l'interdiction des arrestations arbitraires, de la mise en détention dans des lieux autres que les installations de détention désignées, des agressions physiques ou des mauvais traitements psychologiques à l'encontre des détenus, et le respect de la dignité des personnes en état d'arrestation. Rien n'indiquait dans ces ordonnances que de tels actes étaient considérés comme des crimes de guerre ou des crimes contre l'humanité et il n'y était pas fait mention des normes internationales pertinentes. De plus, aucune de ces deux ordonnances n'est applicable aux forces armées ou aux milices contrôlées par le Gouvernement.

32. Le Gouvernement a informé le groupe d'experts qu'en 2007, six stages de formation avaient été organisés à l'intention de 120 membres des services de sécurité; il s'agissait de 14 conférences sur les principes des droits de l'homme et du droit international humanitaire, qui mettaient particulièrement l'accent sur les garanties à respecter en cas d'arrestation et sur les droits des détenus.

33. Selon des informations émanant des Nations Unies portées à l'attention du groupe d'experts, dans chacun des États du Darfour, des civils avaient été arrêtés de façon arbitraire, victimes d'actes de torture et de mauvais traitements, privés d'accès à un avocat, détenus sans être informés des raisons de leur arrestation et maintenus en prison pendant de longues périodes sans avoir comparus devant un juge. Au nombre des personnes ciblées figuraient des militants communautaires qui défendent les droits de l'homme; des Soudanais qui travaillent pour des organisations internationales ou sont perçus comme coopérant trop avec la communauté internationale; des personnes membres des ethnies dominantes au sein des divers groupes rebelles et des Soudanais considérés comme hostiles au Gouvernement. Les forces de sécurité gouvernementales ont procédé à des arrestations à la suite d'affrontements entre les parties belligérantes (voir annexe I pour un résumé des cas relevant de la recommandation 1.4.1). Toujours selon ces informations, pendant la période considérée, il y a eu, entre autres, cinq cas établis d'actes de torture et de mauvais traitements perpétrés par les services du renseignement militaire, le NISS et la police dans la région orientale du Darfour-Ouest. Au Darfour-Sud, on a la preuve de 15 cas de détention arbitraire, y compris de détention au secret ou dans des lieux non officiels. Parmi les incidents avérés qui se sont produits pendant la période considérée au Darfour-Nord figurent trois cas de détention arbitraire par la SLA/MM et neuf cas de mauvais traitements en détention dont huit impliquent la SLA/MM et le neuvième les autorités militaires gouvernementales. À Khartoum, les personnes originaires du Darfour courraient un risque accru d'être arrêtées et détenues par les agents du NISS, en particulier lorsqu'elles sont soupçonnées d'être des militants politiques ou d'avoir conservé des liens avec les mouvements rebelles du Darfour. Les personnes détenues par le NISS sont généralement tenues au secret pendant une période qui peut durer plusieurs mois et n'ont pas accès à un avocat. Des informations persistantes et crédibles font état d'actes de torture dans les lieux de détention du NISS.

34. Pour ce qui est du non-recours à la détention au secret et de la fermeture de tous les lieux non officiels de détention (recommandation 1.4.2), le Gouvernement soudanais a remis au groupe d'experts une liste des détenus au Darfour indiquant qu'ils étaient au nombre de 70 entre le 1<sup>er</sup> juin et le 30 octobre 2007, dont 41 au Darfour-Sud et 29 au Darfour-Ouest. Il a ajouté que la plupart des détenus avaient été relâchés après une période de détention allant de dix jours à deux mois. Les cas de sept détenus ont été renvoyés au Procureur général et un huitième à la police. Au total, 10 personnes étaient encore détenues au moment où la liste a été remise au groupe. Le Gouvernement a souligné que la police mettait quotidiennement à jour le registre de toutes les personnes en garde à vue et qu'à partir du moment où le Procureur décidait de l'ouverture d'une enquête pénale, un journal de l'affaire était tenu, qui pouvait être vérifié sur place. Il a souligné qu'il n'existait aucun lieu non officiel de détention relevant du NISS. L'enquête menée sur la question des lieux non officiels de détention a révélé que certaines milices avec lesquelles le Soudan avait signé des accords de paix avaient des lieux de détention illégaux à Khartoum, lesquels avaient été fermés depuis. Le groupe prend note de cette information ainsi que des informations fournies par les Nations Unies et avérées selon lesquelles des personnes étaient détenues au secret ou dans des lieux non officiels.

35. Pour ce qui est de la réforme institutionnelle du NISS (recommandation 1.4.5), la Constitution de 2005 confie des tâches spéciales aux forces de sécurité. Le Gouvernement a informé le groupe d'experts qu'un projet de loi sur le Service de sécurité nationale était à l'examen.

36. Le Gouvernement a informé le groupe d'experts que les ministères clefs avaient approuvé une recommandation adressée au Conseil consultatif pour les droits de l'homme concernant l'adhésion à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants et que la ratification de cet instrument était à l'examen (recommandation 1.4.6).

## **5. Protection des témoins et des victimes**

37. Le groupe a recommandé que les observateurs des droits de l'homme aient pleinement accès et sans entrave aux témoins et aux victimes de violations des droits de l'homme, que les témoins et les victimes ne subissent pas de violence, de représailles ou de harcèlement en raison de leur coopération avec eux, et que toutes les mesures nécessaires et possibles soient prises pour les protéger contre la violence, les représailles et le harcèlement par des tiers (recommandation 1.5.1). En réponse, le Gouvernement a souligné qu'aucun témoin ayant parlé à la MINUS n'avait été l'objet de mesures d'intimidation ou de menaces de la part des autorités. Il a donné au groupe des informations par écrit et oralement sur la protection des témoins et des victimes telle que la garantissaient la Constitution intérimaire de 2005, la loi sur la preuve de 1994, la loi pénale de 1991 et la loi de procédure pénale de 1991, et il a souligné que les témoins qui avaient été interrogés par les observateurs des droits de l'homme des Nations Unies n'avaient pas été persécutés. Le groupe n'a toutefois pas obtenu d'information sur l'application de normes ou de programmes visant à protéger les témoins.

38. Le Gouvernement a présenté une liste de 170 avocats travaillant au Darfour au nom des victimes, mais il n'a pas donné d'information précise concernant la protection des défenseurs des droits de l'homme contre la détention arbitraire, les violences physiques et le harcèlement utilisés comme moyens de les empêcher de critiquer les violations des droits de l'homme dans la région du Darfour (recommandation 1.6.1). En ce qui concerne la liberté de la presse

(recommandation 1.6.2), il a souligné que, depuis janvier 2007, l'article 130 du Code pénal ne pouvait plus être invoqué pour accuser les journaux de diffamation. Il a également fourni un grand nombre d'articles sur le Darfour publiés par divers journaux. Toutefois, les institutions, organismes et programmes des Nations Unies qui opèrent au Darfour n'ont eu connaissance d'aucune mesure prise par les autorités pour lever réellement les restrictions imposées à la presse. Ils ont indiqué que le travail des journaux et des journalistes restait considérablement entravé par la loi sur la presse, la loi pénale et des pratiques illégales. Depuis la mi-août, ils ont recueilli des preuves sur plusieurs cas de censure exercée par le NISS contre des quotidiens en langue arabe, dont *Ray al Shaab*, *Al Sudani*, *Al Sahafa*, *Al Ayaam* et *Al Meidan*. Le NISS procède soit en saisissant tous les exemplaires de la dernière édition d'un journal, soit en inspectant quotidiennement les locaux des journaux et les imprimeries, soit en ordonnant que des articles à paraître dans l'édition du lendemain soient supprimés ou réécrits. Le 22 mai 2007, le Conseil de la presse a interdit qu'il soit rendu compte des déclarations des représentants des groupes rebelles du Darfour, interdiction qui était toujours en vigueur pendant la période à l'examen. Un certain nombre de projets de loi sont toujours examinés par la Commission de l'information et de la communication de l'Assemblée nationale, organe parlementaire chargé de l'élaboration des lois dans ce domaine.

## **B. Accès humanitaire**

### **6. Protection des travailleurs humanitaires contre le harcèlement et les attaques**

39. À la mi-novembre 2007, il y avait entre 12 500 et 15 800 travailleurs humanitaires au Darfour. Les recommandations 2.1.1 à 2.2.3 qui concernent leur protection contre le harcèlement et les attaques et la nécessité de leur donner accès plus facilement aux civils, notamment aux personnes déplacées, traitent d'un certain nombre de problèmes auxquels les organisations humanitaires se heurtent, notamment le refus de délivrer des visas aux travailleurs humanitaires ou leur expulsion, les attaques dont eux-mêmes, leurs moyens de transport et leurs biens sont victimes et le refus de leur donner accès aux civils qui ont besoin d'aide.

40. Le Gouvernement a informé le groupe qu'en mars 2007, il avait annoncé la mise en œuvre d'une procédure accélérée visant à faciliter la délivrance de visas et l'importation de produits et de matériels humanitaires. Cette annonce a fait l'objet d'un communiqué conjoint avec les Nations Unies. En outre, un répertoire des procédures générales et une annexe sur la procédure accélérée au Darfour, contenant des conseils sur les procédures administratives à suivre par les ONG travaillant au Darfour, ont été approuvés par le Ministre d'État en charge des affaires étrangères. Une journée annuelle des bénévoles a été célébrée pour la première fois le 11 juin 2007 et le Président de la République a fait un discours dans lequel il a dit combien le Soudan était reconnaissant aux donateurs et aux organisations bénévoles du rôle qu'ils jouaient dans l'amélioration de la situation humanitaire au Darfour. À cette occasion, il a décerné la médaille du mérite à un certain nombre d'organisations bénévoles nationales et étrangères.

41. Pour ce qui est de la suite donnée au communiqué conjoint, les Nations Unies ont fait savoir en novembre que des progrès avaient été accomplis et que, de manière générale, une bonne relation de travail s'était établie entre les ONG internationales et la Commission d'aide humanitaire du Soudan concernant les procédures à suivre au Darfour. S'agissant de la délivrance de visas aux travailleurs humanitaires, le Gouvernement a donné au groupe d'experts l'assurance qu'il n'y avait pas une seule demande de visa en suspens. Parallèlement, le groupe a

appris que les Nations Unies avaient reçu des plaintes faisant état de violations du communiqué conjoint dans la lettre et dans l'esprit, notamment du fait que le Gouvernement avait refusé de prolonger le visa de certains expatriés travaillant pour des ONG. En novembre, les Nations Unies ont signalé que 29 % seulement de toutes les procédures traitées par le Centre des procédures conjointes avaient été menées à bien dans les délais fixés. À la fin août 2007, le Gouvernement soudanais a expulsé le Directeur de l'organisation CARE dans le pays, Paul Barker, puis, au début novembre, le chef du Bureau de la coordination des affaires humanitaires pour le Darfour-Sud, Wael al-Haj Ibrahim. M. Ibrahim serait le onzième travailleur humanitaire expulsé du Soudan depuis le début de 2007. Le Gouvernement a indiqué qu'il avait ses propres raisons pour procéder à ces expulsions.

42. En novembre, les Nations Unies ont indiqué que les droits et les privilèges de leur personnel opérant au Darfour étaient de moins en moins respectés. Pour ce qui est des attaques contre les travailleurs humanitaires et leurs biens, le groupe d'experts note que selon des informations émanant des Nations Unies le nombre des incidents dont les travailleurs humanitaires ont été victimes de juin à octobre 2007 (168) a diminué par rapport à la période correspondante en 2006 (214), mais les incidents en question semblent avoir été beaucoup plus graves qu'en 2006. Les incidents ci-après, qui concernent la sécurité des travailleurs humanitaires ou de leurs biens, ont été signalés aux Nations Unies entre juin et septembre 2007: 49 véhicules humanitaires détournés/volés; 32 convois humanitaires victimes d'attaques/d'embuscades/de pillage; 36 cambriolages/déprédations de locaux humanitaires; 11 travailleurs humanitaires arrêtés/détenus; 48 travailleurs humanitaires kidnappés/enlevés; 3 travailleurs humanitaires tués. En octobre 2007, 7 travailleurs humanitaires ont été tués, 10 véhicules humanitaires détournés et 7 convois pris dans une embuscade et pillés. En particulier, la situation dans la ville de Nyala et dans certains des camps avoisinants de personnes déplacées (Darfour-Sud) s'est considérablement détériorée au cours des derniers mois. Par rapport au mois d'août, les incidents dont du personnel des Nations Unies ou d'ONGI a été victime ont augmenté de 100 % en septembre 2007. Si certains d'entre eux peuvent être attribués à des parties non signataires de l'accord de paix d'Abuja, les responsables d'autres incidents ne sont toujours pas identifiés. Selon des sources des Nations Unies, le nombre d'attaques signalées contre des travailleurs et des biens humanitaires au Darfour commises par des forces gouvernementales, la SLA/MM ou des milices alliées au Gouvernement est tombé de 29 pour la période allant de juin à octobre 2006 à 9 pour la même période en 2007.

43. Selon des informations données au groupe, des services humanitaires continuaient d'être assurés à la grande majorité des civils victimes du conflit. Le Programme alimentaire mondial (PAM), par exemple, a nourri en moyenne 3,2 millions de personnes pendant le troisième trimestre de 2007. Toutefois, le nombre de bénéficiaires qu'il n'a pas été possible d'atteindre est passé de 60 000 en juillet à 122 000 en septembre. La raison en serait l'insécurité accrue en général et, dans plusieurs cas, l'intervention du Gouvernement. Ainsi, à Nertiti (Jebel Marra) la Commission gouvernementale de sécurité a suspendu toute activité humanitaire dans les zones de Golol et de Kwilla contrôlées par le SLA/AW à compter du 16 août 2007, officiellement pour des raisons de sécurité, d'où l'augmentation rapide de la malnutrition signalée dans bien des zones du corridor de Zalingei, notamment à Nertiti. Les organismes humanitaires continuent de se voir refuser l'accès à un nombre indéterminé de personnes déplacées dans la région d'Adilla au Darfour-Sud après les combats qui ont opposé forces gouvernementales et forces rebelles en septembre. Le Gouvernement n'a autorisé les organismes humanitaires à se rendre à Haskanita

(Darfour du Sud-Est) qu'un mois après l'attaque qui aurait été commise par des rebelles le 30 septembre et qui a fait 10 morts parmi les soldats de la MUAS.

44. En 2005, plusieurs informations indiquaient que le Gouvernement n'avait rien fait pour différencier les avions militaires des avions humanitaires, gommant ainsi la distinction entre activités humanitaires et opérations militaires gouvernementales. Aucune information faisant état de marques trompeuses apposées par le Gouvernement n'a été communiquée au groupe pendant la période considérée.

### **C. Responsabilisation et justice**

45. En réponse aux préoccupations exprimées face à l'impunité généralisée dont jouissent les auteurs d'actes de violence contre la population civile au Darfour (recommandations 3.1 à 3.5), le groupe a reçu copie du projet de loi de 2007 sur les forces armées soudanaises, qui traite du système de justice militaire et de la procédure pénale militaire, y compris l'enquête, l'instruction et le procès. Le principe de l'indépendance des autorités judiciaires militaires fait l'objet d'un chapitre entier, qui porte aussi sur l'immunité dont jouissent les juges concernés. Le chapitre VIII concerne les sanctions prononcées par la Cour martiale et le chapitre premier du Titre III énonce les comportements interdits aux forces armées et les délits correspondants. S'il est adopté, ce projet de loi sera le premier à intégrer des dispositions clefs du droit international humanitaire dans le droit interne soudanais. Le groupe a également reçu copie du projet de loi de 2007 sur les forces de police. Le chapitre II traite des principes et objectifs généraux auxquels obéissent le travail et les devoirs professionnels des policiers et se réfère à l'état de droit et aux droits de l'homme. Les chapitres IX et X concernent le fonctionnement des tribunaux de police et les délits, ainsi que les sanctions dont les policiers sont passibles en cas de violation de leurs devoirs professionnels. Aucun de ces textes, encore à l'examen au Parlement, n'était en vigueur au moment de l'établissement du présent rapport.

46. Le Gouvernement soudanais a informé le groupe des enquêtes menées sur les incidents signalés publiquement par le Haut-Commissariat des Nations Unies aux droits de l'homme. Dans certaines de ces affaires, l'enquête a débouché sur des poursuites. Une enquête limitée a été menée dans trois cas: les attaques dans la région de Bulbul, Darfour-Sud; les attaques contre le village de Deribat et huit autres villages le long de la route reliant Kutur à Deribat à la fin décembre 2006; et le meurtre de civils dans la région de Buram, Darfour-Sud, en octobre 2006. Dans l'affaire de Buram, des poursuites étaient en cours au moment de l'établissement du présent rapport mais aucun responsable n'avait été traduit en justice.

47. Les immunités juridiques (recommandation 3.2) n'ont pas été abolies, mais le Gouvernement a pris un certain nombre de mesures pour mettre en place des procédures de levée d'immunité pour les membres de la police et du NISS. Le groupe d'experts a été informé dans le détail de ces procédures, notamment de celles prévues dans l'ordonnance n° 57/2007 sur la réglementation de la procédure à suivre pour autoriser la mise en jugement de membres de la police, prise par le Directeur général de la police le 31 juillet 2007 (A/HRC/6/7, annexe III) et des instructions du Directeur général du NISS du 12 août, publiées conformément à l'article 73 de la loi sur les forces de sécurité nationales de 1999, telle qu'amendée en 2004. Il a également pris note du fait que les projets de loi susmentionnés (par. 45) ne changeraient pas la nature discrétionnaire des décisions de levée d'immunité, même dans les cas de violations graves des droits de l'homme et, en particulier, de l'article 34 du projet de loi sur les forces armées

soudanaises, encore à l'examen au Parlement, qui dispose qu'aucun acte commis de bonne foi par un officier ou un soldat dans l'exercice de ses fonctions n'est réputé constituer un délit. Le projet de loi prévoit que l'immunité ne peut être levée que par le Président ou par une personne désignée par lui si le délit a été commis dans l'exercice de fonctions officielles ou en exécutant un ordre légal. Le groupe estime que, dans la pratique, ce système assurerait une large immunité dans le cas de violations des droits de l'homme commises en exécutant l'ordre d'une autorité compétente.

48. Le groupe d'experts a reçu des listes contenant les noms des membres de la police et des forces de sécurité condamnés pour avoir commis un délit. Il note que la plupart des condamnés sont des soldats et des officiers subalternes et qu'un grand nombre des condamnations ont été prononcées pour des délits ordinaires sans rapport avec des violations des droits de l'homme. Il note en outre qu'aucun cas de condamnation impliquant la responsabilité du supérieur hiérarchique ne lui a été signalé. Il n'a pas non plus reçu d'information sur toute mesure disciplinaire prise contre des policiers ou autres agents de l'État pour non-exercice de leur responsabilité première, qui est de protéger les civils. En outre, aucune information précise n'a été donnée au groupe au sujet des réparations offertes aux victimes, ou de leur réhabilitation, dans ces cas ou d'autres. Pendant la période considérée, le Tribunal pénal spécial pour les événements au Darfour créé à la mi-2005 n'aurait été saisi d'aucune nouvelle affaire.

49. Le Gouvernement a informé le groupe d'experts qu'il se refusait absolument à accepter la compétence de la Cour pénale internationale s'agissant d'affaires survenues au Soudan. Rien n'indiquait donc que le Soudan ait commencé à coopérer dans le cadre du mandat que le Conseil de sécurité a donné à la Cour, à savoir enquêter sur les crimes internationaux commis au Darfour et en poursuivre les auteurs (recommandation 3.3).

50. En ce qui concerne les mesures visant à renforcer l'état de droit au Darfour (recommandation 3.5), le Gouvernement a informé le groupe d'experts que le nombre de procureurs déployés dans les grandes villes de tous les États du Darfour avait augmenté en 2007. D'autres sources ont fait savoir au groupe que, dans bien des régions, les services du Procureur continuaient de manquer de ressources et restaient inaccessibles aux civils. Toutefois, on a observé une certaine amélioration du respect de la légalité dans le Darfour-Ouest. En juin 2007, le tribunal de Foro Baranga, fermé depuis un incident en décembre 2006, a rouvert ses portes. En juin 2007, le nombre de procureurs déployés dans le Darfour-Ouest a été porté à 13.

#### **D. Suivi de l'application des recommandations**

51. Pour améliorer le suivi du respect des droits de l'homme en général, et de ses recommandations en particulier, le groupe d'experts tenait particulièrement à ce que les observateurs des droits de l'homme de la MINUS aient accès pleinement et sans entrave aux personnes détenues au Darfour ou dans d'autres régions du Soudan, ainsi qu'aux dossiers d'enquête (recommandations 4.2 et 4.3). Le Gouvernement a porté à la connaissance du groupe l'ordonnance n° 59/2007 sur la facilitation des activités des observateurs internationaux, publiée le 31 juillet 2007 par le Directeur général de la police (A/HCR/6/7, annexe III). Dans cette ordonnance, le Directeur général souligne que les observateurs des droits de l'homme doivent respecter toutes les lois et tous les règlements nationaux qui régissent leurs activités, compte dûment tenu de l'immunité que leur garantissent les traités, et donne pour instruction au Département général des affaires juridiques de conseiller tous les personnels de police et de les

informer des devoirs des observateurs internationaux des droits de l'homme. Le groupe conclut qu'en soulignant les devoirs des observateurs de manière disproportionnée, et en particulier en ne donnant pas pour instruction au Département général des affaires juridiques d'informer les personnels de police des privilèges et immunités des observateurs, cette ordonnance n'est pas propre à faciliter leur travail.

52. Le Gouvernement a remis au groupe d'experts copie d'une lettre envoyée à la mi-octobre 2007 par le Conseil consultatif pour les droits de l'homme au Directeur de la composante droits de l'homme de la MINUS, invitant les spécialistes des droits de l'homme des Nations Unies à visiter toutes les installations de détention au Darfour. Cette lettre ne s'applique pas aux lieux de détention situés à Khartoum où se trouvent des personnes détenues pour des raisons liées au Darfour. La délégation gouvernementale a souligné qu'aucune plainte concernant l'application des dispositions de la lettre n'avait été reçue à ce jour. Le groupe a toutefois été informé par des sources des Nations Unies que la lettre en question n'avait pas eu pour effet de faciliter l'accès aux détenus, qui continue d'être autorisé au cas par cas. Le 24 octobre 2007, le Directeur général des prisons au Darfour à qui l'équipe des droits de l'homme a présenté cette lettre pour avoir accès à la prison Shalla à El Fasher a considéré que celle-ci n'était pas applicable en l'occurrence étant donné qu'elle n'émanait pas du Ministre de l'intérieur. Alors qu'auparavant, il était possible d'avoir accès au cas par cas à des personnes en détention provisoire à la prison Ardamata à El-Genenia, les autorités ont refusé tout accès en septembre 2007 en l'absence d'une autorisation préalable du Ministre de l'intérieur. L'accès à d'autres lieux de détention dans la région occidentale du Darfour-Ouest est également resté bloqué. Au Darfour-Nord, des spécialistes des droits de l'homme des Nations Unies ont pu en général interroger des détenus, même s'ils ne le faisaient pas toujours en privé. Mais à El Fasher, la situation était totalement différente. Les spécialistes des droits de l'homme des Nations Unies n'ont pas pu se rendre à la prison Shalla, où se trouvent plus de 400 détenus, ni à la prison pour femmes de Kherkhaniga, depuis la mi-2006. En revanche, il leur a été généralement possible d'accéder aux régions contrôlées par la SLA/MM. Pour ce qui est du Darfour-Sud, des spécialistes des droits de l'homme des Nations Unies ont été autorisés à se rendre chaque mois dans le lieu de détention administré par le NISS à Nyala et y ont interrogé librement les détenus. Après la visite, les agents du NISS leur demandaient de les informer de leurs conclusions. Il était en revanche impossible de se rendre dans les installations du renseignement militaire. S'agissant des prisons administrées par l'État et des cellules de garde à vue, des spécialistes des droits de l'homme des Nations Unies y ont eu accès, dans une certaine mesure. Toutefois, ils ont appris que de nouvelles instructions avaient été récemment données par le Ministre de l'intérieur à Khartoum selon lesquelles tout accès à la prison gérée par l'État était subordonné à son autorisation. Des spécialistes des droits de l'homme ont eu accès aux cellules de garde à vue avec l'approbation du Bureau du procureur public, même si cette autorisation a souvent été difficile à obtenir. Au Darfour-Nord, l'accès aux installations de détention gérées par la SLA/MM a été plus facile.

53. En ce qui concerne les autres recommandations, le groupe d'experts a été informé par le Gouvernement que le projet de loi de 2006 concernant la création d'une commission nationale des droits de l'homme conforme aux Principes de Paris était toujours à l'examen au Parlement (recommandations 4.1 et 4.7). Le Gouvernement a indiqué qu'il n'inviterait pas les titulaires de mandat au titre des procédures spéciales à enquêter à tout moment (recommandation 4.4), mais il s'est déclaré disposé à les inviter à se rendre dans le pays selon les besoins. Il n'a pas fourni d'information sur la suite donnée à la recommandation 4.5 – mettre en place un système

d'enregistrement des violations des droits de l'homme et assurer le bon fonctionnement des centres de documentation relevant des unités des droits de l'homme des Ministères de l'intérieur, de la défense et de la protection sociale. S'agissant de l'évaluation du fonctionnement des comités d'État pour la lutte contre la violence à l'égard des femmes (recommandation 4.6), une équipe spéciale composée de représentants du Gouvernement et de la communauté internationale a effectué une visite au début septembre 2007 et publié un rapport conjoint dans lequel elle recommandait l'augmentation du soutien technique et financier apporté aux comités, la fourniture de l'information nécessaire et la mise en place de mécanismes visant à assurer un appui sanitaire et psychosocial aux victimes de la violence à l'égard des femmes.

## V. CONCLUSIONS ET RECOMMANDATIONS

54. **Le groupe d'experts conclut que le processus d'examen a été facilité par une très bonne coopération du Gouvernement du Soudan; les efforts accomplis par ce dernier pour donner effet aux recommandations du groupe; la présentation d'informations en temps voulu au groupe et un dialogue franc et constructif avec la délégation interministérielle de haut niveau de Khartoum et les représentants de la Mission permanente du Soudan auprès de l'Office des Nations Unies à Genève. Sur le plan de la procédure, le processus de coopération avec le Gouvernement soudanais s'améliore donc de plus en plus.**

55. **Pour ce qui est des mesures prises par le Gouvernement pour donner effet aux recommandations, le groupe d'experts note que, dans certains domaines, les mesures nécessaires ont été appliquées totalement ou en grande partie, tandis que dans d'autres, la mise en œuvre s'est amorcée. Il relève, en particulier, les efforts accomplis pour élaborer des lois et des instructions qui, si elles sont pleinement mises en œuvre, pourraient contribuer à l'amélioration de la situation des droits de l'homme au Darfour. Quant aux autres recommandations du groupe d'experts, en particulier celles que le Gouvernement ne s'est pas engagé à appliquer, aucun progrès significatif n'a été signalé.**

56. **Pour ce qui est de l'impact des activités du Gouvernement sur le terrain, le Groupe d'experts prend note de l'affirmation du Gouvernement selon laquelle des progrès nets ont été accomplis au Darfour comme le prouvent, en particulier, le retour chez elles de 359 000 personnes déplacées, une diminution du nombre des cas de violence signalés contre les civils, y compris les femmes, et la présence massive de travailleurs humanitaires au Darfour. Il note aussi que, selon des chiffres des Nations Unies, depuis le début de 2007, plus de 248 000 personnes sont venues grossir les rangs des personnes déplacées dont le nombre dépasse les 2 millions. À de rares exceptions près, la MINUS, les institutions, organismes et programmes des Nations Unies ayant compétence pour opérer au Darfour et d'autres sources compétentes n'ont pas signalé d'effets tangibles des activités menées par le Gouvernement sur le terrain. Compte tenu de la fiabilité des nombreuses informations reçues de ces organisations, reposant sur des observations de première main qui ont été vérifiées et, si besoin est, corroborées par d'autres organismes, le groupe d'experts conclut que l'information dont il dispose ne confirme pas l'évaluation positive du Gouvernement au sujet de l'action qu'il mène sur le terrain pour donner suite aux recommandations.**

57. **En particulier, le groupe d'experts évalue comme suit l'état de mise en œuvre des recommandations contenues dans son premier rapport (A/HRC/5/6, annexe) (voir annexe I):**

- **Mise en œuvre totale (toutes les activités recommandées ont été menées et on a signalé en conséquence une amélioration correspondante de la situation sur le terrain): recommandations 2.1.3, 1.2.6;**
- **D'importantes activités ont été entreprises et des effets tangibles ont été signalés: recommandations 2.1.1, 4.6;**
- **Des activités ont été entreprises, mais il n'a été signalé que peu ou pas d'effets tangibles: recommandations 1.1.1, 1.1.4, 1.1.5, 1.2.1, 1.2.2, 1.2.4, 1.2.5, 1.3.1, 1.3.2, 1.4.3, 2.1.2, 2.1.4, 2.2.1;**
- **Des premiers pas ont été faits en vue de la mise en œuvre: recommandations 1.2.3, 1.2.7, 1.2.8, 1.2.9, 1.3.3, 1.4.1, 1.4.2, 1.4.4, 1.5.1, 1.6.2, 2.2.2, 3.1, 3.2, 3.4, 3.5, 4.1, 4.2, 4.3, 4.7;**
- **Il n'y a eu aucune mesure de mise en œuvre: recommandations 1.1.2, 1.1.3, 1.2.9, 1.4.5, 1.6.1, 2.2.3, 3.3, 4.4, 4.5, 4.8.**

58. **Tout en prenant note de l'action entreprise par le Gouvernement soudanais, le groupe d'experts estime préoccupant que les informations reçues indiquent clairement que, à de très rares exceptions près, ces initiatives n'ont pas encore débouché sur une amélioration de la situation des droits de l'homme au Darfour.**

59. **Plusieurs recommandations qui devaient s'inscrire dans le court terme et auraient dû être mises en œuvre dans les trois mois étant donné qu'elles n'exigeaient pas de longs processus administratifs ou de ressources supplémentaires n'ont pas encore été suivies d'effet. Le groupe d'experts sait que la mise en œuvre de certaines recommandations, bien qu'à court terme, peut être complexe et exiger plus de temps pour être totalement menée à bien, notamment lorsque les activités recommandées n'ont été entreprises que récemment. Il serait donc nécessaire de continuer à examiner les résultats sur le terrain, même si les mesures recommandées ont été prises. Pour ce qui concerne les recommandations à moyen terme, il convient de noter que la période de douze mois prévue pour leur mise en œuvre, telle qu'indiquée dans le premier rapport du groupe, ne s'achèvera qu'en juin 2008. Le groupe relève que, dans certains cas précis, la faisabilité de la mise en œuvre totale a pâti de l'absence de ressources et d'une assistance technique suffisantes. Mais il réitère que l'absence de ressources ne saurait justifier des actes de violence contre la population civile ou le manque d'action pour les prévenir. Il rappelle qu'il n'y a eu consensus parmi les membres du Conseil quant à la gravité des violations en cours des droits de l'homme et du droit international humanitaire et à la nécessité urgente d'axer les efforts sur la mise en œuvre des recommandations existantes pour améliorer la situation des droits de l'homme au Darfour, et il demande instamment au Gouvernement d'appliquer pleinement et sans plus tarder les recommandations qui ont un degré de priorité élevé.**

60. **Le groupe est d'avis que les conditions d'ensemble au Darfour demeurent déterminantes pour la mise en œuvre des recommandations. Bien des facteurs qui influent sur ces conditions, même s'ils ne relèvent pas de son mandat, doivent être pris en compte d'urgence en vue de créer un climat qui soit favorable aux activités de mise en œuvre sur le terrain et les soutenir.**

61. Le groupe recommande au Conseil des droits de l'homme de poursuivre le processus d'examen conformément aux délais et indicateurs fixés pour mesurer les progrès de la mise en œuvre. Tout en soulignant que, comme les dispositions de la résolution 4/8 l'indiquent clairement, il a été créé pour assurer le suivi et la mise en œuvre effective des résolutions et recommandations existantes sur le Darfour, et en mettant l'accent sur la nature complémentaire de son mandat et du mandat plus large du Rapporteur spécial sur le Soudan, qui porte sur le pays tout entier, le groupe se déclare disposé à poursuivre le processus d'examen à moins que cette tâche ne soit confiée au Rapporteur spécial sur le Soudan. Il propose qu'un mandat renouvelé prévoie la possibilité d'une mission d'évaluation au Soudan, y compris dans la région du Darfour, et suffisamment de temps pour analyser la mise en œuvre des recommandations à moyen terme, laquelle devrait être achevée le 20 juin 2008.

62. Le groupe d'experts réitère ses recommandations précédentes au Conseil des droits de l'homme, à savoir:

a) Inviter instamment le Gouvernement soudanais à poursuivre et intensifier son action pour appliquer, sans tarder, les recommandations recensées par le groupe d'experts conformément au calendrier et aux indicateurs fixés, dans la mesure où elles n'ont pas encore été pleinement mises en œuvre (A/HRC/5/6, annexe I);

b) Demander au Gouvernement soudanais de lutter contre l'impunité et de veiller à ce que toutes les allégations de violations des droits de l'homme et du droit international humanitaire fassent dûment l'objet d'enquêtes et à ce que les responsables de ces violations soient promptement traduits en justice;

c) Réitérer son appel au Gouvernement soudanais et à toutes les autres parties au conflit afin qu'elles mettent un terme à tous les actes de violence contre les civils, en mettant plus particulièrement l'accent sur les femmes, les enfants, les personnes âgées, les personnes handicapées et les personnes déplacées, ainsi que sur les défenseurs des droits de l'homme et les travailleurs humanitaires;

d) Inviter les organismes et institutions compétents des Nations Unies, notamment le Haut-Commissariat des Nations Unies aux droits de l'homme, à apporter au Soudan, conformément aux besoins recensés, l'appui et l'assistance technique nécessaires à la mise en œuvre de ces recommandations;

e) Exhorter les donateurs à fournir des fonds pour ce soutien et cette assistance technique, à partir d'une évaluation des besoins.

**ANNEX I: STATUS OF IMPLEMENTATION OF RECOMMENDATIONS COMPILED  
BY THE GROUP OF EXPERTS ON DARFUR AS PER A/HRC/5/6**

**1. HUMAN RIGHTS PROTECTION**

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

**Recommendation 1.1.1** *Short-term*

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

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

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

Written information submitted to the group of experts on Darfur on 21 August 2007

Draft orders to the armed forces were prepared prohibiting all kinds of attacks on civilians, including torture and violence against women, and stipulating that perpetrators of criminal offences will have their immunity waived and will be brought to justice. The draft was reviewed by the Advisory Council for Human Rights and was submitted for signature to the armed forces command.

A new Armed Forces Bill was approved by the Cabinet. It contains an entire chapter on the principles of international humanitarian law, including the protection of civilians and civilian objects. It makes no distinction between protection during international conflicts and protection during internal conflicts. It also includes provisions on individual liability and the prosecution of persons who commit abuses.

The National Committee on International Humanitarian Law, in collaboration with the International Committee of the Red Cross (Sudan), has set up a foundation course on the principles of international humanitarian law, the protection of civilians and individual liability. The course is designed for the joint integrated units formed pursuant to the Machakos agreement and the Interim Constitution and 30 officers are to receive training at the joint forces' headquarters on 26-29 August 2007.

Information orally submitted to the group of experts on 18 September 2007

The Armed Forces Bill will be discussed in parliament when it resumes its session in October. The army commander has established a committee to create a work plan to implement the Armed Forces Act. On 16 September it was agreed that DG - Operational Unit would issue directives informing personnel about the new Act and its content.

It was reported that airplanes are used only for reconnaissance purposes. However, by order of the Minister of Defense, the planes may be used to bomb rebels in exceptional circumstances. The Government is fully aware of its duty to defend civilians in all areas. Commanders and officers are informed that they should abide by international law. In case of collateral damage, there is a committee that investigates the incident, and those affected civilians will be compensated. Concerning allegations of bombardments of Adila, it was attacked by rebels and the Air Force reacted to protect the civilian population. Bombardment did take place, but only against rebels.

Immunities for members of the armed forces reportedly had been lifted on several occasions. On 18 February 2006, the Western Darfur Court convicted one member of the Popular Defense Forces for torture, and the Supreme Court confirmed the verdict. The Government has compiled statistics on compensation paid for harm to civilians.

Written information submitted to the group of experts on Darfur on 30 October 2007

On 30 October 2007, the group of experts received a copy of a Declaration of the Sudanese Armed Forces (SAF) concerning the regulation and rules of conduct of armed forces personnel in conflict zones, which the Government indicated has been circulated to all units of the SAF. The group also received a letter from the Representative of the Ministry of Defence, in the National Experts Group, dated 29 October 2007 (Serial No. R1M/1GH/1/86) which refers to a directive on the Code of Conduct of the Armed Forces during Armed Conflicts. The Directive was issued by the Headquarters of the Army Joint Operations Unit and disseminated to the following units of the army for implementation:

- Director of Financial Affairs
- Director of the Medical Services
- Tawgeeh Manwai
- Social Services Administration
- Director of the Military Judiciary Administration or Unit
- Director of the Information Unit
- Director to the Military Police Unit

The Code of Conduct, issued by Brig. Mohamed Mahmoud Gami, Head of the Joint Military Operations Units provides that:

1. All members of the international community are organized under the umbrella of the UN and all its members are bound by its rules and conventions. Islam and Quran dictate that all such conventions and charters must be honoured by all Islamic countries.
2. Sudan has ratified the Geneva Conventions of 1949 and its Additional Protocols. These conventions provide protection for the civilian populations and those rendered *hors de combat* by surrender. It urges for humane treatment for the prisoners and the obligation to provide care for the sick and the wounded. They also call for avoiding brutality during armed hostilities, particularly if this does not realize the war objective, such as the killing of prisoners or the wounded or attacking women and children.
3. The above are International Humanitarian Law Principles which represent the same principles of International Islamic Law prohibit attacking non-combatant, killing of prisoners, fighting the wounded, the use of excessive force when attacking and the armed hostilities shall only be confined to combatants and that life, property and freedoms shall be spared unless involved in fighting. Such a law also calls for justice, mercy and noble virtues, avoiding and humane treatment. Even the right of resorting to war when attacked in situations of international armed conflicts is restricted in Islam by noble virtues and the respect for humanity which enshrined in Quran and Suna and the sayings of the Caliphes as fundamental principles.
4. Christianity is also based on the idea of 'pure peace' and prohibition of killing and warning on killing people. The four versions of the Bible are unanimous call for love to your enemy and to treat humanely those who hate you. We may argue that modern Christian jurisprudence strictly calls for control or supervision of the means of war and that its objectives must realize securing justice and treatment of injustice and that war shall be a just war and conducted through a just means.
5. According to the above, we conclude that the principles of International Humanitarian Law constitutes (in terms of content and substance) an integral part of the beliefs of the people of the Sudan. Therefore, the Draft Bill of the Armed Forces, which was referred to the National Assembly by the Council of Ministers, includes a whole Chapter to the Law of War and provides a detailed provisions for the crimes which contravene this law such as killing of civilians, torture, unlawful detention, forced disappearance, all types of violence against women and attacking international humanitarian organizations.

6. The responsibility of stopping humanitarian law violations falls on the military commanders and any military leader, within his area of responsibility, must ensure that the law is applied and shall personally make sure that all persons under his responsibility are aware of their responsibility under the law. During conducting the military operations, all persons shall avoid hurting the civilian populations and also civilian objects unless they become military objectives. All the necessary precautions shall be taken reparations shall be provided for mistakes committed. All types of attacks against women shall be prohibited. Also, civilians who are participating in the hostilities shall not be subject to attack, killing, torture and detention. Those civilians who engage in hostile actions shall be confined and restricted to certain areas and shall not be exposed to inhumane treatment. Humanitarian workers and organizations providing aid shall be protected.
7. We expect that military commanders at all levels to be obliged by the above directives. They should also be aware that there is no immunity for those who are subject to the Armed Forces Act in case they violate any of the above provisions of the law of armed conflict mentioned above.

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

##### **a) Land and air attacks against civilians**

UN sources indicate that from 20 June 2007 to mid-November 2007, there were at least 15 land and air attacks on civilian centers in all three Darfur States that were carried out by Government, affiliated militia and SLA/MM forces. On several occasions, civilian casualties were reported to have resulted from clashes between warring parties who failed to distinguish between combatants and non-combatants, and used disproportionate and indiscriminate means of warfare. As a result of these attacks, over 170 civilians were killed, approximately 30 civilians suffered injuries and at least three women were raped. The attacks led to widespread looting and destruction of civilian property, including hundreds of houses, the theft and killing of large numbers of livestock, as well as the displacement of thousands of people.

##### **i) Bir Dagig and Kondonbe (West Darfur), 1 July 2007**

On 1 July 2007, in the Bir Dagig area, an attack began around 11:00 am when a group of approximately 12 militiamen on horses and camels came into the area. They tied up and beat six or seven men, some of whom were working in the gardens and others who were inside the village. These men were then taken west to a nearby mountain where many of them were severely beaten. UN sources interviewed one woman who was raped and four women who were beaten in their houses. Some of the attackers, who grew to around 36 in number by the evening, went into the village to loot property, such as clothes, radios, blankets and money. The 2 July 2007 intervention by the Government official did prevent further violations by militia. A day or two later the same militia returned to Bir Dagig and held a man for ransom, which the community paid. This was followed by further incidents on 6, 8, 9, 10 and 11 July 2007 inside and outside of Bir Dagig. Most of the victims were women who were attacked while travelling between Bir Dagig and a market in Kondobe (a one hour walk south of Bir Dagig).

##### **ii) Hillet Hajar (North Darfur), 9 July 2007**

On 9 July 2007, Hillet Hajar village was attacked; it seems by SLA/MM forces. A witness reported that the attack took place in the morning, around 11:00, and was carried out by over a hundred armed men mostly dressed in grey plain and camouflage uniforms. Two males, a 35 and a 15 year old, were killed – each shot and then stabbed – and two other persons were also injured.

##### **Kafod and Kutum (North Darfur), 26 July 2007**

On 26 July 2007, in the vicinity of Kafod and Kutum (North Darfur) three men in green khaki uniforms described as Government soldiers from Sheg al Nakhara threatened villagers in Deba Fooka with their weapons and demanded possessions, including cars. On 30 July, the Security Committee in Kutum promised villagers to prevent the soldiers from coming back, but reportedly, the soldiers came to a nearby hill on the morning of 1 August, and fired several

rounds of shots towards the village. On 31 July, the northern Rizeigat group - many dressed in the uniforms of the Border Intelligence - mounted an attack on the Tarjem group which left at least 68 people dead. On 21 August, in the course of an operation to arrest about 35 IDPs in the Kalma Camp, security services looted shelters housing IDPs.

iii) Bulbul area (South Darfur), 27 July – 14 August 2007

On 27 July 2007, members of the Abbala tribe attacked Ruhud al Bujut (28 kilometers south of Nyala), which resulted in the death of three Tarjum and the injury of two others. On 30 July 2007, several hundred Abbala militia, on camels, horses and land cruisers with mounted machine guns, attacked the market of Bulbul Abu Jazzo (45 kilometers west of Nyala). Seventy-five Tarjum men were killed, most of whom were armed, while they were attempting to defend their cattle. On the following day, over 60 people were killed and many others wounded, including civilians, in another attack by Abbala tribesmen, reportedly drawn from the Border Intelligence Guards, on the village of Gawaya, near Sania Dileiba (45 kilometers southwest of Nyala). The attack took place during a condolence procession for the Tarjum men, who had died during a previous attack on Sani Dileiba area.

In August, at least two further attacks occurred. On 3 August 2007, an attack took place on the Tarjum villages of Dondora and Umhimada (south of Misik, and 20 kilometers northwest of Nyala). Preliminary information received indicated that 22 people had been killed and 11 were injured on the side of the Tarjum, and two Abbala were injured. On 14 August 2007, Amarjadede was attacked by approximately 150 Abbala militiamen, dressed in green camouflage uniform. The attackers fired randomly at residents as they entered into the village. Five men were reportedly killed and two injured. Property and cattle was stolen.

iv) Majlis Waylo (West Darfur), 29 July 2007

From 29 July 2007 to mid-November, members of armed militias launched a series of attacks on Erenga villages, which involved assault and pillage. The attacks were concentrated on Majlis Waylo villages, located northeast of El Geneina, but also affected Kondobe and Bir Dagig. Serious human rights violations were reported, including the unlawful killing of a civilian, the rape of two Erenga women, several cases of physical assault and intimidation of civilians, extortion, extensive looting and destruction of property. These attacks resulted in the displacement of a large number of families from Majlis Waylo villages to Kondobe as well as to Dorti IDP camp.

According to villagers, more than 300 families, representing the entire population of the 12 cluster villages, fled but at by mid-November 2007, these numbers had not been confirmed by UNHCR. During their exodus, many persons reported having been robbed and beaten as they walked along the road. Families displaced to Dorti IDP camp reported having been forced to pay large amounts of money in order to have their belongings safely transported to the camp. The police reportedly failed to protect civilians to investigate any of these incidents. During the incident in Bir Dagig, on 29 July 2007, the police were alerted, but did not deploy to the area. The incidents in Majlis Waylo were also reported to the police in Kondobe but the police commander for Kondobe/Bir Dagig indicated that he did not intend to take any action.

Kondobe area (West Darfur) 29 July-1 August 2007

Between 29 July and 1 August 2007, civilians in 12 villages in the Kondobe area of West Darfur including Bir Dagig, Hashaba, Messelma, Sadyo, Bagado, Majlis Waylo, Kabaro and Chir Chir were simultaneously attacked by militias. The militias killed one person in Hasahaba and destroyed personal property and crops in other areas. On 17 August 2007, militia from the Maalya tribe attacked the village of Kilikil Abu Salam, near Haskanita, North Darfur. About 500 heavily armed militiamen demolished the market in the village and killed a large number of cattle/livestock.

v) Guldo (West Darfur), 10 August 2007

On 10 August 2007, a group reportedly affiliated with Abdul Wahid's faction of the SLA (SLA/AW) surrounded a Government military camp located outside Guldo town, in Jebel Marra. According to information received, a

confrontation took place outside the town and the assailants were able to enter and take control of Guldo town. A few hours later, the Government deployed men into Guldo, entering in direct clashes with the assailants inside the town. As a result, one civilian was killed. Thousands of residents fled to nearby villages. Eyewitnesses to the events reported as well that as a result of the launching of long-range rockets by Government forces, one woman was killed, and another woman and her three children were injured.

vi) Jamal Naga (West Darfur), 4 September 2007

UN agencies, bodies and programs operating in Darfur received information of an alleged attack on Jamal Naga (seven kilometers northwest of El Geneina) on 4 September, at around midnight, by militiamen from Shakawaya, Koncongga and Beyra. On 8 September 2007, victims and witnesses from Jamal Naga reported that, on 4 September 2007, about 70 militiamen on horseback surrounded Jamal Naga.

UN staff interviewed three victims, a man and two women, who had been physically assaulted and abducted by the attackers. The victims indicated that they have been held in Shakawaya (a village) for 24 hours. The attackers demanded a ransom of 5,000 Sudanese Dinars for their release from the Adar police, where the abductees were subsequently taken. The police commander in Adar told the abductors that the police do not have the ransom and then advised them to hand over the detainees to the police in Ardamata. Subsequently, the abductors refused to hand over the detainees to the police and transferred them to Shakawaya. Reportedly, detainees were released the following day and on their way back to Dorti IDP camp were assisted by the AMIS patrol that brought them to the Ardamata police station. The male victim who was seriously injured was immediately transferred to the military hospital where he was admitted and treated. A police file was opened at Medina police station in El Geneina.

vii) Beli Sereif and Dobo (North Darfur), 8 September 2007

In the early morning on 8 September 2007, Beli Sereif village was attacked by about 50 armed militia men. The attackers, reportedly dressed in Government-style uniforms and on horse and camelback, fired randomly while entering into the village. It was reported that, two men were killed and two boys, of 10 and 15 years old, were injured. Large numbers of livestock were stolen by the militia group. The majority of the population fled the attack scattering in the surrounding mountain area. Other IDPs from the Dobo area, reported that the on-going insecurity forced them to abandon their villages. The Dobo area has been under current attacks since the beginning of 2007, in an apparent attempt to clear the area of its civilian population.

viii) Merkele and Modogulu (West Darfur), 9 September 2007

On 9 September, at around 18:00, about 40 armed militiamen, reportedly on horseback, surrounded Merkele and Modogulu villages, located approximately eight kilometers north-west of El Geneina and inhabited by people of predominantly Erenga origin. According to eyewitnesses and victims, the attackers dispersed in both villages and pillaged about 80 houses out of 400. It was reported that anyone who resisted the pillage even women and children, were systematically beaten with sticks and whips. The sheikh of sheikhs of both villages, a 60-year-old Erenga man, was attacked with sticks and whipped by four men described as militia men wearing green camouflage military uniforms and covering their faces with scarves. The assaulters accused the sheikh of sheikhs of hiding 12 rebel members who had allegedly arrived to Merkele the same day. The attack lasted approximately one and a half hours. UN officials heard that the attack was reported to Adar police station and El Geneina Police headquarters. At around 20:30, a joint NISS, police and Sudan Armed Forces force in three vehicles evacuated the sheikh of sheikhs. The victim lodged a complaint at Ardamata police station and was later transferred to El Geneina Hospital.

ix) Haskanita (North Darfur), 10 September 2007

On 10 September 2007, the Government forces bombed and launched a ground attack on certain non-signatory areas in Haskanita, which caused an unconfirmed number of civilian casualties. According to Commander in the area, five helicopter gunships and Antonovs bombed Haskanita town on 10 September. No casualties were reported but it seems that rebel forces shot down two helicopters. About 30 minutes later, Government troops in 75 vehicles attacked the town by land and UN officials were told that two women were killed and 25 civilians injured. The attack was repelled by the rebel forces. In the aftermath of the 30 September 2007 attack on the AMIS camp in Haskanita, which resulted in the death of 10 AMIS officers and in scores of injured, the town, including the

marketplace, was completely burnt down and destroyed. The 6,000 to 7,000 inhabitants fled the area to a number of locations around Haskanita.

x) Tanjeke (West Darfur), 18 September 2007

A series of incidents began on 18 September 2007, when a group of nine armed and uniformed militiamen beat three IDP men, injuring one seriously. On 19 September 2007, a group of armed men abducted another IDP. He was taken to a house and held there for two days until his release. On 22 September 2007, about 100 armed militiamen, reportedly from the Awlad Janoub clan, attacked Tanjeke village and pillaged several houses. They shot and killed a man who resisted the looting of his home. After the attack had concluded, a police force and senior state Government officials came to the area and spoke with the police and the community. The Government officials and police attempted to negotiate a settlement of *dia* between the Awlad Janoub and the family of the victim. In a follow-up meeting with UNMIS Human Rights Observers (hereinafter HROs), the Commissioner of Sirba Locality admitted that the Government was unable to resolve this kind of issue through official legal channels as the police lacked human resources and logistics and were not able for the time being to conduct proper investigations and arrest the suspects. He indicated to UN officials that he thought it was reasonable to resolve this kind of incident through Sudanese customary laws promoting mediation.

xi) Birmaza (North Darfur), 18 September 2007

On 18 September 2007, Government Antonov planes carried out aerial bombardments in the area of Birmaza. The bombings resulted in the death of an eight year old boy, and the serious wounding of a 12 year old girl. Eyewitnesses, confirmed that three bombs were dropped on Birmaza by three low flying Government planes. The mother of the 12 year old girl reported that her daughter was outside playing when the first bomb dropped that injured her daughter with shrapnel. Other eyewitness described the destruction of houses and the killing of animals. Birmaza earlier had been the scene of aerial and ground attacks in November 2006, where an estimated 50 civilians were killed.

xii) Umshijerah (South Darfur), 20 September 2007

On 20 September, heavily armed militiamen, dressed in military uniforms, attacked Umshijerah village, which led to the death of two Zaghawa men. When villagers were gathering at the village cemetery the next day to bury the two men, a group of militiamen attacked them again, resulting in the death of another 13 men and the injury of three others. Umshijerah village is located in a SLA/MM controlled area.

xiii) Dajo (South Darfur), 24 September 2007

On 24 September 2007, Dajo village (seven kilometers east of Beleel) was attacked by 18 to 20 armed militiamen in government-style uniforms. During the attack, a man was killed and three others were injured. A complaint was filed at Beleel police station but, according to community leaders, no investigation was launched subsequently.

xiv) Um Hijelij (North Darfur), 25-26 September 2007

Aerial bombardments and clashes between governmental forces and non-signatory factions in the area of Um Hijelij (about 150 kilometers east of El Fasher) on 25-26 September 2007, resulted in at least 15 deaths. On 25 September, a bombing of Um Hijelij by Government left at least three women dead. On 26 September an attack by a rebel faction against a commercial truck convoy guarded by governmental soldiers left 12 dead. According to a victim's relative, a 22 year old female was shot in the head by rebel attackers.

xv) Muhajiria (South Darfur), 8 October 2007

On 8 October 2007, Muhajiria town, a SLA/MM stronghold, was attacked by approximately 900 militiamen, reportedly from the Maalia and Rizeigat tribes, with the apparent support of the Government's Popular Defence Forces (PDF). An Antonov plane belonging to the Government was also reported to have flown around Muhajiria during the attack and to have bombed two locations on the southern side of the market area. According to eyewitnesses, the attackers first headed towards the market and kept shooting at people randomly. After looting the market, they torched the shops and headed towards the residential area, where they continued to fire indiscriminately

on people and houses. At the time of writing of the present report, the number of casualties had yet to be confirmed, but reports indicated that the attack resulted in at least 30 civilian deaths, and in the burning of 70 to 100 houses. Residents from the area fled to Abu Dungal, Labadu, Khazan Gaddid, El Fasher and Nyala.

#### **b) Attacks against IDPs**

UN agencies, bodies and programmes operational in Darfur documented incidents over the last several months of killings, physical assaults, harassment and intimidation, perpetrated by Government and militia forces, as well as by SLA/MM members. In North Darfur, there were at least 10 murders, three of which seemed to have been perpetrated by SLA/MM, and seven by Government and allied militia forces. Additionally, 14 cases of physical assault and five cases of harassment and intimidation were also documented. Eleven out of these last 19 cases involved IDPs; seven were reportedly perpetrated by SLA/MM members, five by armed militia and the remaining by Government security forces.

In the eastern part of West Darfur, there were five cases of arbitrary killings and two cases of physical assault and intimidation directed at IDPs reported, which seem to have been perpetrated by both Government officials and armed elements located inside or in the vicinity of the camps.

In the western part of West Darfur, UN staff received information on incidents of unlawful killings, including of a minor. Four out of six of those killed were IDPs. Information was also received about a further documented 10 incidents of attacks against civilians, involving 11 victims, nine of which were IDPs. All cases were reported to the police but, at the time of the writing, no suspects had yet been identified. In two cases, where a woman was shot and injured and in a case where the suspects were Central Reserve Police (CRP) members, the police took action and launched investigations. In eight other cases, the police did not investigate.

Tensions between military and police in Government held areas have blocked the access of civilians to justice. In North Darfur, in several cases against IDPs involving military personnel, although the victims reported the incidents to the police, no follow up was taken because the military failed to cooperate. On 23 July, in a dispute with an IDP family over a flood barrier, the perpetrator claimed that he had been armed by the Government, threatened to kill a woman and her family, and then opened fire on them. No one was injured. The police initially informed UN staff that they needed more witnesses before acting, but later informed them that the file had been forwarded to the prosecutor in order to have him request the military legal adviser to bring forward the accused. To date, the military had not done so. In other two other cases in North Darfur, involving the assault and harassment of shopkeepers in Kabkabiya by Border Intelligence Guards in late July and early August 2007, although the police registered the cases and contacted military authorities to turn over the suspects, the cases were later suspended, because the military ignored the request. In both cases, victims reported the police had stated that they were unable to bring a case against members of the armed forces.

There were many other examples of cases documented which involved IDPs. An UNMIS mission to Shangil Tobayi (North Darfur) on 11 July 2007 met with a group of new arrivals from Beli Serif (in the Dobo area), who reported that they were victimized by militia. Some one hundred families arrived from the Dobo area in Shangil Tobayi during June and July. On 29 June, a group of six women accompanied by an unconfirmed number of children were stopped by militias in Debaneira while fleeing, where they, including a twelve-year old girl and another girl of unknown age, were raped by the militias and robbed of their personal possessions. The children were mistreated, whips were reported to have been used, and all but one child managed to escape.

An attack near Kassab camp (North Darfur) prompted an intervention from the Government on 13 August 2007. An unknown assailant reportedly threw a hand grenade at a Government military checkpoint near Kassab IDP camp in which one soldier was wounded. Government military forces allegedly responded by entering Kassab camp and firing indiscriminately, prompting many IDPs to flee the camp temporarily for safety. No civilian casualties were reported.

On 2 September 2007, a 40 year old Erenga IDP from Riyadh camp, in West Darfur, was shot dead by two unidentified men in Abugabina village, where he had gone to visit his relatives. He was reportedly shot twice in his father's hut when he refused to go outside and give the two armed men wearing green camouflage uniforms, directions. The next day, a group of people from the village traced the footprints of the attackers, which led them to Shigarate nomadic settlement. The nomads found in the settlement denied having seen anyone coming to their camp

from Abugabina. The case was reported to the police station and to a nearby military camp. However, the military commander refused to intervene explaining that it was not his responsibility to arrest criminals. The case was recorded at the police station, but no action was taken.

In North Darfur, the situation in Kabkabiya town grew tense with the killing of two young girls on 15 and 19 October 2007. On 15 October, widespread fighting erupted in the market area and, on 19 October, a group of 1000-1500 persons marched with the body of the dead girl to the Commissioners' office. On 20 October, a demonstration took place with approximately 200 people in front of the AU. Information received indicates that the demonstrators were armed with sticks and stones, but no firearms.

In Kalma camp (South Darfur), a number of violent incidents broke out between Fur and Zaghawa IDPs following incidents that took place from 16 - 19 October 2007 during which three IDPs were killed and seven wounded. Efforts by the Government to enter the camp were met with violent resistance. Humanitarian agencies were obliged to evacuate the camp. An estimated 10,000 to 15,000 IDPs had fled the camp and moved to Al Salam, Otash and Dereige camps and Majok village, while others dispersed in Nyala town itself. In a meeting with UN agencies and NGOs and the Governor of South Darfur on 20 October, the HAC representative stated the intention to relocate IDPs out of Kalma as of 22 October. HAC later provided OCHA and IOM with a list of locations that they were promoting as areas of resettlement for the population that left Kalma. HAC confirmed that they were in consultation with IDP Sheikhs to convince them to accept the HAC plan.

Violent incidents reported to have occurred inside Kalma camp between 18-23 October 2007, included attacks on civilians in market areas, restrictions on movements within the camp among tribal lines, as well as of those attempting to leave or return. Much of the violence reported has been attributed to armed Fur, including children, against other tribes in the camp. Four Zaghawa men were reported killed and one wounded on 18 October 2007. The perpetrators were not identified. Also on 18 October, a group of 30 armed and uniformed Fur men reportedly ordered shopkeepers in a Kalma market to close. They shot in the air, destroyed some shop displays and provoked civilians to flee. On 19 October, the same group returned in greater number and beat civilians. On 20 October, groups of men armed with rifles and children armed with sticks from the Fur community organized in four sectors of the camp, where they implemented road blocks between the sectors to control the movement of IDPs along tribal lines, beating and arresting those from outside the Fur community. Additional reports were received that Zaghawa and Massalit IDPs were detained and beaten by armed Fur men and children. Also on 20 October armed men reportedly fired in a market, killing one person and wounding another. On 22 October, an IDP who entered the camp to collect his personal belonging was reportedly captured by a group of children, tied and beaten. He was released with orders to return to the camp.

Between 16 and 17th October 2007, tribal gunfights between Dajo-Massalit linked to a political conflict between Sudanese Liberation Army/Minni Minawi (SLA/MM) - (Massalit/Zaghawa) and Sudanese Liberation Army/Abdul Wahid (SLA/AW) - (Fur/Dajo) were reported to have resulted in two wounded from Dajo tribe. On 16th October, a shop in Kalma camp market belonging to a Dajo IDP was reported looted and the owner seriously beaten. The same day, two youths from Dajo tribe were reportedly kidnapped. Reports were received on the build-up of armed Massalit. On 18 October, gunshots were reported and humanitarian agencies decided to evacuate the camp. The same day, information was received on the massive arrival of SLA/MM elements in the camp from Labado area. In the evening of 18 October, reports were received on the exchange of fire and in the early morning of 19 October, AMIS sent a patrol to Kalma and discovered that Government of the Sudan (forces including military and police components) entered the camp with around 30 vehicles. According to sources, this operation provoked a minimum of 17 wounded, one IDP killed and the burning of approximately 175 IDPs' structures (shelters) as well as facilities belonging to INGOs. Damage was reported on an INGO clinic, INGO offices, an INGO community centre and the Kalma social center. There were also indications that a large number of children have gone missing.

#### **Assessment of Implementation of Recommendation 1.1.1**

Implementation seems to have begun, to the extent that in October 2007, the Government indicated that it had issued and circulated rules to enforce discipline in the Sudanese Armed Forces. The information received indicates that attacks have been ongoing, between June and September 2007. At the time of writing of the present report, it was still premature to assess whether the Armed Forces orders issued in October were having any real impact at ground level.

The above Code of conduct issued to the armed forces partially implements recommendation 1.1.1. It prohibits the following actions: making civilians or civilian objects the object of attacks (see item 5, line 5). The code also does

not specifically prohibit indiscriminate attack<sup>[O1]</sup>. The Code also refers in item 7 above that immunity would be waived for bearers of command responsibilities.

Recommendation 1.1.1 recalls that attacks against the civilian population can amount to a war crimes and crimes against humanity. No explicit reference was made to such crimes in the Code.

The code is addressed to the Sudanese Armed Forces and the Popular Defence Forces (PDF) but does not refer to other militias that might operate under the control or in cooperation with the Government of the Sudan. It is recommended that the Code refers to other militias as required in recommendation 1.1.1.

[O2]

**Recommendation 1.1.2** *Short-term*

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

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

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

Written information submitted to the group of experts on Darfur on 21 August 2007

The Disarmament Commission was given 85 tractors with a full range of accessories worth 4 million. They were distributed to a number of areas for use in reintegration programmes.

Information orally submitted to the group of experts on 18 September 2007

Conditions have not been conducive in Darfur for disarmament. The Plan of Action has a funding problem. However, there have been some isolated activities to disarm undertaken by governors. One million illicit small arms have been circulating in Darfur. The spread of weapons in the whole sub region has worsened the crisis. In addition to the absence of Government infrastructure in the area, there has been a lack of resources, which contributed to competition between tribes over weapons. UNICEF and SLM have initiated a program for children. Each tribe is permitted to carry arms to defend themselves against the other tribe. On 5 September 2007, there was a symposium on the disarmament of children with the National Council on the Protection of Children and UNICEF. Thirty members of the regular forces and 30 members of integrated units participated. The Government informed the group of experts of a plan to control and disarm the militia in cooperation with the UN and AMIS, but indicated that because of a lack of funds and an environment in Darfur that was not conducive to such steps as long as the conflict continued, no progress had been made.

Information orally submitted to the group of experts on 15 November 2007

Disarmament of irregular forces and reduction in the number of armed forces remains part of the peace process. A plan for the disarmament of militias has been in the process of being implemented in Kass, southern Darfur. A disarmament plan was given to the AU, but so far the Government has not received an official response, perhaps because of a lack of funds for implementation.

**Information Received from Other Sources on Recommendation 1.1.2**

No information received relating to the period 20 June 2007 to mid-November 2007.

### **Assessment of Implementation of Recommendation 1.1.2**

Implementation seems not to have started. The plan was not published. Some equipment was acquired, but it is unclear whether or not it will be used in the Darfur region. Insufficient action seems to have been taken to control or disarm the militia and downsize security forces such as the Popular Defence Forces (PDF), Border Intelligence Guard, Central Reserve Police, Popular Police or Nomadic Police, as well as to vet such organisations to exclude members who have committed serious human rights violations.

#### **Recommendation 1.1.3 *Short-term***

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

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

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

#### Written information submitted to the group of experts on Darfur on 21 August 2007

At 16:00 on 1 August 2007, the armed forces fought off an attack by a group known as the Sudan Liberation Movement (SLM-Unity) against the city of Adilah. The attack was carried out against citizens and their property and struck terror into the people's hearts. The armed forces forced the rebels to withdraw after losing 11 of their own men. The armed forces and the police continue to use checkpoints and mobile patrols to secure transport roads and pathways in Darfur. There are checkpoints in: (a) Shaqrah (b) Dunuki Shattah (c) Awm (d) Taratur Ajabu (e) Shanqal Tubay (f) Kumah (g) Umm Draysai and (h) Umm Attash. There are mobile patrols: (a) securing the Al-Fashir Al-Kumah Umm Kadadah road; (b) securing the Al-Fashir Niyala road; (c) securing the Al-Fashir Katam road; (d) securing the Al-Fashir Malit road; and (e) securing the Al-Fashir Kabkabayah road.

An armed forces committee was set up to estimate the losses arising from the mistaken bombardment of the Al-Ara'is area in the Umm Kadadah district of North Darfur. It established a figure of 35,154,653 (thirty-five million, one hundred and fifty-four thousand, three and fifty) dinars to be distributed to those who had been wounded (four persons), killed (five persons) or had suffered damage to property (46 persons). The third and final instalment was disbursed on 12 September 2006.

#### Information orally submitted to the group of experts on 18 September 2007

A joint plan between the Ministry of Interior, authorities of the three Darfur provinces and the African Union to protect IDPs exists. Since May, the evidence shows that there have been spontaneous returns: 351 000 IDPs and refugees have returned to villages. There is a committee for the protection of IDP camps, which has met weekly, and is comprised of representatives of international agencies, as well as and police and provincial representatives. They have received no reports on any problems regarding the camps. Joint patrols continue. In one incident in Kalma Camp, police entered the camp as they were pursuing people who had attacked a police station and killed two persons despite the fact that they knew that they should not enter the camp. The criminals were arrested and the police showed great self constraint.

#### Written information submitted to the group of experts on Darfur on 8 November 2007

The Permanent Mission of the Sudan to the United Nations Office in Geneva, provided a copy of a Report on the attack on Muhajerija Village on 8 November 2007. The Report was submitted by HQ Sector 8, African Mission in the Sudan, dated 21 October. The report provides information relayed by the SLA(M) Humanitarian Assistant officer, Mr Awwad reporting that militias supported by the Government attacked Muhajerija village on 8 October 2007. The report's findings established the following: Thatched structures have been burned and some shops were looted. Eleven SLA/MM combatants and 48 civilians died while 28 combatants and 22 civilians were seriously

wounded. Militias reported that 11 men were killed, 21 wounded and 5 were still missing. The report indicates that these figures could not be independently verified because no graves were shown. No evidence of aerial bombardment and no craters or bomb castings were seen in the general area where the attack took place, although a white Antonov aircraft was reported to have been seen flying around the village on 8 October prior to the attack. The Muhajeria attack was carried out by militias in relation for rustling activities by unknown groups operating around Muhajeria area. However, there was no evidence that the Government was involved in this attack. The weapons used by militias which include AK 47, RPG and mounted guns coupled by the professional manner in which they are employed might have given the erroneous impression of Government support. However, there was no evidence to prove the Government's involvement in the attack on Muhajeria on 8 October 2007. There was also a suspected collaboration between the SLA/MM and non-signatory factions as one of their vehicles mounted with a multi-barrel launcher was captured by the militias when SLM/MM attacked one of their locations. Even though there was an aircraft seen flying over Muhajeria village prior to the attack, no signs of bombs dropped by any aircraft were found. The attack caused displacement of civilians.

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

According to UN figures, 2670,000 people had been newly displaced between January and end of October 2007 with particularly high figures in August, September and October, putting the total number of displaced at 2.2 million and the total number of people receiving relief assistance at 4.2 million, nearly two-thirds of Darfur's population. Some of Darfur's IDP camps could no longer absorb new arrivals.

### **Assessment of Implementation of Recommendation 1.1.3**

Information received indicates that attacks have been continuing and the necessary measures have not been taken to avert the threat of and prevent attacks on civilians and intervene to protect populations under attack in all areas under Government control. The Muhajeria incident as reported by AMIS, other incidents reported under recommendation 1.1.1 as well as the high number of new displacements indicate that despite certain activities undertaken by the Government of Sudan, the civilian population remained largely unprotected. The Government failed to meet its positive obligation under human rights law to control militias and to protect the civilian populations from acts committed against civilians.

#### **Recommendation 1.1.4 *Short-term***

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

*Indicator: Number of reported cases.*

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

Written information submitted to the Special Rapporteur during her mission in Sudan from 25 July 2007 to 2 August 2007

The Women and Children Desk of the Human Rights Secretariat of the Sudan has expressed its readiness to undertake joint work with the UN and the international community in various areas concerning children, including pressuring the Government of the Sudan to abide by the international protocols and charters regarding children. This was expressed in a "Memorandum on visit of the UN Secretary General Envoy for children affected by armed conflict in the Sudan", of the Women and Child Desk of the Human Rights Secretariat.

Written information submitted to the group of experts on Darfur on 21 August 2007

A census was taken of child soldiers in the Abyei area (150 children). Sixteen children in Wau and 24 children in Bantiyu were reunited with their families. A census was taken of child soldiers in the state of the Blue Nile (227), the areas of Karmak (270), Kassala (24) and Qadarif (857) and Sha'iriyah east of Jebel Marra.

Information orally submitted to the group of experts on 18 September 2007

The Government reported that it had identified 857 child soldiers in eastern Jebel Marra Sheria, however, it did not provide information on other areas in the Darfur region. In June 2007, UNICEF and the SLA/MM signed a joint action plan to demobilize, disarm and reintegrate child soldiers.

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

UNICEF and the Sudan Liberation Movement Army (SLM/A) signed a joint Action Plan on 11 June 2007 regarding the Disarmament, Demobilization and Re-Integration of children associated with the SLM/A, as part of efforts to implement commitments made in the Darfur Peace Agreement. Short term commitments (i.e. within 2 months after signature) in the Plan include: to identify the locations and number of children have been associated with the SLM/A; to conduct joint missions with SLM/A and the UN to identify these children and understand their reintegration needs and to raise the awareness of SLM/A commanders in the field of the rights of the child. Implementation was delayed due to move towards renewed peace talks, but in mid-August 2007, SLA commanders reiterated to UNICEF their commitment to the Plan. UNICEF has agreed to provide services to the released children through a community-based reintegration programme. No concrete commitments to release children have been made by other armed groups.

Between June and October 2007, UN agencies, bodies and programmes operational in Darfur reported fewer cases of child recruitment into the armed forces and militia than had been done previously over a comparable time period. During the reporting period, UN staff gathered evidence indicating that JEM/Peace Wing (JEM/PW) recruited children among IDP communities in Dereig, in South Darfur. JEM/Peace Wing is signatory of the June Declaration of Commitment with the Government of Sudan, and therefore considered in favor of the DPA. A 15 year old girl, recruited in May 2007, reported that this recruitment usually took place following public meetings between JEM/PW commanders and IDPs. The girl reported that at least 120 children of both sexes were sent to JEM/PW training in Um Dum at the end of July. When interviewed on this question by UN staff, the JEM/PW commander in South Darfur denied the allegations, but acknowledged that among his forces there were minors, some of whom, according to him, were about to be demobilized.

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

Some limited progress seems to have been made with regard to the registration of children recruited into armed groups and follow-up to these cases.

#### **Recommendation 1.1.5 *Mid-term***

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.

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

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

Written information submitted to the group of experts on Darfur on 21 August 2007

To implement a memorandum of understanding between the Sudanese Ministry of the Interior and the African Union Mission, a plan was established to provide security for IDP camps, whereby internal camp security will be provided by the Sudanese police, while the African Union Mission will secure and protect the areas outside the camps. The following have been deployed: in North Darfur: 142 officers and 6,353 men of other ranks, securing 20 displaced persons' camps; in South Darfur: 119 officers and 6,148 men of other ranks, securing 25 displaced persons' camps, in West Darfur: 114 officers and 5,413 members of other ranks, securing 28 displaced persons' camps. The security situation in all camps has been calm. In 2007, there have been no security incidents in the camps.

Information orally submitted to the group of experts on 18 September 2007

The Government claimed that the security situation in IDP camps has improved, evidenced by the fact that IDPs went farther from the camps to engage in farming activities. According to the Government, AMIS continued to carry out firewood patrols and even increased their number. No information was provided as to how many camps benefit from effective and regular patrols. The Government also stated that 351,000 IDPs and refugees had returned spontaneously to their homes in an improved security situation.

Information submitted to the group of experts on 9 November 2007

The report states that the Government has taken certain measures to support women and children since 2005 such as establishing state level committees in each of the Darfur States and a unit to combat violence against women and children. This committee comprises representatives of the UN, the Police, the Prosecution service and the Humanitarian Aid Commission. The report indicates that an Advisory body was set up for women and children, deputy public prosecutors have been designated to liaise with IDP camps to review women's cases, police women were appointed to protect IDP women, a directive was issued to facilitate treatment for victims and another for the facilitation of the procedures for organizations concerned with women and children issues.

The report provided tables showing the location, number and villages of IDPs present in north, west and south Darfur. According to Government figures displaced persons and affected persons in Darfur are as follows. North Darfur No of IDPs in camps 163 282, No of affected persons in gatherings or villages 287 456 total 450 738. South Darfur No of IDPs in camps 417 232 of affected persons in gatherings or villages 205 681 total 622 913. West Darfur No of IDPs in camps 141 585. No of affected persons in gatherings or villages 852 042 total 993 627. TOTAL 2 067 278.

Information submitted to the group of experts on 15 November 2007

Police have made available forces to strengthen and secure camps and villages where voluntary return has taken place involving the deployment of some one thousand soldiers. There has been a reduction in the number of incidents relating to violence against women.

Between July to November 2007, 359,000 displaced persons have returned to their villages from camps in Chad and IDP camps in Darfur.

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

**See under recommendation 1.1.1**

**Assessment of Implementation of Recommendation 1.1.5**

Some actions to protect IDPs have reportedly been undertaken by the authorities. However, the group of experts did not receive specific and detailed information from the Government or other sources on where and how often patrols were carried out and whether they had a positive impact on the number of attacks in the areas patrolled.

**1.2 Protection of women against violence**

**Recommendation 1.2.1** *Short-term*

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

*Indicators: Plan published. Level of implementation.*

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

Written information submitted to the group of experts on Darfur on 21 August 2007

On 14 June 2007, a workshop on combating violence against women was held, in cooperation with the UNMIS (Human Rights Component) Gender Unit, at police headquarters, to reaffirm the commitment to the implementation of the action plan on combating violence against women in Darfur, based on Security Council resolution 1325 (2000), Women, Peace and Security.

On 17 July 2007, a seminar was held, in collaboration with the Human Rights Section of UNMIS and the General Union of Sudanese Women, on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. An analytical paper was presented that compares the contents of the Protocol with the Constitution and national laws of the Sudan. The main objective was to involve civil society organizations in the decision on signing and acceding to the Protocol. A recommendation was made in that regard.

Written information submitted to the group of experts on Darfur on 3 September 2007

The Government of the Sudan has pledged to: Condemn violence against women and reaffirm that such crimes shall not go unpunished and that prompt action will be taken to investigate them, to identify and bring the perpetrators to justice and to award legal compensation to the victims; and reaffirm its commitment to implementing the national plan to combat violence. This has been done in a Declaration on measures to eliminate violence against women in Darfur of the Government of the Sudan, para. 1, 2.

Written information submitted to the group of experts on Darfur on 30 October 2007

The Government indicated that plans of action have been set for the state committees in Darfur for the next 6 months (July-December 2007). In North Darfur, during the period (July- September 2007) three workshops were conducted, highlighting criminal circular No 2 issued in the localities of: Kotum, Kabkabia, Malit. There were also subcommittees for combating violence established in the localities of: Kutum- Kabkabia- Malit. Seventeen newly prosecutors have been appointed and trained in El Fasher Region in: violence against women (1); and the international law of human rights (2). The committee for combating violence against women in North Darfur was technically and financial supported to implement the approved plans until December 2007. In West Darfur, technical and financial support was provided to implement the approved plan to commence in the end of October 2007 to raise the capacity of the cadre and highlighting criminal circular No. 2 issued by the Minister of Justice, at the local level. In South Darfur, technical and financial support was provided to the Unit of Combating violence against women to implement the approved plan, which will be implemented in the last week of October until mid-November 2007. A number of workshops will be conducted to highlight criminal circular No 2 and the National Plan of Action. A committee has been established to set a plan to celebrate the 16 days of activism to combat violence against women in Khartoum and Darfur state comprising Government, UN, and civil Society from during 25 November until 10 December 2007. A workshop to train community police in international human rights law will be conducted from 4-6 December 2007 in coordination with the Ministry of Interior.

Written information submitted to the group of experts on Darfur on 15 November 2007

A report prepared by HAC, Darfur sector, covers the following issues: humanitarian indicators (good nutrition, reduction on malnutrition rates, settled health situation), humanitarian assistance (provided by WFP and ICRC), facilities and support provided by the Government (custom exemptions, capacity building for national NGOs, social reconciliation, affected population work force and support for humanitarian organizations, voluntary return to the villages).

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

The National Action Plan on Combating Violence against Women was launched in November 2005. An inter-ministerial technical committee was created in Khartoum to oversee the implementation of the Action Plan, and workshops were held in all three States for local authorities. State committees to combat sexual and gender-based violence were subsequently created in all three Darfur States. In December 2005, the Government created a new unit to Combat Violence against Women and Children under the Minister of Justice, reportedly to institutionalize and coordinate the Government's response to the problem and oversee the implementation of the Plan.

On 18 August 2007, the Minister of Justice passed a Declaration on the measures for the Elimination of Violence against Women in Darfur in which the Government condemned violence against women and reaffirmed a zero tolerance policy for such crimes. The Government also undertook to investigate, identify and prosecute perpetrators, as well as provide legal compensation to victims; to strengthen commitment towards the implementation of the 2005 National Action Plan; to ensure that women who suffered sexual violence were provided with medical care; disseminate and promote compliance with rules of application of Criminal Circular No. 2 and to deploy more women police officers to Darfur trained to deal with victims of sexual violence and other forms of gender based violence.

A National Action Plan was launched but, from the many reported incidence of sexual and gender based violence, there seems to have been no significant improvement. The unit established within the Ministry of Justice to oversee the implementation of the plan seems not to have made any considerable advancement in addressing the issue of violence against women.

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

Implementation has started. The recommendation has been partly implemented. The National Action Plan has been published. Plans of action have set for the state committees in Darfur for the period July-December 2007 have been adopted. Some activities are planned during November and December 2007. However it seems that these activities had yet little impact on the ground.

#### **Recommendation 1.2.2 *Short-term***

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

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

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

##### Written information submitted to the group of experts on Darfur on 21 August 2007

An important draft declaration was prepared affirming the State's determination to implement the plan on combating violence against women in cooperation with UNMIS and the United Nations Population Fund (UNFPA) which made reference to the authoritative force of Security Council resolutions. The draft circular for the armed forces refers to the criminalization of acts of violence against women, including rape, and the prosecution of perpetrators.

##### Written information submitted to the group of experts on Darfur on 25 and 30 October 2007

The group of experts received statistics on complaints, trials and verdicts concerning violence against women and murder inculcating officials and members of the armed forces, the police forces and security forces in South, West Darfur and North Darfur. A workshop was to highlight the civil society about the declaration. The UNFPA agreed to conduct 3 workshops to disseminate the declaration. Statistics of rape cases were submitted, which cover reported cases for the period June to October 2007, are as follows:

North Darfur State: 7 rape cases reported between 4 February 2007 and 9 October 2007. Two cases were allegedly committed by unknown members belonging to SAF, two by unknown armed individuals, the rest by named individuals. The place of the alleged rape incidents were in Kutum, Elfasher, Salaam camp, Rwanda camp and Kassab camp. All the 7 cases remain under investigation.

Another separate document was received in regard to a number of other rape cases that were committed in North Darfur during 2007. It referred to 13 cases of rape. 7 individuals punished by imprisonment ranging between 6 months to 8 years imprisonment in addition to lashing between 40 to 139 lashes. Two cases were punished by the infliction of between 80 and 100 lashes. One case was decided to have been manifestly unfounded. Five cases

remained under investigation. There were four other cases against members of the Armed Forces in Kutum court, North Darfur during January-September 2007. Two individuals received 7 and 8 years imprisonment and two were in the process of being tried.

West Darfur State: 4 rape cases were reported between 3 May and 16 October 2007. All of the accused were named and identified individuals and were not armed or belonging to SAF. The places of the alleged incidents were Ardmta, Geneina and Four Brenga. Three cases remained under investigation while one case was pending. Rape crimes committed by members of the armed forces during 2007: 10 cases, 3 received 4 to 5 years imprisonment and 100 lashes, one not arrested 5 under trial, one under investigation. Six cases of killing committed by members of the armed forces. Members belong to Border Guards, Reserve Police, SAF, Central Reserved Police. One acquitted, one under trial, two under investigation and two received death sentence by hanging. 11 cases were reported during August two cases received 80 lashes, one imprisonment and fine, six under trial, one under investigation, and one not yet detained.

South Darfur State: 16 rape cases were reported. Some of them were unknown individuals; some two from SAF and the rest were unknown armed individuals. All cases were under investigation while only one case was subject to legal proceedings.

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

On 18 August 2007, the Ministry of Justice publicly reiterated its commitment to ending sexual and gender based violence in Darfur.

An established pattern of violence against women has emerged in Darfur over the last several years of the conflict, and has been well documented by several UN bodies as well as international NGOs. Many instances of rape have been perpetrated by armed men in military uniform or in civilian clothes, travelling in groups on horses or camels. In North Darfur, however, in particular in the Tawila area and in Gereida area of South Darfur, incidents of sexual violence have been mainly perpetrated by men who victims claimed were SLA/MM members. Female IDPs have stated that, despite the severity of incidents perpetrated against them, they have had to continue to venture outside the camps to gather means of subsistence.

The majority of incidents of sexual violence have gone unreported. Many victims have chosen not to file complaints with police because they have felt that the police cannot or will not take appropriate action against perpetrators. In some cases, police action has been limited to receiving complaints with no further action being taken. In other instances, it was evident that victims were not adequately informed about the use of Criminal Form 8 and the proper procedure for filing a police complaint in cases of sexual assault. In other instances, police have decided to register depending on the gravity of the physical harm/injuries indicated on the Criminal Form 8 by the examining doctor on a purely discretionary basis. Fear of social stigma and continual denial by local authorities on the occurrence of rape has discouraged reporting. In many cases documented by UN agencies, bodies and programmes operational in Darfur, rape victims sought treatment in clinics run by international NGOs instead of those locally operated by the Government. While this choice may give victims access to better medical facilities, it may have reduced the victim's access to justice in many cases because international NGO clinics have not been authorized by the Government to provide Criminal Form 8.

Between June and October 2007, UN agencies documented incidents of sexual violence almost every week totalling 45 women victims and one 10-year old boy.

Several cases of sexual and gender based violence have been documented in South Darfur, most of which involved female IDPs from Kalma and Al Salam camps, Umbraida and Gereida. In most of the cases documented, victims failed to report to the police for fear of social stigmatization or because police had failed to act adequately in previous occasions. Medical care in the cases documented was provided only by international NGOs working in IDP camps and not by Government run clinics. In at least one case, police refused to hand over a Criminal Form 8. From eastern West Darfur, the UN received reports of three attempted rape and six rape incidents involving a total of 12 women and girls. The majority of victims were from the Fur tribe. Although most of these cases were reported to the Police, and victims were provided with a Form 8 and referred to the hospital, in many cases, police failed to take any action after the complaint had been lodged.

In the western part of West Darfur, fewer cases were reported in 2007 than for the same period in previous years. Since 20 June 2007, there were 11 reported SGBV incidents, including rape, gang rape, assault and harassment. Due to logistical problems in gaining access to the field and to a general under-reporting known to occur in SGBV

related incidents, the actual number of incidents is estimated to be significantly higher than what has been actually reported. In the south-west corridor of West Darfur, the prevalence of SGBV incidents was much lower than in the northern area of El Geneina. No cases were reported over this period in south West Darfur.

In North Darfur a total of 30 cases of SGBV were documented, of which there were 19 rapes, four attempted rapes and seven physical assaults and harassment. In 23 out of the 30 cases, victims were IDPs. The majority (15 cases), occurred in Tawila and the remaining in Kutum, Kabkabya and El Fasher, and seem to have been perpetrated mainly by militia or armed men (11) cases or SLA/MM soldiers (8). In terms of access to medical care, in 24 out of the 30 mentioned cases, victims sought and received assistance. During the period under review, UN staff did not document any case where a victim was prevented from receiving medical treatment in Government, or other, facilities. There have also been improvements in the delivery of Criminal Form 8. In 10 of the documented cases, victims were provided with one. In 17 cases, a Form was not issued mainly because Government facilities, such as in areas controlled by SLA/MM.

In most cases documented in North Darfur, victims chose not to file a report to the police, either because perpetrators came from armed forces or militia in control of the area (such as in cases involving SLA/MM), or because they had low expectations that anything would be done to assist them or to investigate the crime. In the cases where victims did report to the police, they faced major obstacles. On 16 August 2007, an 18 year old woman was gang raped by a group of soldiers in El Fasher. The victim was able to identify one of the soldiers by his first name. The case was reported to the police, military and prosecutor, who together with the victim's father visited the scene of the crime. On 27 August 2007, the prosecutor informed UN staff that the military had insisted on knowing the full names of the perpetrators before they could take any action. On 6 September 2007, a 17 year old IDP girl was raped by seven men when she was returning from school to Al Salaam camp, in North Darfur. The incident was reported to the police, who stated to the father of the victim that the case would be difficult to pursue because the perpetrators belonged to the military. On 8 October 2007, the prosecutor stated that the first names of four of the perpetrators were known, but that, in order to take action, the military needed their full names. Only one case in Darfur reached the Court in the period between 20 June 2007 and the time of writing of the present report. The case involved a 10 year old boy who was allegedly molested by a man on 13 July 2007. The case was being processed in Kutum, North Darfur.

There have been a number of other documented cases. For example, on 21 June 2007, three Fur women from the Rwanda IDP camp near Tawila in North Darfur were severely beaten and raped by three armed men who arrived on camels. Two of the men wore khaki uniforms while the third was in civilian clothes. The three women had gone in search of food and were intercepted by the armed men. The women told UN personnel that they thought that the men were SLA/MM soldiers. All three women, who were carrying children on their backs, were subjected to severe beatings when they tried to resist being raped. The men later separated the women, took them to different locations and raped them. One of the women became unconscious after her ordeal.

On 23 June 2007, a 35-year-old IDP Massalite woman and her 7-year-old daughter were attacked by an armed militia man near a hillside northwest of Kerenek, West Darfur. While the daughter managed to escape, the woman was caught by the perpetrator and whipped several times. She sustained injuries on her arms, legs, shoulders, and back. She later attempted to file a police complaint but was advised by the police to come back after ten days. On 29 June 2007, six women and girls were raped. These displaced women fled attacks by Governmental Forces and militia in Beli Siref and went to Debaneira, where they were all robbed and raped.

On 8 July 2007, two female IDPs went to collect firewood outside Zalingei when they were intercepted by two armed men on camels, suspected to be militia. The men were wearing green and beige camouflage khaki uniforms and their faces were partially covered. The armed men first verbally assaulted the IDPs and later instructed them to surrender their personal belongings. They took away their axes and knives and later shot one of the IDPs in the foot. The Zalingei police issued the victim with a Form 8 which enabled him to undergo treatment at the Zalingei hospital. However, they refused to register a formal complaint unless the victim was able to establish the identity of the perpetrators.

On 22 July 2007, a 28 year old Fur woman from the Kalma camp, in South Darfur, was raped by a suspected militiaman, when she was returning to the camp with two female companions. The man asked the women to which tribe they belonged and to where they were headed. When the women replied, the man insulted them, referring to

them as '*torabora*'. He then held the 28 year old and ordered the other two women to leave. When they refused, the man pointed his gun at them and threatened to shoot, forcing them to flee. The 28 year old was raped.

On 26 July 2007, in Deba Fooka village (North Darfur) three Government soldiers from Sheg al Nakhara raped six women in and around the same village. A 25-year old Tunjur woman from Deba Fooka said she was raped by two Government soldiers on 26 July 2007. The matter was reported to the police, which gave them a Criminal Form 8 to complete.

On 4 August 2007, a 19 year old Fur woman was reportedly attacked by two armed militia and raped by one of them, two kilometers north of Nertiti North camp, in West Darfur. According to the testimony of the woman, she was collecting firewood with two older women and seven men, when two men started shooting at them. While the others managed to flee, she was captured. One of the men held her down while she was raped by the second man who was wearing a green uniform. She was beaten when trying to resist. The victim, who is eight months pregnant, sustained injuries to her neck and hands and complained about back problems. She received medical attention in the camp clinic, but did not report the incident to the police convinced that they would not take any action.

On 15 August 2007, in Zalingei, West Darfur, a 15 year old girl from the Hassa Hissa IDP camp was raped by a man, when she ventured outside the camp to collect grass and firewood. At a location near the camp, the girl was captured and subsequently beaten and raped. She managed to get back to the camp and was escorted to the Zalingei Hospital, where she received treatment. The victim's family decided not to report the incident to the local police for fear of reprisal.

On 7 September 2007, a 17 year old Fur girl living in Hassa Hissa IDP camp, West Darfur, was raped by two armed men in uniforms believed to be Sudan Armed Forces soldiers, when she was meeting other women. The girl was seven months pregnant as a result of a previous rape. The case was not reported to the police, both due to a lack of trust and for fear for reprisal.

On 8 September 2007, five women from Hamadiya IDP camp, in Zalingei, were attacked by six militiamen. Two of the attackers were wearing green camouflage uniforms while the others wore civilian clothes. The victims were part of a larger group of more than 20 women from the camp who went out in search of firewood. They were confronted by the attackers about two kilometers from the camp. The attackers proceeded to beat them with sticks and stones. Two of the victims including a 15 year old girl managed to escape.

Reports were received about a case of rape involving Government soldiers in Tawilla (North Darfur) that allegedly occurred on 12 September 2007. Three women from the Fur tribe and residents of Tawilla IDP camp went to the mountains to fetch grass for their animals. On their way, they were assaulted and beaten by four armed men suspected to be Government soldiers. One woman was raped by two of the armed men. The case was reported to the Government Police and AMIS. The victims received medical treatment.

On 19 September 2007, in Sisi, West Darfur, a 60 year old woman was shot and killed by a CRP officer when she tried to protect her daughter from being sexually assaulted. The mother and daughter, both IDPs, were sleeping when two members of the Central Reserve Police barged into their room. One policeman grabbed the woman's daughter, pointed a gun at her and demanded to have sex with her. He then proceeded to drag her out of the room while the other policeman stood watch by the entrance of the door. When the old woman intervened to prevent her daughter from being taken away, she was shot to death. The two policemen escaped but investigators later traced their footsteps to the compound of the Central Reserve Police. The two men have reportedly confessed to the crime and were placed in police custody.

Thus, there have been many reports about serious incidents of rape and other forms of sexual and gender based violence from 20 June 2007 to the time of the writing of the present report.

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

Implementation has started, in the sense that some action has been taken to denounce crimes of sexual violence, and a number of public statements have been made. A declaration has been made. There have been a number of reported rape cases followed by investigation, prosecution of perpetrators.

However, there still appears to be a gap between the number of reported cases and the much lower number of cases of prosecution for rape and other forms of sexual violence. Moreover, a strong pattern of underreporting of cases of sexual violence continues because of a general lack of confidence in the police and prosecutor's office. The information submitted also indicates that no compensation has been provided for the victims.

**Recommendation 1.2.3** *Short-term*

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

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

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

Written information submitted to the group of experts on Darfur on 21 August 2007

Training on displaced persons' camps has been conducted jointly with the African Union in order to protect women who go out to fetch firewood.

Information orally submitted to the group of experts on 18 September 2007

The Government indicated that the security situation in IDP camps has improved, as evidenced by the fact that IDPs have ventured farther from the camps to engage in farming activities. The Government stated that the AMIS continued to carry out firewood patrols; however it did not provide information on how many camps benefited from effective and regular patrols.

Information orally submitted to the group of experts on 15 November 2007

The Government reported that there were 81 locations where IDPs had gathered, 21 of which were organized IDP camps. Of the 21 organized IDP camps, only eight camps required patrols whereas in other sectors, there was no need for this kind of protection.

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

Some firewood brigades have been stopped, and according to some sources, these have not resumed. No real improvement has been seen in respect of the number of IDP camps benefiting from regular and effective firewood patrols. See also incidents reported under 1.1.1. and 1.2.2.

**Assessment of Implementation of Recommendation 1.2.3**

According to the Government, only 8 IDP camps benefitted from firewood patrols out of some 81 locations where IDPs had gathered. However, information received from other sources on recommendation 1.2.5 suggests that incidents of sexual and gender based violence have continued as well as other forms of assault and attacks. The recommendation had not been implemented effectively by the time of the writing of the present report.

**Recommendation 1.2.4** *Short-term*

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

*Indicators: State committee work plans publicly available.*

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

Written information submitted to the group of experts on Darfur on 21 August 2007

Short-term plans on combating violence in the three states were drawn up and funding was provided for them. A draft reference was prepared for the team assessing the work of the gender violence committees in Darfur.

Information orally submitted to the group of experts on 18 September 2007

The Government claimed that all three State Committees had drafted a plan to combat violence against women, but it did not provide copies of the work plan of the Northern and Western Darfur Committees.

The Government plans of action have been discussed with the state committees and the state unit to combat violence against women.

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

UN agencies, bodies and programmes operational in Darfur reported that the South and North Darfur State Committees had adopted a work plan but that West Darfur State Committee had not. The South Darfur State Committee has been meeting on a regular basis while the other two State committees had not.

In West Darfur, the Governor established the West Darfur Higher Committee to Eliminate Violence against Women in late 2005. According to a statement made by the Governor at the opening meeting on 3 December 2005, the Committee's responsibilities were to supervise implementation of the National Plan of Action, receive complaints and follow up on court proceedings. However, the committee only met sporadically since its inception. On 6 August 2007, the acting Governor of West Darfur issued a decree (No. 88 of 2007) reconstituting the Higher Committee for Combating Violence against Women. The decree changed the composition of the committee, appointing the State Minister of Social Affairs and Mass Communication as the chairperson and the Governor's Adviser on Women and Children as the Secretary. The decree appointed representatives of the West Darfur State Police, National Security, the Office of the Prosecutor, the Judiciary, the Sudanese Red Crescent, the Sudanese Women's Union, the Sudanese Working Women's Union, the Family Union, the Chairperson of the Peace Committee of the State Legislative Council, UNICEF, OCHA and two NGOs as members of the committee. Representatives of AMIS, the Head of Office of UNMIS and the Human Rights Team Leader of UNMIS were appointed as observers. The committee's mandate also was altered to focus on increasing the awareness of women about protection, creating units of women police to receive complaints of violence against women in hospitals, following up on complaints, investigations and court procedures and preparing statistics and reports. Additionally, the committee was tasked to meet every two weeks. As of the end of October 2007, the Chairperson had not convened any committee session and therefore no work plan had been developed by the time of the writing of the present report.

In South Darfur, although the State Committee had finalized its action plan, implementation has been deficient due to a lack of leadership and financial resources. The State Committee appears to have convened more regularly than the other two Committees.

In North Darfur, even though the State Committee has met only occasionally, it has been active on cases of sexual violence, and in organizing activities outside El Fasher. The State Committee had developed a work plan, although most activities planned have not yet taken place, for several reasons including lack of funds. The main objectives in the work plan relate to the dissemination of the rules of application for Criminal Circular No. 2, and to the creation of awareness on women's rights and on issues dealing with violence against women, mainly in rural areas.

**Assessment of Implementation of Recommendation 1.2.4**

Work plans for State Committees were developed but no clear objectives, targets and time-frames were provided in the Government's Violence against Women Unit's report. Activities were reportedly limited and had limited impact.

**Recommendation 1.2.5** *Short-term*

Issue and immediately enforce clear instructions to all authorities, including the armed forces, and any militia

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

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

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

#### Written information submitted to the group of experts on Darfur on 21 August 2007

Draft orders to the armed forces were prepared prohibiting all kinds of attacks on civilians, including torture and violence against women, and stipulating that perpetrators of criminal offences will have their immunity waived and will be brought to justice. The draft was reviewed by the Advisory Council for Human Rights and was submitted for signature to the armed forces command. The People's Armed Forces Act was approved by the Cabinet. It contains an entire chapter on the principles of international humanitarian law, including the protection of civilians and civilian objects. It makes no distinction between protection during international conflicts and protection during internal conflicts. It also includes provisions on individual liability and the prosecution of persons who commit abuses.

#### Information orally submitted to the group of experts on 18 September 2007

The Government reported that the Draft Armed Forces Act, which was supposed to improve the protection of civilians against military abuse, had been approved. The Draft is currently pending before Parliament and is expected to be passed following a parliamentary recess in early October. According to the Government, the Director-General of the Operational Unit of the Armed Forces had been tasked to draft directives to the armed forces, that would operationalize the Armed Forces Act Bill. By letter dated 13 September 2007, the Government reported that the Minister of Justice had appointed an investigative Committee, composed of a judicial advisor and representatives of the Police, National Intelligence and Security Services and the Unit to Combat Violence against Women. No information was provided about action taken as the result of the work of the Committee.

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

The draft Sudan Armed Forces Act was expected to be debated in the National Assembly in October 2006, but had not yet reached the Assembly by the end of June 2007.

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

Implementation has begun, but the continuing reports about incidences of sexual and gender based violence indicate that there have been no discernable improvements on the ground.

### **Recommendation 1.2.6 *Short-term***

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

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

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

#### Information orally submitted to the group of experts on 18 September 2007

The Government reported that the Ministry of Justice monitored implementation of Circular No. 2 stating that Criminal Form 8 was no longer a requirement that victims of sexual or gender based violence had to meet in order to receive medical care or to initiate criminal proceedings. Instead, doctors could henceforward issue a medical report in cases of sexual violence which could be admitted as evidence in a court of law. No reports were received that women had been refused access to medical care. A circular on the medical care needed by victims of rape has been drawn up by the Ministry of Health in cooperation with the WHO and has been distributed to healthcare providers.

Information submitted to the group of experts in writing on 9 November 2007

The Government Violence against Women Unit stated that the three State committees were following up on the provision of health services without requesting Criminal Form 8. This has been done in coordination with the Ministry of Health and the Ministry of Interior. The task force team will evaluate the work of the state committees in Darfur to increase coordination between the Ministry of Health and the Ministry of Interior in order to ensure health services for victims and to make Form 8 available in all health units in case the victim requested to pursue legal procedures.

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

In terms of medical assistance, in most of the cases documented, victims have preferred to seek treatment in clinics run by INGO instead of in ones run by the government. Frequently it is a matter of better resources and easier access as many INGO operate medical facilities inside the camps. Other reasons relate to victims' need to friendlier and more confidential spaces. This poses an extra obstacle to victims' ability to access justice because many of the INGO clinics are not authorized by the government to provide Criminal Form 8. Measures taken by the Government so far (such as Criminal Circular No.2, the deployment of female police officers, and workshops) have yet to improve the situation for women and girls in Darfur. Perpetrators have been rarely brought to justice and many of the mechanisms the State has established to combat sexual violence, such as the State Committees on Combating Gender-based Violence, have functioned poorly and appear to have had little impact.

**Assessment of Implementation of recommendation 1.2.6**

There were no reports that the lack of Criminal Form 8 has impeded access to medical treatments. Thus, the recommendations seem to have been fully implemented. However, there remain problems regarding access to justice for women who have been treated in NGO clinics.

**Recommendation 1.2.7** *Mid-term*

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

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

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

Written information submitted to the group of experts on Darfur on 21 August 2007

The Advisory Council for Human Rights held a training workshop on human rights and law enforcement (human rights standards in domestic laws; the responsibilities of the police for protecting and promoting human rights; and human rights principles and policing issues) in conjunction with the UNMIS human rights bureau and the gender violence unit. The event was due to be held on 29-30 August, at police headquarters, for 40 women who work in policing.

Information orally submitted to the group of experts on 15 November 2007

According to the Government, 40 police women have been deployed to Darfur to investigate crimes and there was a new plan set to commence in early 2008 to ensure that further recruitment of women police for Darfur would come from Darfur itself in order to strengthen the implementation of a policy of community policing. With respect to women police, the Government indicated that deployment from Khartoum was difficult and that it would try to recruit women to the police force locally in Darfur.

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

UN agencies, bodies and programmes operational in Darfur did not receive any information indicating that female police officers had been deployed to IDP camps and police stations in Darfur between June and November 2007.

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

Implementation has begun with the start of training of women police officers, which represents a positive first step. It remains unclear whether deployment has actually taken place to Darfur.

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

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

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

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

Information orally submitted to the group of experts on 18 September 2007

The Government stated that it was committed to reviewing the current legal framework.

Information orally submitted to the group of experts on 15 November 2007

The Government stated that Article 145 of the Criminal Code was clear and that there had thus far been no cases which confused rape and adultery. Therefore, there was no problem. The Government also referred to the possibility to hold a workshop to discuss the issue of the interpretation and application of the law.

#### **Information Received from Other Sources on Recommendation 1.2.8**

The article was not amended.

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

The Group urges the Government to review the current legal framework in accordance with the recommendation.

**Recommendation 1.2.9** *Mid-term*

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

*Indicators: CEDAW and Protocol ratified.*

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

Information orally submitted to the group of experts on 18 September 2007

According to the Government, a recommendation to ratify the African Protocol on the Rights of Women in Africa has been submitted to the Minister of Justice. Regarding the ratification of CEDAW (recommendation 1.2.9), the Government has conducted workshops, seminars and consultations. It was concerned that reservations entered by some Islamic countries have cast doubts on the viability of any reservations it might seek to make if it were to decide to accede to the Convention.

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

CEDAW has not been ratified nor has the protocol to the African Charter.

**Assessment of Implementation of Recommendation 1.2.9**

The recommendation has not yet been implemented.

**1.3 Children and armed conflict**

**Recommendation 1.3.1** *Short-term*

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

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

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

Written information submitted to the Special Rapporteur during her mission in Sudan from 25 July 2007 to 2 August 2007

The Woman and Children Desk of the Human Rights Secretariat of the Sudan has expressed its readiness to contribute in undertaking joint work with the UN and the international community in various areas concerning children, among which in all projects that can provide children in the Sudan with security, dignity, tranquillity and welfare in its "Memorandum on visit of the UN Secretary General Envoy for children affected by armed conflict in the Sudan", Women and Child Desk of the Human Rights Secretariat.

Information orally submitted to the group of experts on 18 September 2007

The Government reported that the Director General of Police issued a circular on 3 September 2007, ordering all police districts to establish gender and child units. In South Darfur, a gender and child unit was established and was to be headed by a female police lieutenant.

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

Information received in late August 2007 indicates that family and child protection police units have been established in West Darfur in May 2007 and in North Darfur in August 2007. According to the information received, the Government had not yet set up such a unit in South Darfur. The Head of the Khartoum State Police offered technical support to states wishing to establish gender and child units (the first Gender and Child Unit was established in Khartoum in 2006).

In early September 2007, the Director General of Police issued an administrative decree on the establishment of Family and Child Protection Units in all states in North Sudan. The establishment of these Units was meant to be modeled after the Family and Child Protection Unit in Khartoum, operational since January 2007 with UNICEF's support. This Unit is intended to strengthen systems for children and women in contact with the law, both children and women victims of abuse or criminal offenders. Support provided has been provided mainly via social workers, prosecutors, legal aid workers, judicial actors, and psycho-social and health professionals. With UNICEF's support, police in both North and West Darfur have already started to set up these Units, and the Government has already made significant investments, including refurbishment of buildings and staffing.

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

Implementation has started in North and West Darfur with UNICEF support.

#### **Recommendation 1.3.2** *Mid-term*

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

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

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

##### Written information submitted to the group of experts on Darfur on 21 August 2007

On 3 May 2007, a Nyala court sentenced defendants Abd al-Rahman Zakariya and Ahmad Abdullah Sulayman to death for murder and robbery. The appeal court overturned the death sentences on 10 June 2007, because the two defendants were less than 18 years of age when they committed the crime. It ordered that they be placed in a reformatory.

At a regular session held on 20 March 2006, the Azhari Criminal Court, which was hearing the Suba case involving an attack upon a police station and the killing of 16 policemen, referred three of the defendants, who were minors, to a juvenile court and discontinued trial proceedings.

The Dukkah General Criminal Court in Qadarif, in eastern Sudan, convicted a woman called Fatimah Adam Yahya and sentenced her to death under Article 130 (premeditated murder). Since there were legal documents to prove that the woman was a minor, the Advisory Council wrote to the Department of Legal Assistance to submit an appeal to the Constitutional Court to annul the sentence.

The Damazin General Criminal Court convicted a man called Najm al-Din Qasim al-Sayyid and sentenced him to death under article 130 (premeditated murder). Counsel for Mr. Al-Sayyid appealed the verdict on the grounds that his client was less than 18 years of age when he had committed the crime. The appeal court ordered a medical examination to determine what age the convicted man was when the offence was committed. The results of the examination supported the verdict of guilt and the sentence and a higher court also upheld them. Counsel for the convicted man appealed to the Constitutional Court, which was still hearing the case. Three of the five judges have delivered their opinion in writing.

A workshop on juvenile justice was held on 26-27 June 2007 in cooperation with Children's Rights Monitor and the United Nations Gender Unit. The workshop was designed for judges and prosecutors and 50 participants were given training.

The Government reported that several laws protected children, namely:

1. the Child Act 2004, Article 33 prohibits the recruit or use of children in armed conflict.
2. the 1960 Regulation of the Armed Forces provided in article (12) that 18 years is the minimum age for recruitment.
3. the Armed Forces Bill 2007 "before the parliament" provided the same as in article (14).
4. Sudan is a party to the Child Rights Convention CRC of 1994 and to the Protocol on the Involvement of Children in armed conflicts. In accordance with Article 27 (3) of the Interim Constitution 2007 international human rights instruments to which Sudan is a party are integral part of the national law that needs no further enabling legislations.

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

No system for the systematic investigation and prosecution of violations against children seems to have been instituted in Darfur. Progress on this matter seems to be linked to the establishment of the Gender and Child Units within the police, which are intended to provide expertise and institutional support, currently lacking for such investigations.

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

Implementation has started although no law has been adopted yet. More rigorous and systematic investigation and prosecution are needed. The establishment of Gender and Child Units seems to be a good first step in this regard as noted above under the assessment of recommendation 1.3.1. It should be noted that most of the information received from the Government concerned children as perpetrators. Although this information is welcome, it did not relate directly to the recommendation which seeks to address children as victims. The group requests further information from the Government.

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

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

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

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

#### Written information submitted to the group of experts on Darfur on 21 August 2007

A workshop on the demobilization of child soldiers was planned for September 2007 by the Advisory Council for Human Rights in conjunction with the Ministry of Defence, the Disarmament, Demobilization and Re-Integration Commission and the National Council for Child Welfare and with the participation and support of UNICEF. The event was aimed at 30 members of the regular forces and 30 members of the joint forces. The Advisory Council, in cooperation with the accredited office in the Karari district of the governorate of Omduran, investigated the situation of children who have been displaced; the city has some 30,000 families. It also looked at the provision of basic services.

#### Information orally submitted to the group of experts on 18 September 2007

The Government informed the group of experts orally that it had identified 857 child soldiers in eastern Jebel Marra/Sharia areas. The Sudan Task Force on Children and Armed Conflict did not receive any report confirming this information.

With regard to the plan of action, the Government responded that several workshops in short term work plan were conducted: one workshop on the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment was held in September 2007. Another workshop was held jointly with UNMIS on 5 and 6 September 2007, which focused on the right to fair trial. The workshop targeted officials that might be deployed to Darfur and its aim was to improve the skills of judges and prosecutors.

#### Information orally submitted to the group of experts on 15 November 2007

Two DDR commissions have been set up in North and South Darfur to address issues relating to children. SLA/MM has envisaged the implementation of a plan with UNICEF; however, funds have been lacking to bring these plans to fruition.

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

Outposts of the Northern Disarmament, Demobilization and Re-Integration Commission (supported by UNICEF) have been established in the three Darfur States but have not been functioning effectively. The Northern Commission and UNICEF started a project to raise awareness on child recruitment and Disarmament, Demobilization and Re-Integration for children among armed groups. The Commission further took initiatives to run workshops with ministries to ensure coordination, and was actively collaborating with the Ministries of Social Welfare and Education in particular.

A concern was that there were still issues related to the 'competent authority' for child Disarmament, Demobilization and Re-Integration in Darfur, in that the DPA established the Transitional Darfur Regional Authority to manage rehabilitation and reintegration services identified in the DPA.

More broadly on Disarmament, Demobilization and Re-Integration of children, UNICEF and the Sudan Liberation Movement Army (SLM/A) signed a joint Action Plan on 11 June 2007 regarding the Disarmament, Demobilization and Re-Integration of children associated with the SLM/A, as part of efforts to implement commitments made in the Darfur Peace Agreement. Short term commitments (i.e. within 2 months after signature) in the Plan include: to internally identify the locations where children are associated with the SLM/A and their numbers; to conduct joint missions with SLM/A and the UN to identify and verify these children, and understand their reintegration needs; to raise awareness of SLM/A commanders in the field of child rights and protection. Implementation has been delayed because of ongoing peace talks.

Disarmament, demobilization and re-integration commissions have been established in Nyala, Geneina, and El Fasher, and provided with staff. However, the staff have not been trained in child protection or demobilization and reintegration of children. Moreover, the work of these commissions cannot commence in the absence of a clear agreement between the Government and armed groups as to how it should proceed.

On the agreement between UNICEF and SLA/MM regarding demobilization and reintegration of child soldiers, according to UNICEF, the ongoing conflict in Darfur had made it difficult to follow-up on the agreement. Nonetheless, SLA/MM sees has indicated its commitment in moving forward with the verification process. The main obstacle at the time of the writing of the present report to the absence of an agreement between SLA/MM and the Government on the structure for supporting child Disarmament, Demobilization and Re-Integration in Darfur.

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

The Government did not provide information regarding Disarmament, Demobilization and Re-Integration in Darfur, except for East Jebel Mara. Additional information received suggests that the Northern Disarmament, Demobilization and Re-Integration Commission has started its work in cooperation with UNICEF.

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

**Recommendation 1.4.1** *Short-term*

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

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

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

Written information submitted to the Special Rapporteur during her mission in Sudan from 25 July 2007 to 2 August 2007

The Order of the Director General of the Police No. 58/2007 on the treatment of detainees and prisoners, 31st July, adopted in pursuance of the Police Forces Act, reminds police officers, including officers, commissioned officers and soldiers, of their role in the protection of citizens and in ensuring the legal and humanitarian aspects in the treatment of convicted or arrested civilians. The order reminds these officers to activate their protection role in order to attain the best possible treatment of civilians and to prevent assaulting them. The Order further states that the general administration of prisons shall treat inmates in a manner that ensures their rights and realizes their reform and correction.

Written information submitted to the group of experts on Darfur on 21 August 2007

No. 58/2007 states in paragraphs 1-3 that: "1. All members of the security apparatus and National Intelligence implementation of safeguards enshrined in the law and the regulations on the treatment of detainees in 1996, especially those related to the verification of the implementation of the law in the case of arrest and prohibit unlawful detention or detention in other places of detention with the risk of arrest and their families not to abuse or physical abuse of detainees psychological methods or degrade their dignity during arrest guaranteeing their health care and family visits according to the regulations governing this. 2. In the case of any member of the apparatus of any violation of the existing laws provide him with the initial justify the charge against him is committed to the submission of the trial or tried in court by summary of the non-permanent, as determined by law. 3. The directives should be circulated to all units of the National Intelligence and Security and to all members of the commitment and action, all of which have committed an offence presents himself for accountability and punishment as the law."

Written information submitted to the group of experts on Darfur on 21 August 2007

In 2007, six training courses were held for security services personnel, consisting of 14 lectures on the legal principles behind human rights and international humanitarian law with a focus on guarantees in the event of arrest and the rights of detainees. The courses were run at the security services training institute for a total of 120 officers. Pursuant to an agreement on the rights of non-Muslims concluded in the capital Khartoum with the Commission of Non-Muslims and the judiciary, approximately 800 individuals, mostly from the southern states, who had been accused or found guilty of smuggling alcohol, were released. The Commission undertook to contact the Government in the South in order to provide appropriate means of living. The Director-General of NISS issued the following instructions pursuant to article 73 of the National Security Forces Act of 1999, as amended in 2004,; "Guarantees in the event of arrest: All members of national security and the intelligence services shall comply with the guarantees established by the law and in the regulation of 1996 on the treatment of prisoners, particularly those concerned with: implementation of the law in the event of an arrest; the prohibition of unlawful arrests and detention in places other than designated detention facilities; the requirement to notify the family of a person placed under arrest; the prohibition on physical assault or psychological abuse of prisoners; and compliance with the procedures which safeguard the dignity of individuals during arrest and guarantee the right to health care and family visits in accordance with the relevant regulations. Compliance with circular and implementation of instructions: The present instructions shall be circulated to all security units and national intelligence units and all members of the security

services shall comply with and implement them. Anyone who breaches them shall be prosecuted and punished in the manner provided for by law.”

Information orally submitted to the group of experts on 18 September 2007

Order 58/2007 by the Director of Police on treatment of the detainees and prisoners in 4.1.4., 1.4.2. and 1.4.3. contains the following guarantees: prohibition of illegal detention (in places other than official ones), no physical or psychological aggression of detainees, prohibition of inhuman treatment; family visits and health care guaranteed; fair trial guarantees, right to have access to lawyers, the right to be presented promptly before a judicial authority; presumption of innocence. The Order 58/2007 supplements Article 4 of the Penal Code, which provides for the following basic principles: presumption of innocence, fair trial, prompt charges, access to evidence and witnesses, access to lawyers, right to call one's own witnesses. Several cases have been brought against officers of the National Intelligence and Security Services (one case in Khartoum when a detainee was killed); there are three or four other cases. Another example, which was not directly related to Darfur, but illustrates that all guarantees of detainees under the authority of NISS have been respected is a case of July 2007, when 27 suspects were detained on charges of subversive activities, using weapons to cause destruction and organizing a coup; the suspects including former minister of Interior, another Minister and several members of the military, Mr Hassanin were detained by the security apparatus. In response a public committee composed of three judicial officers was set up to investigate this specific case; while in detention, all suspects could see their families, had access to lawyers and received medical treatment from their private doctors. The 27 lawyers representing the suspects requested the Public Prosecutor to renounce the charges, but the Prosecutor refused to proceed on the basis of existing evidence. 24 statements were taken down, but 3 suspects have disappeared. Regarding persons detained under the authority of NISS, nine names were given in Sudan's progress report submitted to the Group. These were detained in connection with the Kashabar events and all of them have been freed in the meanwhile. Currently nobody is held under the authority of NISS, all other detainees are being suspected or accused of having committed criminal offences. After the Abuja agreement all persons detained in connection with Darfur by NISS were freed. Suleyman Dzhamous was allowed to travel to Kenya for medical treatment.

Order 57 relates to the legal conditions on jurisdiction. If the complainant is a civilian, the case will be dealt with before a civil court; if the complainant is a member of police, it will go to the police court. In general penalties provided by police Code are stricter than those in Criminal Law. In Northern Khartoum a trial of a police officer who tortured a person to death is on-going before an ordinary court. In parallel a juvenile court is currently trying three persons previously working for the criminal investigation unit, suspected of having tortured a person.

Information orally submitted to the group of experts on 15 November 2007

The Government stated that the Ministry of Justice had issued a directive that there should be prosecutors who remain on duty after normal working hours (08:00-14:00). Prosecutors have been appointed to work in various geographical zones and to work on shifts in order to ensure 24 hour availability in regard to determination of the lawful status of detention. At any time, human rights officers can contact prosecutors directly instead of having to refer themselves first to the police.

The Government indicated that in early November 2007, the Constitutional Court of Sudan had rendered a judgement upholding the constitutional right to litigate which pertained to the question of immunities from prosecution. The main development was that the Court decided that it was the judiciary and not other branches of government that was authorized to lift immunities from prosecution for police officers. Moreover, there was a special prosecutor who was responsible for supervising the lawfulness of detention in regard to all individuals detained under national security laws.

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

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

In each of the Darfur States, civilians have reportedly been arbitrarily arrested, subjected to ill treatment, denied access to legal counsel, held without being informed of the reasons for their arrest, and detained for extended periods of time without appearing before a judicial authority. Targeted individuals have included community activists who work in the field of human rights; Sudanese who work for international organizations or who have been perceived as cooperating too much with the international community; individuals from the predominant ethnicities of various rebel groups; and Sudanese who have been perceived to hold opposition political views of the

political opposition. Arrests by Government security forces also took place in the aftermath of clashes between warring parties. In South Darfur, for example, following the attacks in the Katila area in May 2007, UN staff documented the arrest by PDF soldiers of at least 24 people, who were accused of supporting and being affiliated with an opposition rebel faction. Some of the detainees were transported to the NISS facility in Eddal Fursan, west of Nyala, while others were held at the military intelligence facility. Detainees interviewed described accounts of severe ill-treatment, including of strangling with ropes for extending periods of time. When presented with these allegations, on 11 June 2007, the Director of NISS in Nyala confirmed that the arrests had taken place, but denied the occurrence of ill-treatment.

In another incident, which took place after the fighting in Guldo in West Darfur (reported above), two Fur male villagers who were fleeing the fighting were caught by Sudan Armed Forces in Shaw Fogo village, located between Guldo and Nertiti town, on 14 August 2007. The two detainees, one of whom was a 14 year old boy, were detained at the military intelligence detention facility in Zalingei. During interrogation, reportedly, military intelligence officers forced them to “confess” that they were rebels and to provide information on rebel movements in Jebel Marra. UN personnel attempted to visit the detainees on 18 August 2007, but were denied access. On 19 August 2007, the case was raised with the prosecutor in Zalingei. The prosecutor stated that he had no power over NISS and military intelligence detentions. He further added that he could only act if the detainees complained. On 29 August 2007, relatives of the detainees reported that the detainees had been removed to another location and their whereabouts were unknown.

In the western part of West Darfur, during the reporting period, there were seven documented cases of arbitrary arrest and detention. Length of detentions varied from nine hours up to 49 days. None of the detentions were registered with the West Darfur State Prosecution Office. All detainees were arrested and questioned about their alleged affiliation with rebel groups. In two instances, the arrests were connected to investigations on carjacking incidents, while in the other five cases the individuals seem to have detained for no reason either ethnic background or suspected political activities. The seven cases involved a total number of 14 adult male victims: five Massalit tribe, one Erenga, one Daju, one Rashedi, two Tama and one person unknown. Two other persons were Chadian nationals and one person was a French national. In none of the cases were the victims charged with a criminal offence.

Military intelligence has a detention facility in Geneina. In other parts of western West Darfur, detainees arrested by military intelligence officers have been held in Sudan Armed Forces bases. Three cases of arbitrary detention were documented to have been carried out by Sudanese Armed Forces personnel since 20 June 2007 in western West Darfur. Detainees complained about threats and physical assault. In none of these cases did military intelligence present detainees before a prosecutor. This is consistent with the previously documented practice of military intelligence. Given that military intelligence detention powers do not appear to have been clearly codified, the incidence of arbitrary detention remains high and open to abuse.

The West Darfur NISS headquarters and a NISS local office are located in El Geneina. NISS has offices in all localities in west-West Darfur, except in Sirba. All the offices based outside Geneina have detention facilities. In the NISS detention facility in Geneina, there were four documented cases of arbitrary arrest and detention.

In eastern West Darfur, there were five documented cases of torture and ill-treatment by military intelligence, NISS and Police. One of the most serious cases involved the detention of two international NGO local staff by Zalingei police on 8 September 2007. The two staff reported that while in detention they were severely beaten with fists and sticks, including on the soles of the feet, while being forced to confess having stolen money from the organization for which they worked. Both men suffered serious bruises as a result of the ill-treatment and were unable to walk properly afterwards. The men were released after three days, when the police identified other suspects.

In South Darfur, there were 15 documented incidents of arbitrary detention, including incommunicado detention, or detention in unofficial places of detention. Mostly targeted during the reporting period were men suspected to be affiliated with rebel movements, such as JEM/PW or SLA/AW, or for belonging to a particular tribe. Among the more prominent cases documented in the reporting period was a raid by Government police on Kalma camp, the biggest IDP camp in Darfur, which resulted in high numbers of arrests of IDPs, coupled with ill-treatment of detainees. On 21 August 2007, Government police in Nyala mounted an action on Kalma camp in an attempt to arrest armed men suspected of planning and orchestrating attacks on two police stations near Kunduwa (five

kilometers of Nyala) and in Al Salaam camp, on 14 and 19 August, respectively. At least 35 people were arrested during the police operation. During the swoop, riot police blocked the road between Nyala and Kalma camp. NISS officers turned away a joint AMIS/UN patrol, which had gone to investigate the incidents. The majority of the arrestees were not informed of the grounds for their arrest, charges were not brought against them, nor were they brought before a judicial authority, and they were not afforded access to legal representation. Interviewed detainees reported the use of excessive force during their arrest, including beatings with butts of guns and sticks. Several detainees reported that they were beaten with their hands tied behind their back during interrogation by NISS officers, continuously insulted and forced to eat mud. Only one of all people detained had charges laid against him. Even these charges were eventually dropped for lack of evidence in a court hearing by the Nyala Specialized Court on 18 September 2007.

In North Darfur, four cases were documented of arbitrary detention by rebel forces, three of them by SLA/MM, nine cases of ill-treatment in detention, of which eight were by SLA/MM and one by Government military authorities; three cases of abduction, one by militia and two by non-signatory rebel factions. Civilians in areas under SLA/MM control have also been arbitrarily detained, subjected to ill-treatment, denied minimum legal guarantees and exposed to abuses under the SLA/MM criminal justice system. Commonly documented cases involved civilians having been detained over civil matters, held for crimes committed by family members or short of a proper investigation, on the mere suspicion of having committed an offense. In a SLA/MM police station in Zamzam, North Darfur, a 78 year old male was detained on 11 July 2007 for failing to pay compensation related to a homicide case. The detainee had acted as a mediator and guarantor for the suspected offender, but he was not directly involved in the case in any other way. The detainee, who had been in custody for nearly a month when interviewed by UN staff, had not had the opportunity to appear before a judicial authority.

Also, in North Darfur, in Tawila, a prominent community leader was arrested and detained by SLA/MM for 29 days without being charged with an offense. He was first arrested on 30 May, placed in an SLA/MM detention facility near Thabit for two days, where he was severely beaten. On 27 June 2007, he was brought to another prison in Zamzam and released the next day. The SLA/MM accused him of organizing a violent demonstration in Tawila and also collecting money from the IDPs on behalf of SLA/AW. The man, however, indicated to UN interviewers that he believed he was arrested because of his stance against SLA/MM abuses in IDP camps.

Of equal concern has been the practice of mistreatment of detainees in SLA/MM facilities for example as regards the aftermath of an incident which occurred on 13 June 2007. A man accused of stealing livestock died in Shangil Tobayi as a result of severe ill-treatment by SLA/MM soldiers. The man was detained with two other people, who were severely beaten. The men had their hands tied behind their back with rope, while they were beaten with sticks all over their bodies until becoming unconscious. Initially, the SLA/MM representative at the AMIS/Shangil Tobayi and the SLA/MM legal adviser confirmed the death, but alleged that the deceased had been killed by Zaghawa herdsmen. At a subsequent meeting, on 26 June 2007, an SLA/MM representative provided UN staff with a copy of the death certificate, issued by SLA officials in Thabit. The SLA/MM representative further informed UN staff that four to five police officers had been detained and were pending an investigation over the murder. However, a later attack on Thabit in July forced the SLA/MM presence to evacuate, and it then became unclear whether the case was still being investigated by SLA/MM authorities. On 11 July 2007, an SLA representative informed UN staff that the family of the deceased and SLA/MM officials were negotiating an agreement, which would most likely lead to the family receiving compensation, and the case was no longer under investigation.

Another three cases of ill-treatment by SLA/MM were documented during a UN visit to the detention facility in Dar al Salaam, the SLA/MM central sector headquarters in North Darfur, on 14 August 2007. Out of the nine civilians detained in the facility, five were interviewed: two soldiers from a non-signatory rebel faction detained for over ten days; a civilian detained since November 2006, accused of theft of animals; and two cattle herders detained for over 40 days for allegedly stealing a vehicle. All detainees reported very poor detention conditions, lack of sufficient food, and of being prevented from leaving the cell to visit a washroom. One interviewee reported that he had not been allowed to take a shower since his detention on 5 August 2007, and that he was forced to urinate inside the cell because the guards rarely allowed them out. All interviewees alleged having been ill-treated upon arrest during their detention in SLA/MM facilities. Three of them, in two separate incidents (one on 5 August and the other on 27 June), were ill-treated in another detention facility in Wada'ah, before their transfer to Dar al Salaam, reportedly as a result of orders by the same SLA/MM Area Commander. In two of the reported cases, there was a stated intention of extracting confessions from the detainees. From the accounts provided, the methods used during the ill-treatment

were similar. Victims reported having been tied by their feet and hands and hung from the ceiling facing the ground, and being knocked around. Other techniques involved beatings with sticks and whipping, and being splashed with cold water at night. The two rebel faction soldiers reported having been shackled since their arrest on 5 August 2007, although they were rarely allowed outside the cell.

#### **Cases involving Darfurians in Khartoum**

##### **i) Recent arrest and torture of student supporters of SLA/Abdul Wahid**

In a more recent incident documented by UN agencies, bodies and programmes operational in Darfur, several students were detained and reportedly tortured by officials of the NISS after they participated in a demonstration by a student organization affiliated with the Abdel Wahid al Nour branch of the Sudan Liberation Army (SLA/AW), one of the non-signatories to the Darfur Peace Agreement. They were held for ten days and reportedly tortured during the initial two days of detention. They were released on bail on 29 September 2007, pending trial on charges of public order offences. At the time of writing, the students had again been arrested by the NISS and their whereabouts were unknown at the time of the writing of the present report.

More than 100 supporters of Abdel Wahid reportedly participated in a demonstration in central Khartoum on 20 September 2007, three days after activities had taken place in over 30 countries on the occasion of the “Global Day for Darfur”. Protesters in Khartoum called for an end to the killings in Darfur, the disarmament of government-armed militias, and for the provision of security to allow IDPs to return to their homes, in the context of the forthcoming start of peace negotiations in Libya. The march was dispersed by police using tear gas, resulting in minor injuries to some protesters. Some eight students were arrested by NISS officials in different parts of Khartoum after they had left the demonstration, suggesting that they had been under surveillance and followed after the demonstration was dispersed. They were taken to a NISS detention facility in north Khartoum where they had to remove their shirts which were then used to blindfold them before being taken into the building. They remained blindfolded in this way for most of the two days during which they were interrogated in NISS detention. During this time they were allegedly tortured and ill-treated. The torture ceased when they were transferred to police custody on the third day of their detention. According to reports, the students were beaten with plastic pipes on the bare skin of their backs, on their legs and on their hands, as well as with wooden sticks on the ankles. Reports indicate that one detainee was strangled until he lost consciousness and two others fainted after having been repeatedly tortured with electric shock. In addition to being subjected to physical violence, the detainees were reportedly also threatened with death. The interrogation reportedly focused on whether Abdel Wahid supporters in Khartoum held weapons, and on their kind and location, as well as on the channels through which they obtained funding. Under threat of death, some of the detainees were forced to make statements, such as about weapons and funds which the SLA/AW allegedly brought to their supporters in Khartoum. The detainees were also reported to have been insulted on account of their Darfurian origins and told that the Fur would not share political power in Sudan.

##### **ii) Allegations of torture and ill-treatment of Darfurians detained in the context of a murder investigation**

The verdict in the trial on the murder of newspaper editor Mohamed Taha, who was killed on 6 September 2006, was expected to have been delivered by mid-November 2007. The police investigation into the murder was focused mainly on the Darfurian community in Khartoum. According to police records, a total of 73 people were arrested and detained, starting from mid-September 2006. The vast majority of them, according to information received, were of Darfurian origin. There have been widespread allegations of torture by those detained in the context of the investigation. The allegations related mainly to detention in the custody of police, who were in charge of the murder investigation, but there have also been reports of abuses committed by NISS officials who participated in the investigation.

Most suspects were released following up to five months of detention. Nineteen people, all but one of them of Darfurian origin and most belonging to the Fur community, have stood trial for the murder of Mohamed Taha. While several of those who were charged with the murder appear to have maintained links with Darfurian political groups, others had no discernible political allegiances and may have been arrested merely because of their Darfurian origins.

Due to lack of evidence, nine defendants were acquitted and released on 27 August 2007, after having spent nearly one year in detention. The prosecution has appealed the acquittal. The remaining ten, all of them Darfurians, continue to be detained pending delivery of the judgment. The prosecution has alleged that the defendants plotted to murder Mohamed Taha because defamatory articles against Fur women had been published in the newspaper *Al Wifaq*, which was edited by him. After they failed to win a lawsuit for defamation, the defendants allegedly plotted to murder him. The case of the prosecution relies almost exclusively on written statements obtained by police during the pre-trial investigation from the ten defendants who remained in detention.

According to testimonies from some of those detainees who have been released, reports by lawyers and family members, and statements made by the defendants in court, the statements were extracted under torture and other forms of ill-treatment during the initial period of detention. During this period, the defendants were held incommunicado in the police-run Forensic Evidence Department and Criminal Investigations Department, as well as in NISS detention facilities in Khartoum. Defendants have stated in court that during the police investigation they were forced to make statements in front of a judge who registered them as “confessions”. All of those who registered “confessions” later retracted their statements in court, saying that they had been tortured and told by the police investigators what to say.

According to reports by former detainees, the prosecutor responsible for overseeing the police investigation failed to respond to evidence that the detainees were being subjected to torture and ill-treatment. Some of the detainees reportedly still bore traces of torture when they were brought to trial, but the court failed to order medical examinations of the detainees to determine their causes, despite being requested by defence lawyers. While the court did not order investigations into the allegations of torture, it has recognized that the statements of the remaining ten defendants were extracted under duress and will be given less weight in court evidence. Released defendants who reported that they had been subjected to torture stated that they will not be lodging complaints because they did not believe that such complaints would be investigated by the Sudanese judiciary.

### iii) Lack of accountability for summary executions, arbitrary detention, forced disappearances and torture

The group of experts received various allegations of arbitrary detention and forced disappearances, torture and summary executions during recent months, including the following examples: On 30 June 2007, in Nyala (South Darfur) market, two secret policemen, wearing civilian clothes arrested nine men. They detained them in a secret police office next to Nyala Wasat police station. Six policemen allegedly severely beat all of the men with sticks. They were arrested due to suspicion of stealing and released on 1 July 2007. In Al Daein, South Darfur, three men were being held on suspicion of possessing stolen goods. They were first arrested and detained by Military Intelligence and later transferred to the custody of the NISS before being handed over to the police. One of them reported that he had been severely beaten while being interrogated by Military Intelligence personnel. The other two did not report any ill treatment. After spending a total of nine days in various detention facilities, the men were released on bail after the police failed to bring charges against them. Their detention exceeded the time limit allowed by law. The men had been released on bail pending police investigation but no formal complaint had been filed against them.

On 14 July 2007, in Omdurman IDP camp, El Salaam, one 30 year old civilian was shot. On the same day, in Al Daein, South Darfur, three men including two national staff of an international NGO were arrested by Military Intelligence on suspicion of stealing a car. The men were interrogated but were never charged with an offense. Nevertheless, military intelligence continued to hold them in detention. Friends and relatives have been granted limited supervised access to visit them in detention.

Since 19 July 2007, a 50 year old community leader from the Baggara tribe has been in detention in Zalingei accused of murdering an IDP from the Taiba IDP camp in spite of a recommendation by a state prosecuting attorney that he should be released for lack of evidence. Various reliable sources indicated that state officials were under pressure to keep the man in detention because the complainant in the case came from an influential tribe. The complainant's tribesmen have also reportedly threatened to abduct the detainee's family members should the Zalingei authorities fail to find him guilty of murder.

On 31 July 2007, the northern Rizeigat group - many dressed in the uniforms of the Border Intelligence - mounted an attack on the Tarjem group which left at least 68 people dead.

In late July, a 32 year old Fur male and member of SLA/AW continued to be held in the National Security detention since 1 June without being charged of any crime and accused him of holding a meeting with some Sheikhs in Kalma IDP camp.

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

Certain steps to implement the recommendation have begun. On 31 July 2007, the Director General of Police issued Order No. 58/2007 to the effect that civilians taken into police custody shall not be subject to any kind of assaults, and that prison authorities shall treat inmates in a manner that ensures their rights. Similarly, the Director General of NISS issued instructions prohibiting unlawful arrest; detention in places other than designated detention facilities; prohibiting any physical assault or psychological abuse of prisoners; and safeguarding the dignity of individuals during arrest. The term “assault” in both instructions can be interpreted to encompass torture and summary executions. While these also related to arbitrary detention and forced disappearances, Police Order No. 58/2007 did not deal specifically with these human rights violations. Furthermore, the two orders mentioned above did not apply to the armed forces or any militias under the Government’s control.

According to the information received, cases of arbitrary detention, torture and summary executions continued.

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

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

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

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

Written information submitted to the group of experts on Darfur on 21 August 2007

The Department of Public Prosecutions received 33 suspects and after making preliminary inquiries charged 8 of them, pursuant to criminal indictment sheet No. 138/2007, under the following articles of the Criminal Code of 1991: articles 21 (association), 24 (criminal conspiracy), 25 (incitement), 26 (aiding and abetting), 50 (violating the Constitution), 51 (incitement of war against the State), 57 (entering and photographing military sites), 58 (incitement to sedition) and 60 (using military uniforms and symbols), articles 18 and 26 of the Weapons and Ammunition Act and articles 5 and 6 of the Counter-Terrorism Act. The Minister confirmed that the accused were receiving excellent treatment.

Information orally submitted to the group of experts on 18 September 2007

Regarding unofficial places of detention the Government replied that the Constitution of 1998 prohibited detention outside official places of detention unless these were established under the National Security Law. The Guidance of the Director General of the National Intelligence and Security Service and of 12 August 2007 was not issued in response to an existing situation and no illegal places of detention needed to be closed. The security services have their official places of detention, supervised by the Prosecutor.

With regard to reports of ‘ghost house’s’, an investigation into the issue showed that some militias with whom Sudan signed peace agreements had illegal places of detention in Khartoum. The Government identified these places and closed them down. Last week, reacting to information about weapon caches, the police raided the place. Reports that official authorities had secret places of detention have not been confirmed. Currently there are therefore no unofficial places of detention in Sudan under the authority of NISS.

Written information submitted to the group of experts on Darfur on 30 October 2007

The Government submitted to the group of experts on Darfur a list of detainees in Darfur which indicates that there were 70 detainees between 1 June and 30 October 2007, in particular, 41 in South Darfur and 29 in West Darfur. The Government stated that most detainees were released and remained in detention for periods between 10 days to two months. Seven detainees were referred to the Attorney General and one to the Police. Ten detainees remained in detention when the document was submitted to the group of experts.

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

The Group received many reports of secret or incommunicado detention during recent months. See some illustrative examples which have been recounted above under 'Information Received from Other Sources on Recommendation 1.4.1', in particular those incidents of incommunicado detention reported to have occurred in South Darfur.

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

Implementation seems to have begun, but because reports of incommunicado detention continue to be received, it appears that improvements have yet to be felt on the ground. No information was provided with regard to closure of all unofficial places of detention. There were reports that many civilians held by Military Intelligence and National Security were not brought promptly before the judiciary following arrest. A list of detainees was provided by the Government. However, no documents were provided with regard to whether information was shared with families of the detainees. Also no information was provided whether civilians were detained in military installations or elsewhere. There seemed to be persistent ambiguity over persons detained under national security laws and the extent to which places of detention were known outside the NISS. Information provided by the Government did not indicate precisely the place of detention, only the state, for example, 'South Darfur' or 'West Darfur'.

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

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

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

#### **Response of the Government of the Sudan on Recommendation 1.4.3**

Written information submitted to the Special Rapporteur during her mission in Sudan from 25 July 2007 to 2 August 2007

Order 58/2007 of the Director of Police on treatment of the detainees and prisoners in pursuance of the Police Forces Act of 1999, states that civilians and detainees taken into the police custodies shall be treated in accordance with the law that provides for them to meet their relatives and lawyers, which is in line with the principle that the accused is presumed innocent until proven guilty. The Order states that the units' managers shall update and remind the police forces all around the Sudan of the above-mentioned implications.

Information orally submitted to the group of experts on 18 September 2007

The police keep registers of all persons under their custody on a daily basis. Once the prosecutor decides that a criminal case should be opened, a case diary will be conducted. This can be verified on the ground. It is possible to furnish a list of all persons in police custody to the Group and human rights monitors have access to it.

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

See illustrative examples recounted under information 'received from other sources' on recommendation 1.4.1.

### **Assessment of Implementation of Recommendation 1.4.3**

The Order of Director General of Police No. 58/2007 on treatment of detainees and prisoners of 31 July 2007, and the instructions from the Director-General of National Intelligence and Security Services of 12 August 2007, contain certain minimum guarantees of detainees. The group of experts on Darfur concludes that implementation has started in the sense that orders and instructions have been issued, but incidents have continued to be reported of the denial of such guarantees.

#### **Recommendation 1.4.4** *Mid-term*

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

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

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

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

Information orally submitted to the group of experts on 18 September 2007

With regard to institutional reform of the National Security Service, the Constitution of 2005 bestows special tasks on the security forces. The corresponding draft law on the national security service is currently under internal discussion. It will then be transferred to the Parliament for discussion and adoption.

#### **Information Received from Other Sources on Recommendation 1.4.4**

See illustrative examples recounted under 'information received from other sources' on recommendation 1.4.1.

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

According to information received from the Government, measures aimed at implementing this recommendation were under consideration but it seems that the National Security Act was not reformed in accordance with the Comprehensive Peace Agreement. The group continued to receive reports of incidents of harassment, arrest and detention by NISS agents as recounted under 'information received from other sources' on recommendation 1.4.1.

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

Ratify Convention Against Torture.

*Indicator: Ratification of CAT.*

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

Written information submitted to the group of experts on Darfur on 21 August 2007

The sector considered of vital importance for national sovereignty (made up of key ministries) approved a recommendation to the Advisory Council on Human Rights on accession to the Convention against Torture.

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

The UN Convention against Torture has not been ratified by the time of writing of the present report.

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

By the time of the writing of the present report, there had been no implementation of the recommendation.

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

##### **Recommendation 1.5.1 *Short-term***

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

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

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

###### Information orally submitted to the group of experts on 18 September 2007

With regard to witness protection, no witnesses have been intimidated or threatened by the Government.

###### Written information submitted to the group of experts on Darfur on 30 October 2007

Information was received on the protection of victims and witnesses and which at the time of writing of the present report, had yet to be translated from Arabic into English. A letter from the Advisory Council for Human Rights states that a large number of victims and witnesses provided testimonies to the human rights monitors in the three States of Darfur. These testimonies appeared in UNMIS Human Rights weekly reports. The ACHR report provides information about meetings with victims with the human rights monitors. The report also states that UNMIS victims were not exposed to rape, attacks or any kind of abuse or questioned by the Police.

The Government provided the group with information in writing and orally that pertained to the protection of victims and witnesses as provided by the Interim Constitution 2005, Evidence Act 1994, Criminal Act 1991 and the Criminal Procedure Act 1991 and stressed that witnesses who have been interviewed by UN human rights monitors had not been victimized. The group, however, did not receive information about the application of these norms and programs to protect witnesses.

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

The unpredictable security situation in North and South Darfur has impacted negatively on efforts to monitor and document the human rights situation. In both areas, the upsurge in car-jacking incidents targeting humanitarian aid and human rights officers forced the grounding of several road field missions to investigate reports of serious human rights violations. In North Darfur, due to increasing hostilities against peacekeepers, air trips have also been limited. In South Darfur, clashes between Government and SLA/MM factions and insecurity in Kalma camp in Nyala, in addition to recent events in Muhajiria, have halted human rights monitoring activities since the beginning of October 2007 in these regions.

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

This recommendation has not been implemented. The group did neither receive information on this issue from other sources nor information from the government about the existence of specific legal norms and programs to protect witnesses.

## 1.6 Protection of human rights defenders

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

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

*Indicator: Number of reported cases.*

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

The Government stated that it did not violate the human rights of human rights defenders. It also provided a list of more than 170 licensed lawyers working in Darfur defending in daily basis the victims. One of these lawyers is the winner of 3 prominent prizes for human rights defenders, Mr. Salih Osman Mahmoud who is currently a member of the Parliament.

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

Article 39 of the Interim National Constitution guarantees freedom of expression. However, the group of experts received reports that journalists reporting on Darfur continued to suffer harassment, arrest and detention as well as ill-treatment and other forms of intimidation as referred to under recommendation 1.6.2. According to reports received, the Government invoked the Organization of Humanitarian and Voluntary Work Act, 2006, to restrict freedom of association and the activities of human rights defenders. There were also a number of reports of human rights defenders facing restrictions or delays as regards visa or extension of visa, or travel in and out of Darfur. The premises of a number of human rights defenders, including persons who had offered or provided legal assistance to victims of violations were closed and documents were removed. In some cases, human rights defenders were summoned for questioning by the Humanitarian Aid Commission.

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

Implementation has not begun.

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

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

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

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

#### Information orally submitted to the group of experts on 18 September 2007

Following a decision of the Public Prosecutor in January 2007, Art. 130 of Criminal Procedures Code of 1991 must not be used by the Press and Publications Prosecution Office to arrest journalists or ban any newspapers on the basis of complaints of defamation. Since then no disruptions have been reported.

On 15 September 2007, the Constitutional Court issued an important ruling in recognition of general freedoms, the freedom to bring proceedings and the rule of law. The ruling states that the freedom to bring proceedings pursuant to

the Interim Constitution is unlimited and that ministerial orders or laws are not immutable but may be challenged before the courts. The Court, in Constitutional Court ruling No. CC/CL/2006, v. 1. The Government of the Sudan 2. The Ministry of Justice, which is a precedent-setting ruling, makes the following conclusion: It must be pointed out here that article 35 of the 2005 Constitution omits the restriction mentioned in the corresponding article 31 of the 1998 Constitution, which reads “The right to bring proceedings shall be guaranteed for all persons and no proceedings in a criminal case or civil matter shall be brought except in accordance with the provisions and procedures of the law.” From this one may conclude that article 35 broadens the scope of protection by omitting the reference to the restriction that this right shall be exercised in accordance with the provisions and procedures laid down in the law. It can thus be said that the exercise of the right to bring proceedings under article 35 is not subject to any legal restriction.

Another issue has been the prohibition of publication of news relating to national security, which was discussed in connection with the case of Amadi Tohar, when security officers stopped the publication of related news. On 10 September 2007 an Order was issued by the Director of the National Intelligence and Security Services to stop security officers from visiting the press. This Order was published in the press.

Written information submitted to the group of experts on Darfur on 30 October 2007

On 30 October 2007, the Government sent the group of experts a number of headlines and news reports that appeared in Sudanese newspapers about Darfur. Further newspapers were provided on 15 November 2007

Written information submitted to the group of experts on Darfur on 1 November 2007

The group received in Arabic a number of documents relating to humanitarian assistance, voluntary return of IDPs to South Darfur, as well as a number of documents relating to recommendations 1.6.2 and 2.3 which at the time of the writing of the present report, were being translated from Arabic into English.

Written information submitted to the group of experts on Darfur on 15 November 2007

The Government provided the group of experts with a stack of Sudanese newspapers which it said were replete with articles on the human rights situation in Darfur to indicate that there was a free press operating in the Sudan.

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

### **Restrictions on freedom of press**

UN agencies bodies and programmes operational in Darfur did not observe any effective action by Government authorities to lift restrictions on the press. The work of newspapers and journalists remained significantly restricted by the National Press Law, criminal laws, as well as extra-legal practices.

A number of draft laws remain under the consideration of the Media Information and Communication Committee of the National Assembly, the parliamentary body in charge of drafting the new law. The National Assembly was expected to consider new legislation during the October to mid-December 2007 parliamentary session.

Current laws fail to uphold freedom of the press and are frequently used to stifle freedom of expression. The 2004 Press and Printed Press Material Act (Press Act) contains numerous provisions which have been used to curb criticism. The Act does not provide clear guarantees for the protection of freedom of expression in the media. Vague and ambiguous articles of the Press Act impose restrictions on the work of journalists and may be used to silence critical reporting. Under Article 29 for example, which outlines the duties of journalists, the law places restrictions on publishing information related to national security or the armed forces and indicates that journalist at all times “must intend truthfulness and chastity.” This provision has been used by the Press Council to issue bans preventing journalists from reporting on certain topics (see example below). Articles 36 and 37 of the Press Act render any person who violates any provision of the act liable to sanctions by the Press Council or to criminal prosecution. The application of the Press Law is supervised by the Press Council, a body that has broad powers and that has generally perceived to lack independence, because the majority of its members are directly or indirectly appointed by government-controlled bodies. The Press Council has the power to allocate licenses to individual journalists and may impose penalties, such as the suspension of a newspaper’s publication license.

Article 115 of the 1991 Criminal Code (“Influencing the course of justice”) places sanctions on “whoever intentionally does any act to influence the fairness of judicial or legal proceedings”. This article has been repeatedly used by the authorities to prevent media from reporting on judicial investigations by placing bans on publishing information. Editors and journalists who do not comply with such bans are liable under this article to be punished with fines or with up to three months’ imprisonment. Since 20 March 2007, a general ban has been placed on news related to criminal cases connected with the Darfur conflict. There has apparently been no explicit mention of the International Criminal Court (ICC), but journalists fear that the ban may extend to reporting on the work of the ICC on Sudan. The ban was reportedly ordered by the Minister of Justice, Ali Mohamed al-Mardi.

Under Articles 66, 159 and 160 of the 1991 Criminal Act (“Publication of false news”, “Defamation” and “Insult and Abuse”) and Article 29 of the 2004 Press Act (“Duties of the journalist”) the journalists may be sentenced to fines, lashes or imprisonment for up to several months. Additionally, the Press Council has used the provisions on “duties of the journalist” to place restrictions on the content of information published by the media. For instance, on 22 May 2007, the Press Council imposed a ban on reporting statements of representatives of Darfurian rebel groups. It requested daily newspapers not to publish reports on activities of the rebel movements and not to interview its political leaders or field commanders. The council urged newspapers not to “give publicity to the rebel movements and not to report on their threats and statements that undermine the country’s security, instigate fear, and create instability”. This ban came after a statement by one of the Darfurian rebels to the newspaper *Al-Sahafa* accused Government forces and armed militias of killing five civilians in North Darfur on 20 May 2007. This statement by the Press Council imposes an open-ended restriction on independent reporting on Darfur and exposes journalists and editors to a risk of sanctions, such as the withdrawal of their licenses.

(In mid-May 2007, a court ruled that Article 130 the 1991 Criminal Act (“Prevention of public nuisance”) may not be used to impose restrictions on the press. This was seen as a landmark ruling which is likely to prevent future sanctions against the newspapers under the said legal provision. Article 130 grants wide-ranging powers to the prosecutor to act on offences “relating to peace and public health” by confiscating items belonging to a person who has been charged with an offence, or to order that person to cease any activities. The law provides no detail on what would constitute a danger to peace and public health. Based on Article 130 newspaper editors have been ordered by prosecutors not to report on certain topics. Newspapers that failed to comply with such orders have been temporarily suspended.

Since mid August, the UN has documented several cases of arbitrary censorship by the NISS of Arabic-language dailies including *Ray al Shaab*, *Al Sudani*, *Al Sahafa*, *Al Ayaam* and *Al Meidan*. Methods of censorship have included the seizure of all copies of the latest edition of the newspaper, daily inspections by NISS officials of newspaper offices and printing houses and orders by the NISS to remove or re-edit articles from the next day’s issue of the paper. UNMIS HR has raised concerns and sought clarification with Government authorities in relation to the use of these measures. On 2 September 2007, a letter of concern was sent to the secretary general of the Press Council and to the chairman of the Advisory Council for Human Rights. No response had been received by the time of the writing of the present report.

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

Implementation has not started. No action was taken to remove restrictions in National Press Laws or to harmonize the Press and Printed Publications Act 2004 with the Bill of Rights of the Interim Constitution.

## **2. HUMANITARIAN ACCESS**

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

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

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

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

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

Written information submitted to the group of experts on Darfur on 21 August 2007

In March 2007, the State announced the implementation of a fast track policy in a Joint Communiqué with the United Nations which was signed by the Minister of State at the Ministry of Foreign Affairs. Furthermore, a General Procedures Directory and the Darfur Fast Track Annex which provided guidance on administrative procedures for NGOs working in Darfur, were endorsed by the Minister of State at the Ministry of Foreign Affairs. An annual volunteer's day was inaugurated on 11 June 2007 and the President of the Republic gave an address expressing the Sudan's appreciation for the role played by donors and voluntary organizations in improving the humanitarian situation in Darfur. On the occasion of national volunteers' day, the President of the Republic (by Presidential Decree No. 168 of 2007) awarded the medal of achievement to a number of national and foreign voluntary organizations (the United Nations Mine Action Office in the Sudan, the Murdi Relief Development organization, Medecins Sans Frontieres, the Sudanese Red Crescent Society and the Roots Organization for Development).

With regard to the preparation of areas for voluntary return, the Government is rehabilitating villages by building educational, health and security establishments following the model used for the villages of Kalmandu and Durayj. The Government's efforts in regard to the voluntary return of displaced persons have seen 272,696 persons return to their villages, 150,788 of them in South Darfur (44 villages), 75,062 in North Darfur (31 villages) and 46,846 in West Darfur (127 villages).

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

As a general observation, although the number of incidents against humanitarian workers dropped when compared with data for the months of June to October 2006, the severity of these appeared to have been much higher for the same period in 2007. From June to October 2006, there were a total of 214 incidents on humanitarian workers and from June to October 2007, there were 168 incidents. The number of reported attacks on humanitarian workers and goods in Darfur by Government forces, SLA/MM or militia allied with the Government fell from 29 for the period June to October 2006, to 9 for the same months of 2007.

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

Declaration made. No information on subsequent retraction.

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

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

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

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

Written information submitted to the Special Rapporteur during her mission in Sudan from 25 July 2007 to 2 August 2007

The Order on the Facilitation of the Work of International Observers, adopted by the Director General in pursuance of the Police Forces Act of 1999, aims at updating the police associates on the work and functions of human rights international observers so as to facilitate their tasks and to ensure cooperation with them. The Order takes into account the SOFA signed between the Government of the Sudan and the UN and states that:

Police directors in the States shall take notice that UNMIS individuals shall respect all national laws and regulations organizing the work; provided that the immunities given to them under those respective agreements shall be observed.

The General Administration of Legal Affairs shall provide advice to all police associates, update them on the functions of human rights international observers and follow up the implementation process of the instructions given to them. This has been provided for in the Order of the Director General of the Police No. 59/2007 on the Facilitation of the work of international observers, 31st July 2007.

Written information submitted to the group of experts on Darfur on 21 August 2007

A mechanism was created in March 2007 to monitor inflows of humanitarian aid in accordance with the above-mentioned Joint Communiqué signed between the Government of the Sudan and the United Nations. Two visits were paid to the states of Darfur, the first on 21-23 April 2007 and the second on 29-30 July 2007. Six meetings were held with foreign voluntary organizations. As a result, all obstacles on the ground were removed.

Information orally submitted to the group of experts on 18 September 2007

A high level committee jointly chaired by the Ministry of Humanitarian Affairs and the Deputy Representative of the Secretary General of the UN in the Sudan and composed of Government officials, UN and NGOs, and donors has been set up and meet on a monthly basis. A technical committee coordinates governmental humanitarian assistance and has visited Darfur 6 times. State level and local technical committees at field level were created.

There are 258 agencies active in Darfur involving 900 staff in 2003. In 2007, there were 15,853 workers in Darfur.

Regarding visas for humanitarian workers, the Sudanese Delegation assured the group of experts on Darfur that it did not have a single pending visa application. The joint committee is authorized to review any pending visa applications, but thus far, there have been none. In regard to the expulsions of certain humanitarian aid workers, the Government stated that it had its own reasons for these actions.

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

As regards the implementation of the Joint Communiqué, the UN reported in November, that progress has been made so far in its implementation and, in general, a good working relationship between international NGOs and the HAC (Humanitarian Aid Commission of the Government of Sudan) in addressing bureaucratic procedures in Darfur has developed. Regarding visas for humanitarian workers, the Government assured the group of experts that it did not have a single case regarding pending visa applications. At the same time, the group learnt that the UN had received complaints alleging violations of the letter and spirit of the Joint Communiqué, in particular that the Government had refused to extend visas for some NGO expatriate staff to remain in the country. The UN reported in November that only 29% of the total procedures handled by the Joint Procedures Centre were resolved on schedule. In late August 2007, the Government of the Sudan expelled the Country Director of CARE, Paul Barker and in early November the head of the Office for the Coordination of Humanitarian Affairs (OCHA) for South Darfur, Wael al-Haj Ibrahim. Mr. Ibrahim was reported to be the 11<sup>th</sup> aid worker expelled from Sudan since the beginning of this year.

As regards humanitarian access, the group received information that humanitarian services continued to be provided to the vast majority of conflict-affected civilians. The WFP, for example, provided food to an average of 3.2 million people during the third quarter of 2007. However, the number of beneficiaries not reached rose from 60,000 in July to 122,000 in September. One reason for this was reportedly denial of access by the Government. In Nertiti (Jebel Marra), the Government Security Committee suspended all humanitarian movement into the SLA-AW controlled areas of Golol and Kwilla in Jebel Marra as from 16 August 2007, officially due to security concerns. Several humanitarian interventions were denied by the authorities in the Jebel Marra, including an NGO emergency response in Guildo and Boldong, a polio and measles campaign in Kwilla, Kutrum and Boldong, a distribution of vaccines and seeds in Kutrum and the construction of four schools in the region. The suspension of humanitarian assistance to this area was of great concern in light of the substantial recent displacements that have taken place and the fact that it was the peak of the hunger and rainy season. Malnutrition has been rising rapidly in many areas in the Zalingei Corridor, including Nertiti. Water-borne diseases and malnutrition as a result of the deteriorated sanitary conditions in the IDP camps due to heavy rains and overcrowded living conditions have been the foremost humanitarian concerns. In Jebel Marra, the Nertiti Security Committee's decision on 16 August 2007 to ban all

NGO movement into the Jebel Marra was loosened a little by allowing two NGOs to travel to the area in mid-August 2007, but a third NGO was denied access. In August 2007, large parts of the Jebel Marra (West Darfur) was inaccessible despite promises by various Government authorities to revise the Nertiti Government security committee's decision on 16 August to ban all NGO missions to the area.

Humanitarian access to an unknown number of displaced persons in the Adilla area of South Darfur following fighting between governmental and rebel forces in September continues to be denied despite various appeals from the humanitarian community.

In the first week of October 2007, Government-rebel fighting intensified in the Haskanita area (North Darfur) with a major Government ground offensive backed by aerial bombardments against non-signatory movements. Fighting between militias and the Government was also reported in the area. The area was virtually inaccessible for humanitarian workers as well as for AMIS, and little information was available on civilian casualties. Although an AMIS helicopter was allowed to re-supply their base in Haskanita, Military Intelligence continued to deny humanitarian access to the new IDPs who were reported to be in dire need of humanitarian assistance. The Government allowed humanitarian access only one month after the events.

Following an attempted hijacking of an NGO vehicle near Al Salam camp (also near Nyala) on 16 September 2007 whereby the vehicle was shot at, humanitarian agencies have not re-entered the camp awaiting the implementation of increased Government police patrols along the access route. All NGOs temporarily suspended activities in Al Salam camp (Nyala, South Darfur) after some armed men were seen entering the camp.

On 30 July, officials at the Government checkpoint near Zam Zam denied access to a UNMIS Human Rights team who were on their way to Zam Zam IDP camp for official travel with proper clearances and notification. The Government soldiers insisted that they should give a copy of the UNMIS internal travel authorization document which the team refused. The team returned to El Fasher.

Despite the Joint Communiqué signed in March 2007 on facilitation of humanitarian activities in Darfur, INGOs were still experiencing difficulties in obtaining authorization for working in Darfur. In North Darfur, staff members of an NGO continued to be denied access to As Salaam camp by HAC since 3 September 2007. On 23 September, authorities also denied an NGO a travel permit to Birmaza to collect their vehicle which had been hijacked on 16 September 2007 and later recovered. .

In mid-September 2007, humanitarian personnel continued to be victims of targeted attacks. Three humanitarian workers were abducted by SLA-MM elements in Sarafaya (North Darfur) on 31 August and were released five days later. In addition, two humanitarian vehicles were hijacked in South Darfur, one of which in Kalma camp while another attempt in the same camp was thwarted. This week, armed men assaulted six humanitarian premises. Targeted attacks on humanitarian aid workers and their assets continued to negatively affect the humanitarian environment in Darfur. Two humanitarian vehicles were hijacked in the third week of September 2007 and one carjacking attempt was foiled in Mosai camp (South Darfur). From January to the end of September 2007, 92 humanitarian vehicles had been hijacked or stolen.

On 20 September 2007, armed men shot at a two-vehicle NGO convoy near Bulbul Timbisco (South Darfur), hitting two staff members in the head and one in the arm. Fortunately, no one was killed. The NGO decided to relocate its staff members from Edd El Fursan to Nyala. A brutal assault by armed men on an NGO compound in Tawilla forced the NGO to relocate its staff for security reasons and suspend its activities in one of the few areas in North Darfur with a permanent humanitarian presence apart from El Fasher. Following an armed assault on an NGO convoy near Marla (South Darfur), the NGO suspended all its operations in the Manawashi-Duma-Marla area. This week, three NGO staff were wounded by gunshots, a total of four humanitarian vehicles were hijacked or stolen, two hijacking attempts failed, two convoys were ambushed, and one NGO compound broken into.

In the first week of October 2007, violent attacks against humanitarian workers and their assets continued at an alarmingly high rate. Four humanitarian vehicles were hijacked and one humanitarian convoy stopped and looted. One NGO driver was temporarily abducted during one of the hijacking incidents. In addition, three NGO staff members were abducted from their warehouse and held hostage for one day by armed nomads. In view of a threat of an imminent militia attack, one NGO relocated its staff from Se Leah (South Darfur) to Nyala as a precautionary measure. On 16 October 2007, three contract truck drivers were shot to death while working for the WFP in Darfur. Two of the men died in South Darfur state on the road between the town of Ed Daien and the city of El Obeid. The men were returning to El Obeid after delivering supplies. In an earlier incident involving WFP, which took place on 12 October in South Darfur on the road between the state capital Nyala and the city of El Fasher, capital of North Darfur. Some 25 bags of grain were looted from the truck during the incident.

In the period 15-21 October 2007, the security situation in South Darfur, particularly in Nyala town and some of the surrounding IDP camps, deteriorated significantly. Compared to August 2007, the incidents targeted at the UN and INGO staff increased by 100% in September 2007. The last two months were dominated by fifteen carjacking-

related incidents whereby nine vehicles were stolen at gun-point and eight robbery incidents occurred during field missions. None of the vehicles have been recovered.

**Assessment of Implementation of Recommendation 2.1.2**

Progress was reported in the implementation of the Joint Communiqué, an important step in itself, but humanitarian access remained difficult and often denied on the ground. Expulsions of high ranking aid workers were reportedly in violation of the letter and spirit of the Joint Communiqué.

**Recommendation 2.1.3** *Short-term*

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

*Indicator: No such incidents reported.*

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

The Government rejected the allegations that it had blurred the line between humanitarian operations and Government military operations.

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

The Government appear to have made no efforts to distinguish military from humanitarian aircraft. Several reports since 2005 indicate that the Government used white aircrafts for military operations, with multiple purposes (reconnaissance, bombardments and logistical). Reports from AMIS stated that a Government MI-8 has been seen marked with an AMIS logo. More recently, there has been no reports of deceptive markings by the Government.

There have also been reports of the use of white vehicles by the Government. White vehicles stolen from international NGOs and the UN have been used frequently by militia groups. The use of such vehicles for military purposes reached a peak in the second half of 2006. The Government reported on an ambush on a Sudan Armed Forces convoy on 7 October 2007, where militia pretended to have a vehicle breakdown in order to trick the patrol into the ambush site. According to Government sources, the militia probably used a stolen white international NGO vehicle as bait.

**Assessment of Implementation of Recommendation 2.1.3**

According to the information received from UN agencies, bodies and programmes operational in Darfur and AMIS, there have been no reported instances since 20 June 2007 of markings that blur the distinction between military and humanitarian operations.

**Recommendation 2.1.4** *Short-term*

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

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

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

Written information submitted to the group of experts on Darfur on 21 August 2007

The Director-General of Police issued order 2007/59 concerning the facilitation of the work of international monitors, as described hereunder. State police chiefs must respect the immunities of members of the United Nations mission who in turn must respect all the laws and local regulations governing their work. The General Department of Legal Affairs must provide advice to all police personnel, inform them of the duties of international human rights monitors and follow up on the implementation of these instructions. The security services prepared a draft document, which was reviewed by the Advisory Council, spelling out the rights of arrested persons to notify their families of their place of detention, not to be held in incommunicado detention or to be subjected to acts harmful to their physical and mental health or torture and to be allowed family visits. The draft has been submitted to the director of the security services for approval.

The Sudanese Delegation considered that most of the incidents of car hijacking have been committed by non-security forces. The Government stated that it established a joint committee to deal with the issue (UN, mix of Government agencies) a few months ago. One of the problems has been that those cases were not reported in time. In addition, when NGOs recruited staff, they did not monitor adequately the background of staff they recruited. Within the past 5-6 months about 56 cars were returned proof that the mechanism was working. With respect to the arrest of the CARE director, the Delegation emphasised that the individual, not the organisation, was targeted, due to security concerns. The Government informed CARE about the full details on the reasons of this decision.

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

Further violence targeting the humanitarian community has forced agencies to adapt their activities to mitigate attacks on their staff, in particular, forcing a much greater reliance upon air transport and “in and out” interventions. Attacks against the relief community increased by 150% over the past 12 months. In 2007, over 100 aid workers were temporarily abducted, 59 convoys have were attacked or looted, 57 humanitarian premises were invaded by armed men, and 88 humanitarian vehicles were hijacked. Leading NGOs withdrew from certain areas on 24 occasions, citing violence against aid workers. Daily attacks include assaults, banditry and other violence targeting aid workers.

The humanitarian response to current and new needs continued to be hampered by security incidents. During August 2007, seven humanitarian vehicles were hijacked or stolen, and four humanitarian convoys were attacked. Five humanitarians were kidnapped or abducted, and three were physically assaulted. In the first half of 2007, five aid workers were killed and 11 injured, while 53 others had been physically assaulted. Many areas of Darfur still remained a hostile environment for relief efforts. Humanitarian personnel had to relocate on 24 occasions, which hampered the delivery of aid to hundreds of thousands of intended beneficiaries. This had a direct and tangible impact on the quality and quantity of aid and resulted, in some cases, in the complete inability to reach those in need. During August 2007, humanitarian activities had to be suspended in several camps due to insecurity. All operations were suspended in Zalingei Camp (West Darfur) for two days, while Kalma camp (South Darfur) was closed to aid operations for three days. Humanitarian access, already hampered by ongoing violence, was further restricted by parties to the conflict. Several parts of the Jebel Marra area (West Darfur) were inaccessible to humanitarian agencies from 16 August 2007 onwards. The suspension of assistance in this area is of great concern, at a time when new displacements have taken place, given malnutrition and the onset of rainy season.

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

Order 59/2007 refers only to UN personnel and does not explicitly address other humanitarian workers. The group of experts considers that Order 59/2007 was too vague to guide officials to respect the work and persons of humanitarian workers. The severity of reported incidents of harassment or attacks on humanitarian workers had increased from the beginning of January 2007 to the time of the writing of the present report.

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

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

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

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

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

See response of the Government on recommendations 2.1.1 and 2.1.2.

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

UN agencies, bodies and programmes operational in Darfur indicated to the group of experts that the Government had refused to extend stay visas for some NGO expatriate staff and that it had expelled the Country Director of CARE in August 2007, as well as the OCHA Head of Office for South Darfur during the first week of November 2007 contrary to the spirit and letter of the Joint Communiqué.

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

The group of experts has become aware of a number of incidents of non-compliance with the agreements indicated in the recommendation.

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

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

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

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

See response of the Government on recommendations 2.1.1 and 2.1.2.

According to the Government the population of Darfur is 675 0000, the number of affected persons and displaced persons is 210 0000, the number of displaced persons in camps 650 000, the number of camps is 21 and the number of communities of affected persons by area 38. The Government stated that humanitarian coverage is 100%.

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

See 'information received from other sources' on recommendations 2.2.1, 2.1.2 and 2.1.4.

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

International NGOs and UN agencies, bodies and programmes operational in Darfur noted that there was no clear improvement in humanitarian access during the period under review.

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

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

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

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

Information orally submitted to the group of experts on 15 November 2007

The Government indicated that it was under an obligation to review the foreign funding of NGOs to ensure that all finances were disclosed publicly in line with international anti-money laundering and anti-corruption convention obligations.

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

A Constitutional petition submitted by Sudanese NGOs was submitted to the Constitutional Court and was pending for almost a year at the time of the writing of the present report.

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

Recommendation 2.2.3 relating to reform of the NGO Act 2006 was not implemented.

## **3. ACCOUNTABILITY AND JUSTICE**

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

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

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

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

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

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

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

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

#### Information orally submitted to the group of experts on 18 September 2007

Regarding attacks on Deribat, the Government stated that a joint committee was set up, headed by joint forces, to investigate attacks. The battle took place between two factions of the SLA. Not a single unit from the Sudanese Armed Forces or the PDF were present. Certain members of liberation forces (followers of Abul Kassen) were questioned and he accused followers of Abdel Wahed to have committed rape. Some women were transferred to a place called al Nahoud on 5 September 2007. The Minister of Justice established a committee (under general prosecutor) to investigate the allegation that some women were transferred from one place to another, where they were used as sex slaves. The establishment of the committee has been published in a number of newspapers.

Regarding incidents that have taken place in Buram, on 25 August 2007 a group from the SLA attacked another group from Alhabanya. Two women were abducted. In reaction, a group from this tribe attacked another village, because they believed that the two SLA members came from this village. Mediation was organised between the 2 tribes. AMIS observed that the area was controlled by rebel groups. Complaints were filed by both tribes against each other, but the investigation into these incidents remains ongoing.

Regarding attacks on a camp of the NGO compound in Nyala, a complaint was filed by a number of people due to certain illegal practices and police forces arrested suspects. It was revealed that some UN staff and AU staff were among the accused. The Government prosecuted some Sudanese nationals and released the international staff.

#### Written information submitted to the group of experts on Darfur on 30 October 2007

On 30 October 2007, the Government provided information on the accountability and justice investigation committee in Deribat through the submission of a number of documents. The group of experts also received materials relating to an investigation committee on the events in Masara (South Darfur) as well as on an investigation committee on Alhabaniya and Al Falata, South Darfur.

These reports can be summarized as follows:

1. The Investigation Committee on Dyribat event submitted a letter to the Attorney-General on 25/10 2007 entitled 'the Investigation Committee of abducted women in Derbat'. The Head of the Committee, Mr. Ahmed Ali updated the Attorney-General on the work of the Committee. He confirmed that the Committee held a meeting on 11 of September 2007 and the committee studied the UN report. The Representative of the Commission of the Violence against Women was delegated to prepare a report on cases of attacked women in the area. On the 13 September the Committee held a second meeting and concluded that the Deribat area was still under rebel control and that no charges had been brought by the women against any individual. Also, the rebels attacked the armed forces before while wearing SAF uniform which lent the impression that members of the Government forces were responsible. As the Deribat area was under the rebel control, the Committee decided to contact the UN and AMIS for coordination so that the Committee would be in a position to reach the Deribat area and initiate its investigation.
2. Investigation Committee on the Events of Masara- South Darfur State was formed by a decision by the Wali (decision 75) for 2006 and was issued on 24/10/2005. The Committee composed from representatives of the Attorney-General, the Police, the National Security, the Military Intelligence. The Committee will investigate the attack committed by an armed group in the morning of 23/10/2007 which caused considerable loss of life (60 dead and 8 injured). The mandate of the Committee was to assess the human and material losses. Three accused were arrested and convicted by the criminal court and punished by imprisonment. However, the main perpetrators were not arrested. The committee recommended to compensate the victims and secure their safe return to their areas. Also recommended establishing a reconciliation and development committee from the tribes in the area and to set up a mechanism for settlement of disputes.
3. Investigation Committee on the Events of Alhabania and FALATA- South Dafur. This committee was formed by the Wali on 7 January 2007 and composed of representatives from the Attorney-General, the Police, the National Security, and Military Intelligence. The mandate of the Committee was to conduct investigations into events that occurred in Buram and TIs localities, listening to witnesses and asses the human and material losses. The Committee established that 100 persons were killed from the Habania tribe and

25 from the Falata tribe. The Committee recommended the establishment of joint forces to cover the area. Some individuals were arrested accused of killing and aiding and abetting commission the crime of killing.

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

The above reports did not address all of the cases indicated in recommendation 3.1. The Government indicated that the work of certain investigation committees was continuing and that it could provide a report once these investigations were complete. These incidents need to be investigated as required in the recommendation. The reports provide few names of those who are arrested but do not show individuals who suppose to be prosecuted or convicted. Also no information was provided with regard to perpetrators, especially those with command responsibility. Also, findings of investigation committees were not made public. Only one Committee recommended that victims are to be compensated in Masara- South Darfur State. During the period under review, the human rights team in North Darfur monitored nine cases against military soldiers and one case against a SLA soldier in the El Fasher regular courts. In Kabkabiya, the UN followed three cases against soldiers for an attack committed in 2001. With the exception of this last case, all the other cases related to personal crimes and were not committed in the course of the conflict. In the case against the SLA soldier, accused of armed robbery allegedly committed on 5 April 2007, the conviction was overturned because the judiciary was implementing a policy of not charging SLA/MM soldiers with possession of illegal weapons, recognizing that faction's status as a signatory to the DPA.

In SLA/MM controlled areas, the problems were even more severe. The system relied on legal advisors that are very poorly trained and who interpreted and applied procedures differently across SLA/MM controlled areas. Although SLA/MM authorities claimed that they followed Sudanese criminal laws, there were numerous reported cases of disregard for basic fair trial standards, ill treatment while in detention, and the use of the justice system to extort money. A typical problem observed in the SLA/MM-administered areas was the detention of individuals as a means of pressuring their families to pay a fine. People were often held indefinitely with no charges pending against them. For example, during a routine visit to an SLA/MM detention facility in Kafod, in North Darfur, on 21 August 2007, UN staff interviewed two men, one of them 73 years of age, who had been detained since 26 July 2007 in connection with a murder case allegedly committed by one of his relatives. The two complained that they had not been charged with any crime and could not raise the money required to pay for the agreed settlement while still in detention.

As regards the Investigation Committees, despite the Government's stated commitment to end impunity, and the establishment of a number of mechanisms to address crimes in Darfur, very little progress and results have been achieved. During the reporting period, the Special Criminal Court for Events in Darfur (SCCED), which was set up in mid-2005, did not hear any new cases.

With regard to investigatory committees, for which records were not made available to HROs, in South Darfur the prosecutor and the police showed cooperation and provided information on progress achieved. In West Darfur, the UN also was able to obtain information on the committee investigating attacks on Jebel Moon in October 2006.

UN staff did not receive information on any conclusion reached by investigative committee on the attacks in the **Bulbul** area in January – March 2007, or any prosecution made with regard to the case.

UN staff learnt from the Head of the Unit of combating Violence against Women and Children (Dr. Atiat), during her visit to Nyala in August 2007, that the Ministry of Justice was going to investigate the December 2006 incidents in **Deribat**. However, to date no investigation seems to have been carried out.

There are no updates on the killing of civilians in the area of Buram, South Darfur, in October 2006

Regarding the arrests and disappearance of at least 19 Massalit men in Gereida, in September 2006, the SLA/MM stated that they would investigate the incident, but no action has yet been taken in that regard. Moreover, SLA/MM has denied any responsibility over the incident.

The Governor of West Darfur indicated that he had established a committee to investigate the attacks on villages around Jebel Moon area on 29 October 2006 so to prevent similar events in the future. A group of state authorities visited Silea on 1 November 2006, conducted a preliminary investigation, and established an investigatory committee, including community representatives from the affected villages. No report has been made public by state

authorities regarding any outcome of this investigation and no one was brought to justice in connection with the attacks.

Regarding the law enforcement operation on NGO compound on 19 January 2007, in Nyala: In a court hearing on 5 April 2007, six INGO staff members were found guilty of drinking alcohol and nuisance (article 78, 2 of Criminal Act 1991) and were ordered to pay a fine of 25000 SD each. On 16 April 2007, the court decided to acquit another two international NGO staff members due to the lack of evidence with regard to the same charges. However, one of those two acquitted, a Sudanese female, was still being investigated for indecent and immoral acts, under article 152 of the Criminal Act 1991. To date, no legal procedures had been taken against her in that case. An international staff member, who left Sudan upon completion of his contract, also had been accused in the same case. On 19 April 2007, the Nyala court decided to acquit five UN staff, who had been charged with drinking alcohol and nuisance, based on the SOFA. In the same hearing, with regard to the remaining defendants from international NGOs, the magistrate in the case stated that “the procedures of their surety were illegal because the person who guaranteed them is a UN staff and the court could therefore not apply the rules against him. He has failed to bring the defendants before the court”. In its decision, the court ruled that for these accused, the case will be ‘closed temporarily’ and the prosecution would resume the procedures against them in case they returned to Sudan. The group of experts did not receive any information as to whether the allegations of physical and verbal abuse, including sexual assault, reported to have been perpetrated by law enforcement officers during the arrests, were being investigated.

Full and thorough investigations into breaches of international human rights and humanitarian law with regard to the following incidents seem not to have been undertaken: the attacks in Bulbul area, South Darfur in January – March 2007; the attacks on the village of Deribat and eight villages along the Kutur to Deribat road in late December 2006; the killing of civilians in the Buram area of South Darfur in October 2006; the arrest of at least 19 Massalit men in Gereida, South Darfur in September 2006; the attacks on villages around the Jebel Moon area in October 2006; law enforcement operation on NGO compounds on 19 January 2007 in Nyala; and the attack on 4 NGO compounds in Gereida by SLA/MM forces in December 2006.

In some instances, the Government publicly announced its intention to investigate reports of widespread human rights violations large scale attacks, but it has failed to follow through with these pledges. In other cases, where investigation committees have been established to address the incidents in question, their findings have not been made public.

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

According to information received, this recommendation has not been fully implemented. Limited investigations were conducted into three incidents: attacks in Bulbul area, South Darfur, attacks on the village of Deribat and eight other villages along the road from Kutur to Deribat in late December 2006, and into killing of civilians in the area of Buram, South Darfur, in October 2006. In the Buram case prosecutions were ongoing at the time of the writing of the present report, but no perpetrators had actually been prosecuted. No information was provided on the cases of torture brought to the Government’s attention by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. No information has been received on any disciplinary action against police and other officials who failed in their primary responsibility to protect civilians. No information was provided on compensation and rehabilitation of victims.

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

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

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

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

#### Written information submitted to the Special Rapporteur during her mission in Sudan from 25 July 2007 to 2 August 2007

The Order of the Director General of the Police No. 57/2007, adopted in pursuance of the Police Forces Act of 1999, for the purpose of organizing the procedures of granting authorization to prosecute police personnel, to ensure speedy legal procedures in prosecuting the same, and to prevent immunities granted to perpetrators among police personnel was adopted on 31 July 2007.. The Order organizes the granting authorisations procedures as follows:

With regard to a crime committed by a police member, the Police shall conduct an investigation parallel to that carried out by the prosecution. Upon submission of the request to grant authorization to the Ministry of Justice, investigation procedures should be put forward to the Directorate General of Legal Affairs to ensure availability of initial proof against the police member. The Directorate General of Legal Affairs shall submit authorization to prosecute the police member before ordinary courts upon fulfilment of all legal aspects according to the jurisdiction; otherwise the police member shall be referred to a special police court. If the request is rejected, the police member shall be referred to a special police court subject to a notification forwarded to the Ministry of Justice as well as to the complainant. The Directorate General of Legal affairs shall ensure that the complaint enjoys his/her right of prosecution as well as the right to appeal before police courts. A monthly report shall be prepared on cases considered before police courts since a request of authorization has been rejected taking into consideration that the Ministry of Justice shall be briefed of the decision of the court

Instructions from the Director-General of NISS: Pursuant to article 73 of the National Security Forces Act of 1999, as amended in 2004, and further to the memorandum of understanding between the Government of the Sudan and the Experts Group established pursuant to Human Rights Council decision No. 4/8, concerning the commitment of the Sudan to the implementation of human rights standards and principles and of international humanitarian law, I, the Director-General of NISS do hereby issue the following instructions:

If a member of the security services breaches any of the laws in force and there is prime facie evidence to justify the laying of charges against him, the security services must surrender the individual for trial or try him before a permanent security court, which must not be a summary court, as the law decrees.

Compliance with circular and implementation of instructions: The present instructions shall be circulated to all security units and national intelligence units and all members of the security services shall comply with and implement them. Anyone who breaches them shall be prosecuted and punished in the manner provided for by law.

#### Information orally submitted to the group of experts on 18 September 2007

Regarding immunities, the Delegation clarified that there was no law providing for an immunity related to members for armed forces. A Criminal Circular issued by the Chief Justice sets out the various legal proceedings regarding prosecution of members of the Sudanese Armed Forces. As for the police forces, an article in the police code provides for the immunity of police officers in the course of his or her duties. However, where a police officer has been accused of committing a crime in the course of his official duty, the State shall institute legal proceedings according to Article 47 (primary procedures). The Ministry of Interior can lift the immunity of police officers and then the judicial process follows its course according to which police officers can be charged as may be appropriate. The Government emphasised that police immunity was crucial to the police carrying out their official duties. The Government was in the process of revising the police code and the national security law, based on the new Constitution. New draft laws were under ongoing discussion. The Government intends to revise laws according to the following considerations: the need to prosecute any person committing a crime without any impediment; the need to protect police officers from groundless accusations at the same time; and the need to protect the morale of police forces in context of insecurity.

On police and national security, the law provides that where a police officer commits a crime on official duty, he or shall enjoy immunity, but the immunity has to be and can be lifted in order for such police officer to be prosecuted.

#### Information orally submitted to the group of experts on 15 November 2007

The Police Bill 2007 and the SAF Bill 2007 were received from the Government on 9 November 2007 and the Government provided further explanations of these bills to the group on 15 November 2007.

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

The two Drafts of the Police Bill and the SAF Bill provide legal immunities for state agents. Both laws shall be subject to legal reform and harmonization with international human rights standards and the Bill of Rights of the Interim constitution of the Republic of the Sudan 2005.

Article 45 of the Police draft Bill (formerly Article 46 of the Police Forces Bill) was taken verbatim and maintains the same immunities for the Police. The Article forbids any 'criminal procedure against a police officer accused of an incident representing a criminal offence committed while performing his official duty or because of his official act' unless approved by the Minister or his delegate. This replicates Article 46 of the 1999 Act. In principle, police officers remain subject to national law. Whenever there is information that an infraction may amount to a criminal offence, the alleged offence should be reported immediately to the appropriate investigation and prosecution authorities. If there is information that a criminal offence has been committed but the criminal investigation authorities find that there is not enough evidence to charge the suspected officer, he or she may still be subjected to disciplinary procedures. Thus, a distinction has to be made for normal disciplinary procedures and acts of criminality which entails criminal investigation. In other words, misconduct involving criminal offences should be dealt with under criminal law all other misconduct can be dealt with under disciplinary proceedings. Article 45 represents one of the impunity clauses protecting the police. It also raises an accountability issue. Accountability to oversight institutions, which may include courts, legislatures, media and complaint review boards, is an important underpinning of democratic policing. Individual officers at all hierarchical levels not only accountable to their supervisors for their own conduct but their conduct must accord to with the national law and with professional codes of ethics and discipline. In the case of criminal conduct all officers shall be accountable to the court. Article 45 not only raises the issue of criminal conduct of police and immunity from persecution, but also internal mechanisms of accountability of police Managers or Ministers.

The Sudanese Armed Forces Draft Bill, 2007 Article 34 (Institution of Legal Proceedings against personnel) provides that:

- 1) There shall not be deemed an offence any act, which emanates from any officer, or soldier in good faith, in the course, or by reason of performing the business of his/her post, or discharge of any duty imposed thereon, or any act done thereby, under any power delegated, or conferred thereon, under the Criminal Procedure Act, or any other law in force, any regulations or orders made under any one of them.
- 2) No proceedings shall be taken against any officer, or soldier, who commits an act, which constitutes an offence, which occurs in the course, or by reason of his/her discharge of his/her duties, or carrying out of any lawful order, issued thereto in this capacity thereof, and he/she shall not be tried, save upon permission, issued by the President of the Republic, or whoever he may authorize.

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

Legal immunities (recommendation 3.2) have not been abolished, although the Government has taken a number of steps to establish procedures for lifting immunities with regard to the police and the National Intelligence and Security Services. The pending Bills on the Armed Forces and the Police will not change the discretionary nature of decisions to lift immunities even in cases of serious violations of human rights. In particular, it took note of Art. 34 of the Sudanese Armed Forces Bill provides that no act shall be deemed an offence which emanates from any officer or soldier in good faith, in the course or by reason of performing the business of his/her post, or discharging any duty imposed upon him or her. The bill provides that immunity can only be waived by the President or someone designated by him if offences were committed in the course of discharging duties or carrying out of any lawful order. This system would, in practice, provide very far-reaching immunity in cases where human rights violations were committed as part of carrying out an order by a competent authority.

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

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

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

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

The Government indicated that it did not consider that the International Criminal Court had jurisdiction over the situation in Sudan.

### **Information Received from Other Sources on Recommendation 3.3**

The Government of Sudan has refused to cooperate with the ICC and has not complied with the arrest warrants issued for Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”) and Ahmad Muhammad Harun (“Ahmad Harun”).

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

Not implemented.

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

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

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

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

Written information submitted to the group of experts on Darfur on 25 and 29 October 2007

On 25 October 2007, the group received a copy of the Armed Forces Bill of 2007 which deals, among others, the system of military justice, military criminal procedure, including investigation, inquiry and trial, conforming with the recognized principles of justice, public law and the principle of legality. The principle of independence of military judicature has been enshrined, by dedication of a full chapter, which deals with independence of the judicial and legal work, without influence, and deals with procedural immunities suitable for officers of the Military Judicature. Chapter VIII relates to penalties under courts martial, and Chapter I, of Part III sets out offences and contraventions, committed by personnel of the Armed Forces. This Act contains, for the first time, a codification of the provisions of the international humanitarian law, after a careful study of the regional experiences represented in the Jordanian Act, No. 31 and 32 , 2003 and the Yemenese law; and after perusal of the international experience, represented in the Belgian model. The Bill keeps pace generally with the pattern of military law in the USA, France, Algeria and elsewhere, and conforms with the four Geneva Conventions of 1949 and the Additional Protocols to the Geneva Conventions of 1977 , as well as the Optional Protocol attached to the UN Convention on the Rights of the Child in that it fixes the recruitment age at 18 years. There are also principles of customary international law reflected in the Bill concerning prohibited weapons and protection of non-combatants, and including the provisions of Ottawa Agreement for Prohibition of Use, Transport, Production and Storage of Anti-Personnel Land Mines, 1997, and the Agreement of Combating Chemical Weapons, and criminalizing all acts prohibited in international laws, treaties and agreements, applying the principle of the domestic incorporation of international jurisdiction.

The group received the Police Forces Bill of 2007, Chapter II of which deals with general principles and objectives regulating the work and professional duties of police officers and specifically relating to the rule of law and human rights. Chapters IX and X deal with the operation of police courts, as well as offences, contraventions and punishment of police officers in case of violation of professional duties.

See also information provided by the Government and other sources as well as the assessment with respect to recommendation 3.1 and 3.2.

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

The harmonization of the Sudanese domestic legislation with the Interim National Constitution (INC) and bill of rights has been progressing very slowly.

##### ***National Security Act***

The National Security bill was submitted to the Ministry of Justice, after having been drafted by a Committee, which included SPLM security experts. However, in a progressive report on CPA implementation, issued by the Presidency in September, it was stated that consultations were still underway between the NCP and the SPLM; that a Deputy Director for NISS had been appointed by the SPLM; and that 107 SPLM officers had been integrated into NISS after appointment by the Presidency.

##### ***Organization of Voluntary and Humanitarian Work Act of 2006***

No developments in the case submitted by a group of NGOs to the constitutional court (case No. 35-2006).

##### ***National Police Act***

No progress.

##### ***Armed Forces Act***

The draft bill was tabled before the National Assembly after approval by the Council of Ministers.

##### ***Child Act***

The new Child Act has yet to be passed although at the time of writing of the present report, it had already been finalized by the Legal Reform Committee and forwarded to the Council of Ministers for approval. Three meetings were organized by the Ministry of Religious Guidance during the month of September 2007 to discuss the draft Child Act. The meetings involved a number of religious leaders and the members of the Legislation Committee. The Committee has been formed to review the new Act, in particular those which have been considered by religious leaders to contradict *Sharia law*. UNICEF is a member of this Committee.

##### ***Emergency laws***

No information on any attempts to review these laws.

#### **Assessment of Implementation of Recommendation 3.4**

Partial implementation with regard to the introduction of a Police Bill, 2007, and an Armed Forces Bill, 2007, which were pending in Parliament at the time of the writing of the present report.

#### **Recommendation 3.5 *Mid-term***

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

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

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

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

Information orally submitted to the group of experts on 15 November 2007

The Ministry of Justice sent 21 criminal investigators to each of the states of Darfur and opened new prosecutors' offices in area where they had not existed previously to improve access to justice.

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

The shortcomings of the Sudanese administration of justice system have been documented and reported extensively. One of the main impediments for victims to access justice relates to an overall lack of sufficient judicial personnel. Despite an increase during 2007 in the number of prosecutors deployed to major towns in all Darfur States, in many areas the prosecutor's office continued to lack resources and to be inaccessible to civilians. In West Darfur, on a positive note, there have been some improvements in the rule of law. In June 2007, the court in Foro Baranga reopened. The court had been closed since December 2006, when members of the CRP opened fire in the court and threatened a judge who had tried the case of a CRP member. Further, still in June 2007, the number of prosecutors deployed to West Darfur increased significantly to 13. Three of these prosecutors were deployed outside El Geneina and Zalingei to Foro Baranga, Garsila and Nertiti. Similarly, prosecutors were also deployed in North Darfur, namely in Kutum, Kabkabya, Melit and Um Kadada, and in South Darfur, in Rehad el Birdi, Buram, Edd el Fursan, El Daein, Adila and Kass.

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

The Government seems to have drafted a number of bills that would increase judicial oversight. The Government indicated it was taking steps to deploy an increased number of prosecutors.

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

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

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

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

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

Information orally submitted to the group of experts on 18 September 2007

There has been a recent agreement with UNMIS to set up new forum to discuss human rights issues related to Darfur. The competence to take this decision lies with the central authorities in Khartoum and it has not yet been carried out.

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

The Sub-Joint Implementation Mechanism on Protection and Human Rights (Sub-JIM) met in July 2007 for the first time in over a year.

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

At the time of the writing of the present report, there was insufficient information on the actual functioning of the above-captioned Sub-JIM.

**Recommendation 4.2** *Short-term*

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

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

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

Information orally submitted to the group of experts on 18 September 2007

These UN human rights officers have full access to the whole of Darfur, other than detention centres which require a specific authorisation. No complaint on access has been received. As said in last response, Sudanese law prohibits any person from viewing documents of any investigation until charges have been made (applicable to any Sudanese as well): But once charge is made, HR monitors can have access to any document.

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

UN human rights officers continued to be refused unfettered and unimpeded access to detention facilities. In mid-October 2007, the Advisory Council on Human Rights sent a letter to the Director of UNMIS HR inviting UN human rights officers to visit all detention facilities in Darfur, so as to respond positively to a recommendation by the group of experts. On 24 October 2007, the human rights team presented this letter to the Director General of Prisons in Darfur, requesting access to Shalla prison, in El Fasher. The Director General stated that he thought that the letter was 'irrelevant' as it had not been issued by the Minister of Interior. According to the Director, the request submitted by the human rights team to him has to be sent to Khartoum, directed at the Office of the Commissioner General of Prisons. If he agrees, he could then pass it on to the Office of the Director General of Police, who in turn, if he approves it, could decide to pass it on finally to the Minister of Interior. The Minister would have ultimate authority whether or not to approve a request to visit Shalla prison. In any case, it should be noted that the letter does not grant UN human rights officers free access to detention facilities only in Khartoum, but it seems that many Darfurians have been held in connection with Darfur related events in Khartoum, and with regard to whom allegations of ill-treatment have been corroborated by the Khartoum human rights team.

West Darfur

Access to detention facilities in west-West Darfur was further reduced during the period under review, in particular since September 2007. Detainees in remand by the courts were detained in the West Darfur State Prison at Ardamata, in El Geneina. Since early 2006, when the Ministry of Interior issued an order forbidding foreign organizations access to detention facilities under the Ministry of the Interior without the personal authorization of the Minister of the Interior, UN human rights officers have not been able to conduct general visits to Ardamata Prison. However, they remained able to visit named individual pre-trial detainees through an established procedure whereby a prosecutor authorized the visit. UN human rights officers were able to carry out private interviews with these detainees.

In September 2007, the Head of the West Darfur State Prisons Department refused all access by UN human rights officers to Ardamata Prison without prior authorization from the Minister of the Interior. On 12 September 2007, HROs in El Geneina sought and obtained authorization from the West Darfur State Prosecutor to visit a pre-trial detainee held in Ardamata Prison. On 16 September a UN human rights officer requested the prison director to allow him to visit the detainee on the basis of this authorization. The director refused access and referred the human rights officer to the Director of the West Darfur State Prisons Department. In a meeting with the officer, the director of the Prisons Department stated that UN human rights officers had to obtain authorization from the Ministry of the Interior before making any visit to the prison. The officer explained that in the past the human rights team had been visiting pre-trial detainees after obtaining permission from the prosecutor. However, the director insisted that prior authorization must be obtained from the Ministry itself.

Access to the military intelligence detention facility in Geneina, as to military intelligence detainees in other parts of west-West Darfur detainees was equally limited. Similarly, access to NISS facilities in El Geneina and in all localities in west-West Darfur have also been restricted. From the beginning of September 2007, UN human rights officers had very limited access to the facility in El Geneina. UN human rights officers were able to visit the facility, but prevented from interviewing detainees in private. When permission to undertake private interviews with detainees was sought in late September 2007, the NISS director for Geneina office stated he would need to obtain permission from his supervisor; his supervisor subsequently indicated that he would need similar permission from NISS in Khartoum.

On a positive note, human rights officers were granted access to the Zalingei Big prison on 19 September, 27 September and 1 October, after more than 15 months of refusal. Human rights officers were able to conduct unsupervised interviews with detainees and were granted access to the register and individual files. Findings from that assessment demonstrated that none of inmates was detained in relation to violations committed in the context of the conflict of Darfur.

#### North Darfur

Generally, UN human rights officers were able to conduct interviews with detainees, though not always in private. The situation in El Fasher was however completely different. UN human rights officers have not had access to Shalla prison, with over 400 detainees, or Kherkhaniga women's prison since mid-2006. Authorities have made it clear that unfettered monitoring visits were not possible. The human rights team in El Fasher was in the process of requesting the Director of Prisons for North Darfur permission for the team to visit a specific detainee at Shalla prison.

Access in SLA/MM administrated areas was generally granted. During the period under review, UN human rights officers were able to visit SLA/MM detention facilities in Kafod, Muzbat, Wada'ah, Dar el Salaam, Shangil Tobayi and Zamzam. In the past, UN human rights officers were routinely granted access to Thabit prison, but these visits have been restricted for some time on grounds of security.

Regarding official records, UN human rights officers had only sporadic access to police registers. Some police officers have told UN human rights officers that they could not share case numbers or any details about cases, while other police have allowed UN human rights officers to read directly from their case registers. UN human rights officers in North Darfur had access to documents from the judiciary, such as statistics and copies of official decrees. However, case decisions were not available, except through lawyers involved in the case.

#### South Darfur

UN human rights officers in South Darfur were allowed to carry out monthly visits to the NISS detention facility in Nyala and to conduct unsupervised interviews with detainees. After the visit, UN human rights officers were requested to provide feedback on findings to NISS officers. Access to military intelligence facilities on the other hand was denied. With regard to state run prison and police cells, UN human rights officers used to enjoy a certain degree of access. However, UN human rights officers received information that new instructions have been recently issued by Ministry of Interior in Khartoum, requiring his approval before access can be provided to the state run prison. Concerning access to police cells, UN human rights officers have had access upon approval by the State Prosecution Office, although authorization was often difficult to obtain.

As in North Darfur, access to SLA/MM detention facilities was easier. UN human rights officers were able to visit regular detention facilities in Muhajiria and Gereida. Although visits were usually unsupervised, prior approval from SLA/MM office in Nyala was required. However, UN human rights officers have not had much access to Military Intelligence or NISS facilities, or to visit political detainees who, in many cases, have been moved frequently from one facility to the other.

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

The group of experts welcomes the issuance of orders facilitating cooperation with United Nations human rights officers, but regrets that implementation of these orders has been very problematic.

**Recommendation 4.3** *Short-term*

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

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

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

Information orally submitted to the group of experts on 18 September 2007

Concerning detention cases: Not all police officers know that UN human rights officers have specific rights. In some visits, human rights officers did not follow standard procedures (e.g. they had other people with them. When Sudan allowed surprise visits, many practical problems were encountered, and so surprise visits have been stopped, which is why they cannot go ahead any longer without specific authorisation. Henceforth, applications will be automatically approved, but the Government requires notice in order to approve and facilitate the visit.

Written information submitted to the group of experts on Darfur on 25 October 2007

The group of experts received from the Government a copy of a letter sent to the Director of UNMIS-HR which invited UN human rights officers to visit all detention facilities in Darfur.

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

According to UNMIS input, the Ministry of Interior has not revoked its March 2006 order prohibiting access to detention facilities in Darfur and other parts of Sudan by human rights monitors. Limited access has however been granted in certain areas on an ad hoc basis depending on the rapport between the local officials and human rights monitors. See further information 'received from other sources' on recommendation 4.2.

**Assessment of Implementation of Recommendation 4.3**

Some steps have been taken towards implementation, but actual access was still impeded at the time of the writing of the present report.

**Recommendation 4.4** *Short-term*

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

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

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

Information orally submitted to the group of experts on 15 November 2007

The Government indicated that special procedures were welcome in the Sudan.

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

No standing invitation was received.

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

The recommendation was not implemented.

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

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

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

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

No information provided.

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

There has been no information received to indicate whether or not such centers have been established.

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

No implementation.

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

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

*Indicator: Evaluation conducted and made public.*

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

Written information submitted to the group of experts on Darfur on 13 November 2007

On 13 November 2007, the group of experts received from the Government a Report of the Joint Task Force Team assigned to appraise the work of the State Committees to Combat Violence against Women in Darfur, providing details of the composition of this mechanism as well as its assessment of progress made and recommendations.

Information orally submitted to the group of experts on 15 November 2007

The Government stated that a joint task force visited Darfur and recommended that training be undertaken to raise the level of professionalism on the part of the members of state committees which have been formed to combat violence against women.

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

On 12 August 2007, a Joint Task Force for supporting and evaluating the work of the State Committees was constituted under the auspices of the Ministry of Justice. The Task Force is chaired by the Director of the Unit for Combating Violence against Women and Children, and includes representatives of the Advisory Council for Human

Rights, Ministry of Health, Ministry of Interior, Humanitarian Aid Commission, Ministry of the Social Welfare and Sudanese Women's Union, as well as of UNMIS Human Rights, UNMIS Gender and UNFPA. The 12 August decision, signed by the Under-Secretary of the Ministry of Justice, outlines the Task Force's terms of reference as follows: to have regular six months joint visits to the three Darfur States; to review the achievement in the implementation of the previous Plan of Action; to needs assessment for the new Plans; to review the challenges facing the progress of the work [of the State Committees]; to identify gaps and needs; to make suggestions for joint technical and financial support according to needs; to prepare a report every six months.

A smaller group withdrawn from the Task Force and composed of the Chair, two members of the ACHR, and representatives of the Ministry of Interior and UNMIS Gender and Human Rights, conducted a mission to the three Darfur States from 3-6 September 2007. During the mission, the group held meetings with Government officials, non-governmental organizations and the State Committees. Following the mission, a core group on Gender based Violence, composed by the ACHR, the Ministry of Social Welfare and UNMIS Gender and Human Rights, and was established with the purpose to draft a report on the findings of the mission to Darfur.

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

The evaluation has been completed and the group of experts thanks the government for its report and encourages it to make the report public and to implement the Committees' recommendations.

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

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

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

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

##### Information orally submitted to the group of experts on 18 September 2007

The national transitional constitution stipulates that a national commission for human rights was to be established. These legal procedures were to be taken up by a legal commission for constitution review. Draft bills for the national human rights institution and elections have been drawn up by the commission. Once finalised, the legal commission will refer the text to all political parties and civil society in a consultative process, before referring it to the Council of Ministers. The Government has reached a stage of having prepared a draft bill, which should be given to all political constituencies.

##### Written information submitted to the group of experts on Darfur on 30 October 2007

The group of experts received a copy of the Human Rights Commission Bill of 2006 which, among other things establishes a task force to evaluate the work of the state committees in the 3 Darfur states, consisting of the Director of the violence against women unit as well as the representatives of the Advisory Council on Human Rights, the Ministry of Justice, the Ministry of Humanitarian Affairs, UNFPA's Gender Unit, UNIFEM and UNMIS. This task force conducted a visit from 3-6 September 2007 to meet all relevant authorities to combat violence against women, and it issued a joint report, with recommendations to increase technical and financial support for the committees, provide needed information and to establish mechanisms to provide health, and psycho-social support to victims of violence against women. The Human Rights Commission Bill 2006 was received from the Government.

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

A draft bill on the National Human Rights Commission was scheduled to be discussed in the Parliament at the time of the writing of the present report.

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

Although the recommendation has not been fully implemented, some progress has been made towards this goal. The NHRC was not established.

**Recommendation 4.8** *Medium-term*

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

*Indicator: OP-CAT ratified.*

**Response of the Government of the Sudan on Recommendation 4.8**

The Government indicated that it had not undertaken steps to implement this recommendation.

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

No steps taken.

**Assessment of Implementation of Recommendation 4.8**

Not implemented.

<b>Annex II List of documents received from the Government of the Sudan</b>	
13/11/2007	<ul style="list-style-type: none"> <li>· Documents from the Advisory council for human rights</li> <li>· List of sentences issued</li> <li>· Report of the Joint task force team assigned to appraise the work of the state committees to combat violence against women in Darfur</li> </ul>
06/11/2007	<ul style="list-style-type: none"> <li>· NV on attack on Muhajeria</li> <li>· AMIS Report of attack on Muhajeria on 8 October 2007</li> </ul>
30/10/2007	<ul style="list-style-type: none"> <li>· The Human Rights Commission Bill, 2006</li> <li>· Explanatory Note Commission Bill 2006</li> <li>· Status of the Implementation of the Recommendation related to violence against women (medium term)</li> <li>· Declaration, issued by the headquarters of the Sudanese Armed Forces related to the regulations and rules of behavior in the zones of conflict.</li> <li>· Rec No. (3-1) under accountability and justice investigation committee on Dyribat events.</li> <li>· Rec No (1-4-2) updating of lists of the detainees in Darfur states</li> <li>· Rec No (1-5-1) protection of witnesses and victims</li> <li>· Statistics of complaints and verdicts against acts related to violence against women in North, South and West Darfur.</li> <li>· Rec. No (2-6-1) Headlines, News and Reports published in Sudanese newspapers about Darfur.</li> <li>· Rec. No (3-1) Investigation Committee on the events of Masara, State of Southern Darfur.</li> <li>· Rec. No (3-1) Investigation Committee on the events in Alhabania &amp; Alfalata, South Darfur.</li> </ul>
25/10/2007	<ul style="list-style-type: none"> <li>· Explanatory note related to the Armed Forces Bill 2007</li> <li>· Index of the Armed Forces Bill</li> <li>· The Armed Forces Bill 2007</li> <li>· Statistics of verdicts and trials (violence against women/murder) against officials and members of the disciplined Forces (police forces, armed forces and security) in West and North Darfur States.</li> <li>· Verdicts and cases (still in front of the courts) of violence against women in West Darfur State.</li> </ul>
19/09/2007	<ul style="list-style-type: none"> <li>· Information regarding cases and convictions related to violence against women</li> </ul>
14/09/2007	<ul style="list-style-type: none"> <li>· Report made by the Advisory Council for Human Rights in Sudan with regard to the Implementation of the Recommendations on Darfur (short term) made by the Human Right Council and related UN Organizations.</li> </ul>
03/09/2007	<ul style="list-style-type: none"> <li>· Draft of the Declaration regarding the necessary measure to combat the violence against women in Darfur Region.</li> <li>· List of the judgments issued against crimes of violence against women.</li> </ul>
13/09/2007	<ul style="list-style-type: none"> <li>· Declaration of the Elimination of Violence Against Women in Darfur</li> <li>· Directive of the Minister of Justice regarding the formation of an investigation committee on the events which took place in Deribat</li> <li>· NV information on return of IDPs in West Darfur</li> </ul>
28/08/2007	<ul style="list-style-type: none"> <li>· Declaration by the Government to combat violence against women.</li> <li>· Directive to facilitate the human rights monitor work.</li> </ul>
30/08/2007	<ul style="list-style-type: none"> <li>· Document concerning the return of families from Abu Shoak IDP camp to their villages in Northern Darfur on Friday 17 Aug 2007</li> <li>· Update to the voluntary spontaneous return to Darfur 18/8/07 and a list containing the details of this voluntary return.</li> <li>· Directives of the Director General of the National Security and Intelligence Services on safeguards of detention and lifting of immunity in cases of violating the law 12/08/07 and annexes.</li> </ul>
21/08/2007	<ul style="list-style-type: none"> <li>· Report by the Advisory Council on Human Rights on the implementation of the recommendations on Darfur (short term)</li> </ul>
24/07/2007	<ul style="list-style-type: none"> <li>· Plan of action concerning the implementation of the short term recommendations of the Experts on Darfur.</li> </ul>

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