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HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

Report of the Special Rapporteur on the situation of human rights in the Sudan*

Addendum

Status of implementation of the “Compilation of recommendations of the experts group to the Government of the Sudan for the implementation of Human Rights Council resolution 4/8” pursuant to Human Rights Council resolutions 6/34 , 6/35, 7/16, and 9/17”**

* Late submission.

** The addendum to the present report is circulated in the language of submission only.

Summary

In resolution 6/34, the Council requested the Special Rapporteur to ensure effective follow-up and to foster the implementation of the remaining short-term and the medium-term recommendations identified in the first report of the Group of Experts (A/HRC/5/6) through an open and constructive dialogue with the Government of the Sudan, taking into account the final report of the Group of Experts (A/HRC/6/19) and the replies of the Government thereon, and to include information in this regard in her report to the Council at its ninth session.

The Special Rapporteur has worked to ensure the effective follow-up and to foster the effective implementation of the recommendations through dialogue with the Government. She has assessed the measures taken by the Government of the Sudan to implement the recommendations compiled by the expert group and provides the Human Rights Council (HRC) with as detailed a description and analysis of the status of implementation as possible.

On the basis of information received, the Special Rapporteur concludes that while certain recommendations have been implemented such as the launch of two Human Rights Forums and publication of a National Action Plan to address violence against women, regarding certain other recommendations, initial steps towards implementation were taken during the previous reporting period but have not seen further progress since the last reporting period. Certain other recommendations in the area of humanitarian access have taken a step back with the expulsion of international NGOs and revocation of national NGO licences, and attacks on human rights defenders. The Special Rapporteur regrets that certain short-term recommendations were not addressed by the government at all or, in other cases efforts were made but there remain challenges to implementation on the ground such as the disarming of militias and taking all necessary measures to avert the threat of and prevent attacks on civilians. The Special Rapporteur reiterates that the ultimate measure of the Government's implementation of the recommendations compiled by the group has to be concrete improvement in the human rights situation on the ground in Darfur.

The Special Rapporteur encourages the Government of the Sudan to take all necessary measures to implement the recommendations compiled by the Group of Experts on Darfur without further delay in a more constructive engagement with the HRC, UN and international community. She would like to thank the Government of Switzerland for their generosity in providing funds for UN technical assistance required towards this end.

The Special Rapporteur recommends that the Human Rights Council continue the process of review, in accordance with the indicators for assessing implementation developed by the Group of Experts, until such time as there is full implementation of all recommendations. In recognition of the fact that the timeframe for implementation of the short-term and medium-term recommendations elapsed on 20 June 2008 and despite the Government of the Sudan's efforts towards a process of cooperative engagement to foster the effective implementation of recommendations, there remain key recommendations that have not been met. The HRC may also wish to consider what further action is required to concretely protect and promote the human rights of people in the Darfur region of the Sudan.

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INTRODUCTION

1. Arising out of its deep concern over the ongoing violations of human rights and international humanitarian law in Darfur, the Human Rights Council adopted without a vote at its fourth regular session, on 30 March 2007, resolution 4/8 on the follow-up to decision S-4/101 of 13 December 2006 adopted by the Council at its fourth special session on the situation of human rights in the Darfur.

2. In its resolution 4/8, the Council decided to convene a group of seven mandate holders to ensure the effective follow-up and to foster the implementation of resolutions and recommendations on Darfur as adopted by the Council, the Commission on Human Rights and other UN human rights institutions, as well as to promote the implementation of relevant recommendations of other UN human rights mechanisms, taking into account the needs of Sudan in this regard, to safeguard the consistency of these recommendations and to contribute to the monitoring of the human rights situation on the ground. The Group of Experts was presided over by Sima Samar, Special Rapporteur on the situation of human rights in the Sudan, and was composed of Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, Radhika Coomaraswamy, Special Representative of the Secretary-General for children and armed conflict, Yakin Ertürk, Special Rapporteur on violence against women, its causes and consequences, Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders, Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons, and Manfred Nowak, Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment. Mr. Kälin served as Rapporteur for the Group of Experts.

3. In resolution 6/34, the Council requested the Special Rapporteur on the situation of human rights in the Sudan to ensure effective follow-up and to foster the implementation of the remaining short-term and the medium-term recommendations identified in the first report of the Group of Experts (A/HRC/5/6) through an open and constructive dialogue with the Government of the Sudan, taking into account the final report of the Group of Experts (A/HRC/6/19) and the replies of the Government thereon, and to include information in this regard in her report to the Council at its ninth session.

4. In its resolution 7/16, the Council urged the Government of the Sudan to continue and intensify its efforts to implement the recommendations identified by the Group of Experts, in accordance with the specified time frames and indicators. The Council invited relevant United Nations bodies and agencies, including the Office of the United Nations High Commissioner for Human Rights, to continue providing support and technical assistance to the Sudan for the implementation of the recommendations of the Group of Experts. It called upon donors to continue providing financial and technical assistance and required equipment for the improvement of human rights in the Sudan and to continue to provide support for the implementation of the Comprehensive Peace Agreement.

5. The present report is submitted pursuant to resolution 9/17 in which the Human Rights Council extended the mandate of the SR until June 2009, and requested to follow up and foster the implementation of the remaining recommendations of the Group of Experts through open and constructive dialogue, and to include information in her report. This

report reflects information received from the Government of the Sudan on 25 May 2009 on the status of implementation of the Group of Experts recommendations, as well as information from UNAMID, and from other sources, including UNMIS, United Nations agencies, funds and programs with operational competence in Darfur.

6. Using the indicators put forward in the Group's report to the Council of 8 June 2007 (Annex to A/HRC/5/6), the Special Rapporteur provides an assessment of the Government's activities to implement recommendations to be achieved over the short and medium-term as well as the degree of impact reported from the ground in Darfur. Accordingly, the present report focuses on developments in Darfur since the adoption of Council resolution 9/17 and covers the period September 2008 to May 2009.

I. METHODS OF WORK

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

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

8. The report analyses information received on 25 May 2009 from the Advisory Council for Human Rights, Ministry of Justice of the Government of the Sudan, UNAMID, UNMIS, UN agencies and other organizations which are operational in Darfur with a view to identifying whether and to what extent any tangible impact on the ground is being reported. This methodology permits the Special Rapporteur to conclude, in relation to each recommendation, whether: (i) it was fully implemented (i.e. all recommended activities were carried out and, as a result, the situation on the ground has been reported to have improved accordingly; (ii) significant activities were undertaken and tangible impact has been reported from the ground; (iii) significant activities were undertaken but little or no practical impact has been reported; (iv) initial steps towards implementation were undertaken; or (v) there was no implementation at all.

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

10. The Special Rapporteur has sought to ensure as far as possible that the information was based on first hand observations, careful verification and wherever appropriate inter-

agency corroboration. The Special Rapporteur is grateful to the Government and to all those who submitted information on the current status of implementation of recommendations according to the indicators specified by the Group of Experts on Darfur.

II. STATUS OF IMPLEMENTATION OF RECOMMENDATIONS

A. Human Rights Protection of Civilians

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

11. Regarding protection of the civilian population, the group of experts had proposed that the Government of the Sudan issue and enforce clear orders to the armed forces and any militias under Government's control; that it is prohibited to make civilians or civilian objects (including cultivated land and livestock) the target of attacks or to launch indiscriminate attacks (including burning of villages and aerial bombardments); that such attacks can amount to war crimes and crimes against humanity, that suspects, including bearers of command responsibility, will be investigated and brought to justice, and that any immunities would be waived (recommendation 1.1.1) and enforced (see section C. Accountability and Justice below). The Government adopted the new Armed Forces Act at the end of 2007. The Act includes a chapter on the principles of international humanitarian law which illustrates the protection of civilians and war crimes. The chapter also emphasizes individual responsibility and provides for mechanisms of accountability and formation of military courts.

12. In comparison to previous years the number of direct air attacks by the Government on civilians had reduced during the reporting period. However, UN sources indicate that from August 2008 to May 2009 there were major attacks with Government aerial bombardments of civilian towns and villages which led to the displacement and killing of civilians, specifically in Disa and Birmaza, Tabit, and Khazan Tungur in North Darfur, Muhajeria of South Darfur, as well as Umm Baru. Furthermore tribal clashes in South Darfur continued to undermine the protection of civilians (recommendation 1.1.1).

13. With regards to controlling and disarming the militia and controlling and downsizing the PDF, Border Intelligence Guard, Central Reserve Police, Popular Police or Nomadic Police, no formal plan was publicly issued to control and disarm the militia (recommendation 1.1.2). Although some effort was made to integrate 997 former combatants into the Government forces in South Darfur, this process could not be verified by UNAMID monitors. The indicators for this recommendation have not been met.

14. Despite some action taken by the Government to prevent and protect the civilian population against attacks (recommendation 1.1.3), the civilian population in Darfur was reported to remain largely unprotected against such attacks. A large number of attacks continued to occur by non-signatories to the Darfur Peace Agreement, Chadian Armed Opposition Groups, and unknown armed elements.

15. The draft Child Bill of 2009 prohibits the recruitment of children below 18 years of age, however, it remains to be enacted at the time of writing this report. Prohibition on the enforced and voluntary recruitment of children into armed groups was not enforced by the

Government, since recruitment continues. This responsibility also falls on the armed groups who have an obligation to not forcibly or voluntarily recruit children (recommendation 1.1.4).

16. The Government has taken some steps in establishing patrols by the Sudan Armed Forces to protect vulnerable populations (recommendation 1.1.5) in Sisi, West Darfur, and Abu Suruj. While these patrols have been effective, in another parts, such as Masteri of West Darfur, members of the SAF curfew patrols have been involved in serious human rights violations, including unlawful killings. The patrols should be transitioned from the SAF to police.

2. Protection of women against violence

17. There have been no public statements and no subsequent retractions on zero tolerance for attacks on women. During the reporting period UNAMID documented 98 separate reports of sexual and gender based violence against women and girls involving almost 200 victims. In only two cases did authorities exercise due diligence. The situation on the ground continues to show that authorities are not taking necessary action to combat impunity (recommendation 1.2.2). More effort is required to ensure that every case reported to the authorities is promptly responded to through effective investigation, prosecution and compensation. Only when victims see successful cases being brought to court will they have confidence in the criminal justice system and more cases will be reported to the police.

18. Since the last report, the definition of rape and the evidentiary requirements for the prosecution of sexual crimes remain to be amended (recommendation 1.2.8). No new instructions were issued by the Government 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 (recommendation 1.2.5).

19. Implementation of State Committee work plans and trainings with the assistance of the Government of Switzerland funded technical cooperation project (Swiss Project) are ongoing to ensure that the message is communicated to all parts of Darfur (recommendation 1.2.4). Since the last reporting period, authorities continue to disseminate, and promote compliance with the rules for implementation of Criminal Circular No.2, and state committees monitoring compliance (recommendation 1.2.6).

28. During the previous reporting period, the Special Rapporteur was provided with a list of names of police women transferred to different sites in Darfur, as well as the names of women who joined the child and family protection units. The Government had previously informed that 35 police women have been deployed in Northern State to work in the camps of Abu Shouk and Zam Zam and units of women and child protection in the central and southern sectors. In Southern Darfur 33 police women have been deployed in the camps of Itash, Alsaif, Alsalam and Sagli as well as in the localities of Nyala, Gadas, Idelfrsanm, Rehaid Alberdi, Kas and Aldiain. Lists of names, rank and location were provided to the Special Rapporteur. In North Darfur 27 social workers were said to have been trained by the unit to combat violence against women on the effects of incidents on victims (recommendation 1.2.7). The presence of women police officers above the rank

of lieutenant remains extremely limited, and in this regard further recruitment needs to take place.

3. Children and armed conflict

29. The Family and Child Protection Unit has been established but the number of trained women police remains very low (recommendation 1.3.1). A new version of the Child Bill was passed by the Council of Ministers in April 2009, which contained a number of positive provisions. The bill defined a child as a person who has not yet reached the age of 18, and criminalised sexual exploitation and abuse of children. The Council rejected the draft article criminalising female genital mutilation. Under the auspices of the Government of Switzerland funded technical cooperation project, UNMIS convened a follow up workshop on 22 May 2009 with the Government of Sudan's Advisory Council for Human Rights to come up with further recommendations on this Bill before it proceeds to parliament (recommendation 1.3.2).

The Government of Sudan reported that 106 child soldiers who had been forcibly recruited by JEM were captured by Government security forces during and after their alleged participation in the JEM attack on Omdurman on 10 May 2008. A combined 106 children were released through two presidential decrees, issued nearly four months and over six months after the attack, respectively. On 8 September 2008, 54 of those children were released to Western Darfur, and 53 had been reunited with their families (recommendation 1.3.2). The National Disarmament, Demobilisation and Reintegration Coordination Council did not facilitate any activities in Darfur during the reporting period (recommendation 1.3.3).

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

30. The Government has not issued new instructions that summary executions, arbitrary detention, enforced or involuntary disappearances and torture are illegal and will not be tolerated; and that they can amount to war crimes and crimes against humanity. The Government security apparatus, in particular National Intelligence Security Services (NISS) continued to commit human rights violations including arbitrary arrests, arbitrary detentions, torture and ill-treatment of detainees. Individuals targeted included community leaders, human rights defenders and humanitarian workers. Reports of abuses by rebel groups and armed militias have also been received. While the Government has insisted in the past that no detainees are tortured and those charged would be given access to lawyers, UNAMID documented cases of torture. With respect to information received from the Government on 25 May 2009, no information was provided to the Special Rapporteur on concrete measures taken with a view to upholding the rights of the detainees. Detainees were often not informed of the reasons for their arrest or charged with an offence and denied legal counsel (recommendation 1.4.1, 1.4.2, 1.4.3).

31. There remains no access of UN human rights monitors to places of detention in Khartoum, which is of concern for Darfur-related detainees transferred to the capital (either for trial or interrogation). Access to places of detention in Darfur itself remains extremely limited. Human rights monitors were granted increased access to Government detention facilities in West Darfur. No action was taken to reform the NISS in accordance

with the Interim National Constitution and access to NISS detention was not provided. A large number of cases of harassment, arrest and detention by NISS and violations of rights of detainees especially those in the custody of MI and NISS (recommendation 1.4.3) have been documented. It is unknown whether Articles 31 and 33 of the National Security Act, which give broad powers of arrest and detention will be reformed. The Special Rapporteur has not received a copy of the draft Bill (recommendation 1.4.4). The Convention Against Torture has not been ratified (recommendation 1.4.5).

5. Protection of witnesses and victims

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

33. There were reports that human rights defenders working on Darfur-related issues in Khartoum were subjected to intimidation and harassment by the NISS, and in some cases arbitrary arrests. Among the hundreds of civilians arbitrarily detained following the 10 May rebel attacks on Omdurman were Khartoum-based Darfurian lawyers, journalists and political activists. UN human rights monitors did not have access to these detainees at the time of detention.

B. Humanitarian Access

1. Protection of humanitarian workers from harassment and attack

34. The number of security incidents affecting humanitarian workers and their assets has increased dramatically in 2008 and 2009 in comparison to previous years. During the reporting period there were 129 cases of carjackings. A number of carjackers had been apprehended by the government and in some cases UNAMID vehicles had been retrieved. Attacks against the humanitarian community also continued. On four separate occasions, unknown armed men ambushed peacekeepers across the three states of Darfur resulting in the deaths of three peacekeepers and four seriously injured to four.

35. Since August 2008, unknown assailants have fired on at least four UNAMID helicopters. Following reports of a massive offensive by Government forces against rebel positions in North Darfur, on 17 September 2008, a UNAMID assessment mission to Disa and Birmaza villages was aborted when the UNAMID helicopters came under fire by unknown group. The Organisation of Voluntary and Humanitarian Work Act of 2006 has not been reformed (recommendation 2.2.3).

2. Facilitating access to civilians, including those displaced

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

37. In November 2008, the Government extended the Moratorium facilitating humanitarian aid to Darfur until 31 January 2010 (recommendation 2.2.1). The moratorium removes obstacles to humanitarian work, including suspension of visa restrictions for all humanitarian workers and permitting freedom of movement for aid workers throughout Darfur. On 5 March 2009, the Government expelled 13 international NGOs, and revoked the licenses of 3 national NGOs providing critical humanitarian aid. Assets of a number of NGOs were seized and staff reported harassment (recommendation 2.2.2).

C. Accountability and Justice

38. The Government stated that Committee responsible for investigating crimes in Darfur had made significant progress in investigations of the Daig incidents in West Darfu. It had cross examined 15 witnesses, but had not concluded its work (recommendation 3.1). According to information received some steps were taken but the recommendation has not been implemented. Where investigation committees were established in a number of cases, their findings were not made public. No legal action has been taken so far against the perpetrators including those with command responsibility or compensation provided to the victims.

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

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

41. Some progress was made to review national laws pursuant to the interim national constitution and bill of rights, and harmonization of laws with Sudan's obligations under international human rights law. The Armed Forces Act and Police Act were reformed, although the Armed Forces Act does not fully comply with international human rights principles. On 7 June 2008 Parliament passed the Election Act 2008. The Act allocated 40% of seats for proportional representation to enable a better representation for small parties and regional groups. 60% of the seats designated for the geographical constituents. 25% of seats were allocated for women who may also compete for other seats. The Act also provides for establishment of the Electoral Commission. On 24 April 2009 the Government of Sudan became a state party to the the UN Convention on the Rights of Persons with Disabilities. Other bills have been prepared and presented to Parliament. However the National Security Act has not been reformed in accordance with the INC (recommendation 3.5).

D. Monitoring of Implementation of Recommendations

42. A Human Rights Forum for Darfur was launched in November 2008, and has become a crucial platform for dialogue between UNAMID and the Government of Sudan on human rights concerns. The National Human Rights Commission Act was passed in April 2009. Despite repeated requests, human rights monitors in Khartoum had no access to detention facilities and were unable to maintain regular dialogue with prosecutors or access investigation records (recommendation 4.1, 4.2, 4.3, 4.7).

43. No standing invitation was extended to special procedures. The Special Rapporteur on the situation of human rights in the Sudan was approved by the Government to undertake a visit from 25 February to 11 March 2009, which was consequently postponed by UN Department of Safety and Security. A second request by the Special Rapporteur for a visit from 8-22 April 2009 was postponed by the Government. A final request by the Special Rapporteur for a visit from 25 May to 5 June 2009 was accepted by the Government. The Representative of the Secretary General on IDPs, the Special Rapporteur on Freedom of Expression and Special Rapportuer on Food have requested to visit the Sudan. Dates for the missions have not yet been agreed upon. During the reporting period UN Special Procedures sent 17 communications concerning 76 individuals to which responses have not been received from the Government. In May 2008 the Government extended an invitation to Special procedures of the African Commission for Human and Peoples Rights to visit Sudan in August 2008. The regional mechanisms accepted the offer but a visit has not taken place.

V. CONCLUSIONS AND RECOMMENDATIONS:

44. The Special Rapporteur concludes that the mandate to follow up on the Group of Experts work and foster effective implementation of those recommendations has been slow by the Government of the Sudan. And stronger steps should have been taken by the government to improve the human rights situation in the ground in Darfur.

45. As regards information provided by the Government, and its activities to implement the GED recommendations, the Special Rapporteur notes that in only a

few areas were necessary steps taken fully or to a significant degree to have a tangible impact since the last reporting period. In a number of cases activities were undertaken but little or no tangible impact has been reported. In others only initial steps were taken towards implementation. In regards to some of the recommendations no implementation was reported at all.

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

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

- Full implementation (i.e. all recommended activities were carried out to lay the framework for improving the situation on the ground): Recommendations 1.2.1, 1.2.6, 1.3.1, 4.1
- Significant activities were undertaken and implementation is in process: Recommendations 1.2.4, 1.2.8, 1.3.2, 4.6
- Some activities were undertaken or reported, but little or no tangible impact has been reported from the ground: Recommendations 1.1.1, 1.1.2, 1.1.3, 1.1.5, 1.2.2, 1.2.5, 1.2.7, 2.1.1, 3.4,
- Initial steps towards implementation were undertaken: Recommendations, 1.6.2, 1.2.9, 2.2.2, 3.1, 3.2, 3.5, 4.1, 4.2, 4.3, 4.4, 4.7
- No implementation at all, which has direct bearing on concretely improving the human rights situation on the ground: Recommendations 1.1.4, 1.2.3, 1.2.9, 1.3.3, 1.4.1, 1.4.2, 1.4.3, 1.4.4, 1.4.5, 1.5.1, 1.6.1, 2.1.3, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.2.1, 2.2.3, 3.3, 4.5, and 4.8.

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

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

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

51. In recognition of the fact that the timeframe for implementation of the short-term and medium-term recommendations elapsed on 20 June 2008, the Special Rapporteur recommends that the Council continue the process of reviewing the implementation of recommendations until such time as there is full implementation, or at least significant activities, and tangible impact has been reported from the ground. The engagement and cooperation of the Government of Sudan in a transparent manner with the Human Rights Council and other relevant partners of the international community will play an important role in protection and promotion of human rights in the ground, and also identify obstacles to the implementation of previous recommendation. The Human rights Council may also wish to consider what further practical action is required to concretely protect the human rights of people in the Darfur.

ANNEX i

SEPTEMBER 2008 – MAY 2009 UPDATE ON THE STATUS OF IMPLEMENTATION OF RECOMMENDATIONS COMPILED BY THE GROUP OF EXPERTS ON DARFUR

A. HUMAN RIGHTS PROTECTION

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

- **Recommendation 1.1.1**

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

Indicator: *Orders issued and widely disseminated; number of such attacks reported that are attributable to Government forces or any allied militia*

Action taken by the Government on Recommendation 1.1.1

In its 25 May 2009 report to the Special Rapporteur, the Government did not specify action taken under this recommendation; however, the SR was informed at 26 May 2009 meeting of the ACHR-UNMIS Human Rights Forum that amendments to the Criminal Act were passed after a fourth reading by the National Assembly with new provisions on war crimes, crimes against humanity and genocide.

Information Received from Other Sources on Recommendation 1.1.1

The Government has taken a number of steps, most notably the adoption of the Armed Forces Act of 2007. It penalises serious violations of international humanitarian and human rights law including war crimes, crimes against humanity and genocide.

Regarding the protection of human rights, the Armed Forces Act has had little effect. The Act provides broad room for impunity, such as the rule that for criminal suits against military personnel to proceed, immunities must be first waived by the President of the Republic. Also criminal proceedings against military personnel can be terminated by the Commander in Chief, this decision being final (not subject to appeal).

Military offensives by Government armed forces have continued to impact negatively on civilians and on civilian objects. During the reporting period, the Government seized control of three significant Sudan Liberation Army (SLA) former areas of control: SLA (Abdel Wahid) in Hilef, SLA Unity in Disa/Birmaza and SLA Unity in Tarny North and Khazan Tunjer (East Jebel Marra), SLA/Mini Minawi (MM) areas of Mujaheria, Labado, Umm-Gunya, Gereida, Abudangal and Umm Shejera in Shearia.

(a) Air and land attacks against civilians

Disa and Birmaza, Tarsny, Tabit, and Khazan Tungur, North Darfur

- (i) In early to mid-September, Government forces launched a large scale offensive against non-signatory positions in North Darfur. The attacks targeted an estimated 20 villages, including Disa and Birmaza villages north of Kutum town and Tarny, Tabit, and Khazan Tungur villages near El Fasher. Up to 20,000 people were believed to have fled from villages in the Tabit area towards the Fanga area, West Darfur, and an estimated 10,000 to 15,000 fled Disa and Birmaza. On 17 September, a UNAMID assessment mission to Disa and Birmaza villages was aborted when the UNAMID helicopters came under fire by an unknown group. UNAMID has yet to establish a presence in the area due to continuing security concerns. UN Mine Action has however been to the area following reports of UXOs. In the last half of October, combined Government forces and Arab Militias successfully captured the significant SLA (AW – Northern Command) stronghold of Hilef, North Darfur.

Kurbia, North Darfur

- (ii) On 13 November 2008, UNAMID received reports that GoS forces bombed an area near the main supply route (MSR) between El Fasher and Ana Bagi (100 km northwest of Kutum), allegedly in order to secure the movement of a GoS convoy carrying ammunition, weapons and money to various military bases. Again on 14 November 2008, GoS aerial bombings were reported in the vicinity of Kurbia (northwest of Kutum, on the main road between Abdel Shakur and Ana Bagi).
- (iii) On 13 November 2008, GoS forces backed by Antonov aircrafts and helicopter gunships attacked Sudan Liberation Army/Abdul Wahid (SLA/AW) positions to the west of Khazan Tungur (30 km south of Tawila), on the access road to Jebel Marra. Five persons have reportedly been killed and four wounded.

Shearia locality, South Darfur

- (iv) UNAMID documented GoS airstrikes in South Darfur from 10 to 14 January. Reportedly an aerial bombardment near Kerku in Shearia locality on 10 January resulted in the injury of two civilians. GoS reportedly also conducted aerial bombardments in Jebel Aduala and Agarra in Shearia locality on 12 January and in the south east of Muhajeria on 13 and 14 January. On 15 January, fighting between SLA/MM and Justice and Equality Movement (JEM) in Muhajeria resulted in the take-over of Muhajeria by JEM the same day. A number of civilians were injured in the fighting and a large number were displaced to the UNAMID team site area in Muhajeria. The fighting also forced the relocation of 42 staff members of two INGOs to Nyala.

El Helil, Abu Dungal and Martei, North Darfur

- (v) On 20 and 23 November 2008, UNAMID received reports of aerial bombardment by GoS in the area of El Helil, North Darfur on 20 November and Abu Dungal, South Darfur and ground operations near the village of Martei, North Darfur.

Muhajeria, South Darfur

- (vi) On 15 January, fighting broke out between the Government forces, the Sudanese Liberation Army/Mini Minawi faction (SLA/MM) and forces of the Justice and Equality Movement (JEM) in South Darfur. The fighting reportedly claimed the lives of 30 people including women and children. The fighting involved ground offensives and indiscriminate aerial bombardments by Government forces which failed to distinguish civilian communities, properties and objects from military targets. Further, UNAMID received reports that JEM forces deliberately placed themselves in areas heavily populated by civilians, thereby jeopardizing the safety and security of innocent women and children. During the fighting, JEM alleged that the Government used white aircrafts and white APCs. Reports indicate that over 30,000 individuals had been displaced, approximately 5000 of whom sought refuge in the vicinity of the UNAMID military camp in Muhajeria. Over 30,000 individuals fled to Zam Zam IDP camp near El Fasher.

Shawa, North Darfur

- (vii) On 26 January GoS forces bombed an area south of El Fasher town, reportedly to stop the movement of JEM towards Zamzam camp. After JEM reached Shawa, south east of El Fasher, heavy fighting took place between GoS and JEM outside of El Fasher. Artillery bombardments were also heard on 27 January, approximately ten kilometers east of Zamzam camp. UNAMID received reports that on 24 January a GoS Antonov plane bombed the village of Umm Sauna, approximately 24 km west of Haskanita. It is unknown whether civilians were injured during the attack.
- (viii) On 8 May, a UNAMID escort patrol from Umm Barru observed an aircraft dropping bombs in the area between Um Barru and Farawiya (45km northwest of Umm Barru). On 9 May, UNAMID forces in Umm Barru observed about 43 armed JEM vehicles moving northeast from the town's water point. SLA/MM forces in the area subsequently fought with the group and received air supported the Government. Approximately 100 civilians fled to the UNAMID camp for safety. On 17 May, 15 wounded Government soldiers were treated at the UNAMID team site at Umm Barru before being evacuated to a GoS facility. UNAMID was informed that JEM forces are in control of Kornoi and have taken a number of GoS soldiers prisoner. GoS forces have been observed entering Tine from the direction of Kornoi.

(b) Tribal Clashes

Tribal fighting remains a key factor destabilizing the security environment in South Darfur and continues to impact civilians.

- (i) In Muhajeria, South Darfur, despite recurrent tribal conflict, supported by rebel groups and with the alleged involvement of Government security personnel, the Government has not fully addressed the underlying issue in the conflict, namely the issue of land. Fighting between the two main tribes in the area, the Zaghawa and the Ma'aliya in September reportedly led to the death of at least forty-four civilians including three children. Seven women were also

reportedly raped during the clashes and a large number of cultivated lands burnt to the ground and livestock looted.

- (ii) On 25 December 2008, a group of 150 armed men believed to be from the Salamat and the Fallata tribes, riding on camels and horses, attacked the Habaniya and Abu-Darak nomadic communities at the western part of Wad Hagam. Five civilians, including one woman, were reportedly killed and approximately 536 cattle were looted during the attack. The attack followed two other incidents between the tribes: on 4 December 2008, 20 Fallata men were allegedly killed by Habaniya tribesmen in Al-Tomat and on 11 December 2008, 24 men, 3 women and one 6 year old boy, all from the Habaniya tribe were reportedly killed when a group of approximately 700 armed men from the Salamat and Fallata tribes launched a counter-attack on Wad Hagam village. During a mission to the area on 17 December 2008, UNAMID observed that at least 80% of the village settlement, including houses and shops, were burnt down. The attackers also burnt down crops which were ready for harvesting. UNAMID continues to monitor the reconciliation conferences between the tribes which had been initiated by local government.
- (iii) Clashes between the Gimir of North and the Gimir of South in Antakina village, 150km south of Nyala from 6 to 8 December 2008 resulted in the death of approximately 20 people, mostly community leaders from the Gimir of the South. On 7 January 2009, the fighting again erupted between the two tribes, reportedly, 10 people were killed during the clashes.
- (iv) On 1 December 2008, two IDPs were shot and injured by an armed nomad who was then severely beaten by IDPs in Hassa Hissa IDP camp, Zalingei. The nomad died the following morning at the Zalingei hospital as a result of his injuries. The reaction of armed nomads resulted in the shooting and injury of two male IDPs and a baby on 2 December 2008. Further, the pipes supplying water to the camp were destroyed by the nomads. During the tension, two female IDPs were assaulted by Arab people from Zalingei town. All UNAMID Zalingei sections – Protection Force, UN Police, Milobs, Civil Affairs, Human Rights, Child Protection and UN Security worked closely together internally and with the Zalingei authorities to bring about an immediate cessation of violence and reconciliation between the IDPs and the nomads.
- (v) Between 9 -21 March, tribal fighting resumed between the Habaniya and Falata (the latter supported by Salamat and Reziegat tribes) south of Nyala, resulting in the killing of men belonging to both tribes. Reportedly, some of the Reziegat and Salamat men have been integrated into the Popular Defence Forces (PDF) and the Central Reserve Police (CRP). Fighting was reported on 9, 10, 12, 20 and 21 March in the localities of Shurab, Amod Al Sahab, Wad Kidaya, Ligadieba, Afwana and Kuka. Habbaniya leaders reported more than 90 Habbaniya men and 23 Salamat men were killed during the clashes. On 4 and 5 April, 30 Habbaniya and 22 Fallata tribal leaders in South Darfur were arrested and detained for their rejection of the Government agreement. Both tribes have strongly opposed the Government's plans on demarcation of land. On 4 May, GoS police mounted an operation against Al Bashar El Gazzam

group (Habbaniya) and the Musa Jadain group (Reziegat) in Buram. Eight people were reported killed and seven arrested. The groups were alleged to inflame the tribal conflict between the Habbaniya and Reziegat.

The 2009 Report of the Secretary General on Children and Armed Conflict (A/63/785) mentions that United Nations monitors reported the killings of 42 children and injuries to 20 children across Darfur, mainly during attacks on villages, market places and internally displaced persons camps, or during clashes between different armed groups. The perpetrators include SAF, the Central Reserve Police and police forces, as well as armed groups such as JEM, SLA/Unity, SLA/Minnawi, militias supported by the Government, Chadian opposition groups and tribal groups. Children were also killed or injured in continuous aerial bombardments by SAF, primarily in Northern Darfur state.

Assessment of Recommendation 1.1.1

The Government adopted the Armed Forces Act of 2007 which penalises violations of international humanitarian and human rights law, but no public orders were issued to prohibit attacks against civilians and civilian objects. It recently adopted the revised Criminal Act with a new provision on war crimes, crimes against humanity, and genocide. In comparison to previous years the number of direct air attacks on civilians by the Government had reduced during the reporting period. However, UN sources indicate that from August 2008 to May 2009 there were major attacks with Government aerial bombardments of civilian towns which led to the displacement and killing of civilians. Tribal clashes in South Darfur also led to displacement and killing of civilians. Government initiated reconciliation measures between the tribes, particularly on land demarcation between Buram and Tulus have not been successful so far. **The recommendation has not been met according to stipulated indicators since direct or indirect attacks on civilians have not ceased.**

- **Recommendation 1.1.2**

Start to implement, in cooperation with the UN and AMIS, a plan to control and disarm the militia. Action should also be taken to control and downsize security forces such as the Popular 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.

Indicator: *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.*

Action taken by the Government on Recommendation 1.1.2

The information provided in the report of the Government on 25 May 2009 stated 1200 troops were demobilized in the Eastern area, 4,000 in the Blue Nile area, and 12,000 in the Darfur states.

Information Received from Other Sources on Recommendation 1.1.2

The Government has not publicly issued a plan to control and disarm the militia nor taken action to control and downsize security forces such as the Popular Defence Forces (PDF), Border Intelligence Guard, Central Reserve Police (CRP), Popular Police or Nomadic Police. In July, the Government initiated a process of integrating/recruiting signatories to the Declaration of Principles (DoC) into its security apparatus.

(a) Government Security Forces

- (i) Members of the Movement of Popular Force for Rights and Democracy (MPFRD), SLA Abu'l Gasim, SLA/Peace Wing, JEM/Peace Wing were taken to Dumaya, South Darfur for integration into Government security apparatus. On 10 August, a UNAMID team visited Dumaya Camp to monitor the integration process. The team interacted with the Deputy Commander who reported that 997 ex-combatants were being integrated into the Government forces. The breakdown for the various movements given was as follows; SLA/PW (98), SLA/SW 98, SLA/M 400, DPM 166 and JEM/PW 235.. On 26 October, the Government announced that the process was complete and that those who participated would now be fully integrated into its armed forces. It is unclear if the Government has vetted out those individuals responsible for international humanitarian law and human right law violations. UNAMID was unable to verify to the number of participants and the training provide. SAF in South Darfur declined UNAMID's request to monitor the process.
- (ii) On 4 November, UNAMID Ceasefire Commission received a letter from JEM/Peace Wing, claiming that the Government has refused to recruit some of its members in an apparent violation of the DPA. The letter claims that the rejected members of the group have returned to the IDP camps, and that they remained armed and hostile towards the Government. In a related development, on 2 November, open sources reported that the Government has announced that forty-eight men 'loyal to Darfur movement' have now joined the SAF and were now enrolled in the Officers Corp. The identity of the men or their movements is unknown.

(b) Recruitment and mobilisation of armed militias

- (i) **Foro Baranga, West Darfur**
Community leaders and government officials alleged that the GoS is actively recruiting and distributing weapons to persons from Arab tribes and from the Tama and Gimir tribes. Community leaders reported that on 2 January, a GoS military helicopter landed in Foro Baranga and distributed a large number of weapons, including Kalashnikovs, mortars, and Dushkas. Reportedly, those who received the weapons were required to swear in the name of God not to use them subject to further instructions.
- (i) **Garsila, West Darfur**
The HRS received information that members of the Central Reserve Police (CRP) and armed militias have been taking individual pictures reportedly for

the purpose of obtaining identity cards for grant of incentives/ salaries by the GoS.

- (iii) Nertiti, West Darfur
On 8 January 2009, a UNAMID military patrol met a group of about 1,000 armed and unarmed Arab militia at Fagadigo, 22 km from Nertiti. According to local interlocutors, the group were in Nertiti allegedly to be recruited into SAF. During a field mission to Nertiti on 5 – 7 January, human rights officers observed a large gathering of young Arab men, approximately 150 in number, some dressed in green military uniforms. Reportedly, the group were in the area to be issued with ID cards and arms prior to their deployment to military training camps.
- (iv) Sisi, West Darfur
On 5 January, a UNAMID military patrol received unconfirmed information that approximately 300 members of Arab militia have gathered in Nouri, 13 km east of Sisi. An INGO has also received similar information.
- (vi) Mukjar
UNAMID received reports that a previously unknown Arab group calling itself the 'New Rebellion Movement (NRM)' have gathered in large numbers in the Sindo area of Mukjar. Additionally, the UNAMID received information that large numbers of people from the Beni Halba tribe (based in South Darfur) have migrated to areas in Mukjar including Rehed el Birdi, Sondol, Artala, Wastani Buru, Zoli and on the outskirts of Mukjar. The group are allegedly there to seek support from locally settled Arab groups.
- (vii) On 8 February, UNAMID received reports indicating that the Government is arming and training tribal militias in villages such as Azerni, Habila, Kerenek, and among IDPs living in camps including Dorti, and Riyadh.

Assessment of Recommendation 1.1.2

No formal plan was publicly issued to control and disarm the militia. Although some effort was made to integrate 997 former combatants into the Government forces in South Darfur, this process could not be verified by UNAMID monitors. **The recommendation has not been met according to stipulated indicators.**

- ***Recommendation 1.1.3***

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

Indicator: *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*

Action taken by the Government on Recommendation 1.1.3

The following information was received from the Government on 25 May 2009:

Progress on deployment of UNAMID police and military is ongoing. This included the arrival in October 2008 of 104 Indonesian policemen arrived, including 30 officers specialized on protection of civilians and other 30 medical and engineering officers. The Government also stated that the Official spokesperson of the Thai armed forces mentioned that a battalion of 800 soldiers would be sent to Darfur after talks with the Khartoum government last year. The battalion would be responsible for construction and improvement of camps in addition to protection of UN peacekeeping force convoys.

On the 21 January 2009, UNAMID and the Government of Sudan signed a Memorandum of Understanding in the Ethiopian capital, Addis Ababa. The Memorandum maintains the use of Sudanese airports by the UNAMID. This came in the third meeting of the joint mechanism of the hybrid force involving Sudan, the UN and the African Union. The meeting discussed the hybrid operation course of action in Darfur. A tripartite mechanism was established between Sudan Government, the UN and the AU with Sudanese Civil Aviation Authority to transport the UNAMID equipment and machinery in Port Sudan.

In December 2008, the South Darfur State government exerted its good offices with the Gimir tribe Chief to curb the dispute that took place between members of the same tribe in Taklia and Kalbu, South Darfur State. 20 members of the tribe were killed in the incident. MP of the area in the parliament played a part in such efforts.

On the 19 January 2009, the Armed Forces regained the area of Geraida subsequent to withdrawal of the Mannawi faction. Citizens in Geraida had received in rallies the Armed Forces. The State government started an emergency plan for the rehabilitation of the city and to provide education and health services.

In early February this year, Government forces regained control over Muhajeria, South Darfur, one month after the town had been overrun and taken over by JEM. JEM apparently withdrew its forces without fighting. The Government reported that through an agreement signed with UNAMID, safe zones were created around the UNAMID camp site near Muhajeria where civilians displaced by the JEM attack were able to take refuge. The Government also reported that it refrained from using its air assets to counteract the JEM attack in order to save civilian lives.

“The JEM attack on Muhajeria was confronted by forces of the Sudanese Liberation Movement, Mannawi faction. The fight left 47 dead and 80 injured. The injured were later taken to hospitals in Nyala. Deputy Governor of the State, Dr. Farah Mustafa stated that the incident resulted in that 20000 civilians fled to the area of Shearia. The Sudanese Armed Forces affirmed that it won't interfere in the fight between the two movements over the area of Muhajeria. Dr. Mustafa affirmed capability of the Sudanese Armed Forces to roll back any JEM attack on Muhajeria.

Dismissing a JEM control over any area in South Darfur, the Deputy urged domestic and foreign NGOs to extend humanitarian aid to the affected civilians in Muhajeria.

- On the 13th of January/2009, the JEM forces captured Muhajeria, killing a number of civilians and burning a number of houses. The JEM tried some civilians for collaboration with the government and the UNMID forces were witness to the incident.

- On the 1st of February/2009, The Armed Forces notified UNMID of its intention to drive the JEM forces out of Muhajeria.
- On the 2nd of February/2009, joint representative of the UN and the African Union met with the Minister of defense and they agreed on set up of a safe zone around the UNMID camp where civilians could take refuge and the safe zone has been established through its geomatics.
- On the 4th of February/2009, the Armed Forces entered Muhajeria after withdrawal of the JEM forces without fight. The JEM continued to hold Muhajeria since the 13th of January/2009. To save lives of civilians, the Armed Forces refrained from using air forces.
- In Februry/2009, the Armed Forces regained Muhajeria after withdrawal of the JEM forces. An agreement with UNAMID was signed by SAF for the safety of civilians in the area.”

Information Received from Other Sources on Recommendation 1.1.3

In spite of the signing of the Addis Ababa MOU, UNAMID has thus far been unable to use the airports at all times as presented by the Government. UNAMID officials report that the said agreement also set forth a number of preconditions which are yet to be met by UNAMID. These include an undertaking by UNAMID to rehabilitate the airports in Darfur including by providing night vision lights to facilitate night time flights and the payment of salaries for Sudanese staff to man the airport around the clock. Under the terms of the MOU, UNAMID is already authorised to conduct air operations from sunrise to sunset in the three main airports in Darfur.

On 1 February 2009 Major General Mohi Eldin Abed Elkali submitted a written request to the UNAMID Force Commander to evacuate UNAMID Muhajeria camp, since the Government could not guarantee the safety of UNAMID. There was no signed agreement with UNAMID for safe zones around the UNAMID camp site. For further details on the Muhajeria fighting please see recommendation 1.1.1 above.

The Government has taken a number of steps to avert the threat of attacks on civilians. On 13 October, the SAF and SLA/MM signed a Memorandum of Understanding (MoU) on Political and Military Coordination in El Fasher. The MoU provides for coordination of security arrangements in Darfur, encourages and protects trade and movement routes within the region, and states that both parties will work towards bringing non-signatories of the DPA into the political process. The agreement followed a UNAMID facilitated reconciliation meeting between the Sudanese Second Vice President, Ali Osman Taha and Minni Minnawi, the Senior Assistant to the Sudanese President, also the Head of the Transitional Darfur Regional Authority on 19 September 2008 following clashes between the two groups in North Darfur.

In Jebel Moon, West Darfur, the Government began to provide escorts for Humanitarian agencies operating in the area. Government forces are also providing escorts for commercial trucks and vehicles on known banditry routes in all three States of Darfur. UNAMID convoys from the UN Logistical base in El Obeid to Darfur are also being escorted by Government forces. Additionally, the Government has deployed police and SAF soldiers to the majority of the Northern Corridor, West Darfur, which according to information received has led to reduction in attacks on civilians by armed militias.

On 5 February 2009, UNAMID Human Rights met with local security officials including the SAF commander, the GoS Police Commander and the Fursha of Silea in Silea, West Darfur. The Police commander assured the HRS that the police were now adequately resourced and had the administrative capacity to perform their functions. Further, the commander stated that the police are authorised to file cases and investigate members of the Sudan Armed Forces (SAF) who are accused of committing offences. Later at a meeting with the local SAF, the local SAF commander acknowledged the high number of sexual and gender based crimes committed by his soldiers which he attributed in part to the large concentration of soldiers in the area. The commander informed the HRS that he had taken steps to combat the widespread human rights violations through the imposition of curfews on his soldiers and the use of the Referral Pathway to ensure that victims report incidents to him through the Fursha. Further, the commander informed UNAMID that eight soldiers accused of various offences have been placed in detention and are facing trials in military courts. The commander welcomed UNAMID proposal of conducting human rights training/awareness raising programmes for his soldiers.

(a) While there has been deployment of Government police in civilian areas and provision of escorts for commercial vehicles, the police in many areas have proved to be ineffective due to logistical and numerical weakness. In other cases, the Police have been unable to undertake their functions as a result of mistrust from the local populations. In Abu Shouk IDP Camp, North Darfur, Government police deployed to the camp informed UNAMID HR that they were unable to protect the IDPs because the IDPs did not trust them and were unwilling to report incidents of attacks to them. In Zalingei, West Darfur, all three IDP camps have refused the presence of Government police inside the camp. The reluctance of IDPs and civilians to report human rights abuses and violations to the police should be placed in the context of the actions of Government security apparatus. As regards the provision of armed escorts to commercial vehicles, Government forces have been unable to prevent attacks on civilians. In this regard, On 29 January, the UNAMID Force Commander agreed to support the police functions of the Government by increasing the number of UNAMID patrols in Tawila, North Darfur as a means of mitigating the vulnerability of IDPs, particularly women and girls.

(i) In four separate occasions, the police have resorted to excessive and disproportionate use of force in undertaking their functions. On 25 August, a law enforcement operation by Government of Sudan (GoS) security forces in Kalma IDP camp resulted in the killing of thirty-two IDPs, including eleven women and seven children, and wounded at least 85. On 10 September 2008, members of the Central Reserve Police (CRP) entered the market area in Zamzam IDP camp, North Darfur and started firing indiscriminately. They also looted shops and personal belongings. UNAMID learned that that over thirteen people were injured, seven of them seriously. In West Darfur, On 2 September, one Chadian refugee was killed and seven others including three women were injured when police opened fire in Um Shalaya refugee camp at an INGO food distribution point. A 30 year-old male refugee died from gunshot wounds. Reportedly, three police officers were also injured as a result of beatings they received at the hands of the refugees. UNAMID human rights officers' findings based on interviews with victims, witnesses, INGO staff and Government of Sudan (GoS) police authorities, indicated that the police used

excessive and disproportionate force in controlling the crowd. Human rights officers learnt that the police resorted to the use of lethal force even though they were being attacked with mostly stones and sticks and were not under any imminent threat from the unruly crowd. Also in West Darfur, on 10 and 11 October, two IDPs were killed and at least eight others including an 8 year-old child were injured when SAF soldiers invaded Nertiti IDP camp, Zalingei and reportedly opened fire indiscriminately at the IDPs. Several homes and fences were reportedly burnt down.

- (ii) On 29 December 2008, a 34 year-old language assistant working at the UNAMID Nyala office was shot dead by a Sudanese Armed Forces (SAF) soldier at a GoS checkpoint east of Nyala. The victim was travelling on a commercial bus from Nyala to Kalma IDP camp, about 15 km east of the town. Witnesses reported that an armed SAF soldier, wearing green khaki military uniform, attempted to stop the commercial bus as it arrived at the check point. Reportedly, the soldier fired three bullets at the back of the bus, which immediately killed the victim, who was sitting in the back seat of the bus. Another IDP was reported to have been seriously wounded in the same incident and evacuated to the Nyala Teaching Hospital for treatment. The perpetrator immediately ran away after the incident. suspect.
- (iii) On 29 April 2009, more than 40 IDPS were made homeless following an attack on an IDP camp in Nertiti, West Darfur by NISS officials in an apparent retaliation to an earlier attack on an NISS patrol. During the attack, NISS officials reportedly set fire to 12 shelters, the water point and the local market of the camp. It was reported that an NISS patrol in the camp was fired on by unknown armed men the day before the attack. Two NISS officers suffered serious injuries during the attack and were taken to the local hospital, but two later died of their injuries. The NISS blamed the attack on the IDPs, even though information received from the Commissioner of Nertiti indicates that the attack was conducted by armed elements outside the camp. The police have yet to open an investigation into the incident. The incidents have generated tension between the IDPs and the local NISS officers and as a result the Nertiti Commissioner has reportedly recommended the transfer of the NISS officials involved in the incident to another area.

(b) Attacks on civilians by non-signatory groups

- (i) On 02 February, the Umda of Labado reported to UNAMID forces that on 01 February, a surface-to-air missile (SAM) fired by JEM at an unidentified aircraft had exploded in Matti village. The Umda indicated that three people were killed and six wounded by the explosion. Three of the wounded sought treatment at the UNAMID camp at Labado. He also stated that people were leaving the area because of the fighting, and were moving to Nyala.

- (ii) On 3 September, three nomads were killed and as many as 16 civilians injured during fighting between members of the Justice and Equality Movement (JEM) and Arab nomads in Khazon Kojok¹, south of Jebel Moon. The fighting apparently resulted from destruction of agricultural land that was being cultivated by members of the local Messereya tribe who previously inhabited the Khazan Kojok area.

(c) Abuses by Chadian Armed Opposition Groups (CAOGs), West Darfur

UNAMID received several reports of beatings, lootings, and harassment by members of the CAOGs in West Darfur. In Tandelti, Bir Dagig and Armankol, community leaders reported that IDPs were subjected to beatings by these groups when they attempted to cultivate their lands. In addition, the community leaders reported that armed men in the southern areas of Armankol were reportedly engaged in human rights abuses, such as extortion of money, looting of property and physical assaults. A senior police officer confirmed the presence of the CAOGs and the incidents of looting and harassment by some of their members.

(d) Attacks on civilians by unknown armed groups

- (i) On 14 August, eleven people were killed including civilians and 60 to 70 families displaced when members of the CRP escorting local officials were reportedly ambushed by armed bandits on camels. Witnesses reported that some of the displaced attempted to flee to El Fasher, but were turned away at GoS police check points.
- (ii) In a separate incident, also on 14 August, three civilians were killed and one person was injured when armed men, described by sources as local Maalia militia dressed in military uniforms and on camels, attacked two vehicles carrying 12 civilians in Mijelit (on the Muhajeria-al-Daein road). UNAMID HR documented two incidents on 26 September and on 9 October 2008 in which government civilian vehicles being escorted by Government police were ambushed in West Darfur. In both incidents, civilians were injured. In the 26 September 2008 ambush, among the twenty people injured were two women and a 15-year-old girl.
- (iii) On 26 September 2008 in West Darfur, seven civilians were killed and 12 injured when a group of at least eight armed men in green military uniforms opened fire upon a government convoy comprised of two civilian vehicles and one police escort vehicle. The convoy included the Commissioner of Habila locality and the former Commissioner of Sirba Locality. At least five policemen and two civilians, including the Secretary of the Habila Locality Commissioner, were killed in the attack. Eight policemen and four civilians,

¹ Khazan Kojok is located on the outskirts of Jebel Moon. The locality has a water source and was previously inhabited by members of the Messereya tribe. Since the outbreak of the conflict, the Mersereya tribe has been displaced to Jebel Moon. However they regularly travel from Jebel Moon to Khazan Kojok to cultivate the lands they previously inhabited.

including the Commissioner of Habila Locality, two women and a 15-year-old girl, sustained serious injuries in the attack. One civilian and one policeman are reported to be missing.

- (iv) On 6 December 2008, a large group of armed men, mostly wearing green camouflage military uniforms and travelling on horses and camels, arrived in the southern area of Tanjeke, West Darfur and opened fire in the air and looted money and a horse, reportedly in retaliation for killing of a man. The shooting continued for about one hour until community leaders managed to stop the attackers. The police are investigating the killing. In order to quell tension and avoid further retaliation, Tanjeki community leaders agreed to pay compensation for the death of the man.
- (v) On 9 October, a GoS convoy of six vehicles carrying the West Darfur State Minister of Social Welfare (who is also the Sultan of Dar Gimir) and police and military personnel was ambushed by unknown gunmen between Hilelat and Kulbus. The attackers were reportedly armed with various weapons, including RPGs. As a result, six soldiers, two policemen and three civilians from the area were killed. The HRS also received reports that twenty others were also injured. The State Minister of Social Welfare has publicly accused JEM of being responsible for the attack. On 10 and 13 October 2008, NISS officials in Kulbus arrested two men, one an employee of an INGO and the other a HAC employee from Kulbus, but released them due to a lack of evidence. The men were reportedly subjected to cruel treatment while in custody.
- (vi) On 7 October 2008, a passenger bus carrying fourteen passengers including eight women was ambushed by armed men at Um Ziefa about 21km east of Nyala. Reportedly, the attackers forced the passengers to disembark from the bus, looted their personal items and then fled with the driver and the bus. Two female passengers sustained gunshot wounds. On 14 October, the UNAMID interviewed the driver of the bus. He told the UNAMID that he was forced by the attackers to drive to a nomadic camp occupied by members of the Messerya Arab tribe. According to the driver, he observed about fifty armed men, some dressed in military uniforms and others in civilian clothing. Reportedly, upon their arrival at the camp, the attackers distributed the looted items among themselves, while discussing whether the driver should be killed as they had found his SLA membership card. The driver was eventually released unharmed and the incident was reported to the police.
- (vii) UNAMID received information that two civilians were killed and two others injured during an attack by armed men on Bahar Omdurman village, north of Wada, North Darfur. On 13 May, UNAMID interviewed the injured victims. According to the victims, on 10 May, armed dressed in camouflaged uniforms and civilian clothes numbering more than 150 attacked Bahar Omdurman, inhabited mainly by persons from the Mima tribe. The attackers reportedly came from the northern direction of the village and immediately began firing without warning, killing two civilians aged 60 yrs and 55 yrs. They were reported to have looted the village and set fire to houses before fleeing.

- (viii) On 11 May, Nigaa and Hilat Judy villages, 14 km north east of Ghorabashi, inhabited by the Birgid tribe was attacked at around 1400hrs by armed men, described as dressed in military uniforms and in civilian clothing. In addition to riding camels and horses, the attackers rode two land cruiser pickup trucks. The attackers reportedly killed four men and injured ten others. The attackers also looted animals from the village.
- (ix) On 13 May, a young boy, a 13 year old girl and a 20 year old woman were killed when armed men on camels and horses described as nomads from the Abbala tribe, ambushed a group of young people aged from 10 to 20 in Wadi Bidino, 5 km from Labado town. The group were returning to Labado town after fetching grass for their animals. The people from Labado town traced the footprints of the attackers and captured one who was handed over to the police in Labado.

Assessment of Recommendation 1.1.3

The Government has facilitated deployment of UNAMID troops, resulting in more troops on the ground than the previous reporting period. This will enhance the ability of UNAMID to implement its mandate to protect civilians. Despite some action taken by the Government to prevent and protect the civilian population against attacks in areas under Government control, the civilian population in parts of Darfur continue to remain unprotected against a number of attacks. A significant number of these attacks continued to occur by non-signatories to the Darfur Peace Agreement, Chadian Armed Opposition Groups, and unknown armed elements. **The recommendation has not been met according to the stipulated indicators.**

- **Recommendation 1.1.4**

Enforce 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*

Action Taken by the Government on Recommendation

The Government reported the following:

“A draft bill of the Child Act 2009 was passed by the Council of Ministers asserting the provision of the Armed Forces Act, 2008 pertaining to recruitment of children. The Bill unequivocally prohibits recruitment of those under the age of 18 and the exploitation and recruitment of children in military activities.

On 14 December 2008, the National Council for Child Welfare in conjunction with UNICEF, HAC and the ACHR organized a workshop on the protection of children in armed conflict. Two papers presented at the workshop shed light on the work of Child and Family Protection Unit in the National Council and on the legal framework for resolving child protection disputes.

In the aftermath of the JEM attack on Omdurman, eight children from the JEM were arrested by the Government and referred to Juvenile Courts for trial. The eight have been officially pardoned by the President just like the first group of 100 children captured during the attack.

On the 1 November 2008, the Khartoum Terrorism Court trying 19 people accused of involvement in the JEM attack on Omdurman referred 4 of them to the Juvenile Court because they were deemed “immature”. The Court also scheduled another session to look into the cases of two other suspects who claimed to be minors.

On the 31 December 2008 in his press conference at the UNMIS headquarters in Khartoum, the UN Under Secretary General for humanitarian affairs and Emergency Relief Coordinator, John Holmes, said that there is open recruitment in camps in East Chad by the JEM, adding that this contradicts with the humanitarian nature of those camps. He also conveyed to the Chadian government that the existence of arms inside the camps is unacceptable.

- On the 20 of January 2009, Sudan Liberation Movement under the leadership of Abdelwahid Mohamed Noor and aid organizations in Eastern Chad accused the JEM over attacks carried out inside the refugee camps in Chad and forcing tens of children to move to their military training sites. Member of the movement and refugees affairs official in Chad, Yousif Sideeg, said that the children were taken by force from their families and that his movement holds the UN, the international community and the Chadian government responsible for that and called upon them to protect the refugees.

On the 18th of December/2008, the DDR reported that 1200 troops were demobilized in the Eastern area, 4000 in the Blue Nile area and 12000 in the Darfur States”

Information Received from Other Sources on Recommendation

The 2009 Report of the Secretary General on Children and Armed Conflict (A/63/785) reported the recruitment and use of 487 children by various armed forces and groups operating in all three Darfur states, with a majority taking place in the state of Western Darfur. The report further states that the fragmentation and proliferation of opposition armed groups has created fertile ground for recruitment, with over 14 Sudanese and foreign armed forces and groups identified in Darfur for recruiting and using children. These include groups identified in the Secretary General’s 2007 report, which are the Justice and Equality Movement (JEM (Peace Wing)), Sudan Liberation Army (SLA)/Free Will, SLA/Abu Gasim/Mother Wing, SLA/Minni Minnawi, SLA/Abdul Wahid; Government forces including SAF, Central Reserve Police and militias supported by the Government; as well as Chadian opposition groups. New groups identified include Justice and Equality Movement, Movement of Popular Forces for Rights and Democracy, SLA/Peace Wing, SLA/Unity, and various tribal groups in the north. According to the Report there is no evidence of recruitment by the Popular Defence Forces and SLA/Shafi.

On 28 January 2009, during a joint inter-agency mission to Swani, 14 km north of Adar, West Darfur UNAMID human rights officers observed at least two uniformed children

amongst the CAOG with ages varying between 13 and 15 years approximately. The commander of the CAOGs informed the human rights officers that the children did not participate in combat and that the children had voluntarily joined the armed movement.

Assessment of Recommendation 1.1.4

The draft Child Bill of 2009 prohibits the recruitment of children below 18 years of age, however, it remains to be enacted at the time of writing this report. Prohibition on the enforced and voluntary recruitment of children into armed groups was not enforced by the Government, since recruitment continues. This responsibility also falls on the armed groups who have an obligation to not forcibly or voluntarily recruit children. **The recommendation has not been met according to stipulated indicators, however, the enactment of the 2009 Child Bill will be a key step in meeting part of this recommendation.**

2. Protection of Women against Violence

- **Recommendation 1.1.5**

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

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

- **Recommendation 1.2.3**

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

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

Action Taken by the Government on Recommendation 1.1.5 and 1.2.3

The Government reported the following on 25 May 2009:

“The Police forces continued to provide assistance to UNAMID which took over safeguarding of the Kalma camp. The police continues its patrols around other camps like Abushoak”

Information Received from Other Sources on Recommendation 1.1.5 and 1.2.3

UNAMID does not receive any assistance from GoS police forces. UNAMID reports that the GoS has not cooperated on a number of cases reported to them by UNAMID Police. Recently, however, the GoS has agreed to allow UN Police advisors to be deployed to work alongside them in three police stations near Nyala in Otash, Kalma and El Salaam IDP camps.

During the period under review, UNAMID continued to undertake gender based violence patrols and general patrols which included firewood patrols to IDP Camps across Darfur. UNAMID also began 24 hour patrols in Kalma IDP camp, South Darfur and in Abu shouk IDP camp, North Darfur. UNAMID patrols were not accompanied by Government security organs. UNAMID did not document a notable reduction in the number of attacks in areas patrolled.

On 26 September 2008, a UNAMID night patrol in Nyala town was stopped by GoS police, who stated that night patrols by UNAMID are not necessary and not acceptable, unless carried out jointly with the GoS. On 27 September 2008, a night patrol returning to Nyala from Otash IDP Camp was again stopped. A senior GoS officer warned that UNAMID vehicles may be confiscated if the night patrol continued. On 28 September 2008 an agreement was reached to the effect that GoS Police will conduct regular night patrols with UNAMID and that UNAMID will inform GoS authorities whenever the Mission's night patrols passed through the town to other locations.

On 29 April, members of the Sudan Armed Forces (SAF) started night patrols and imposed a curfew from 2300hrs – 0600hrs in Sisi, West Darfur. The patrols were established following an increase in armed robberies.

In Abu Suruj, West Darfur, SAF conducts day and night patrols. Local community leaders informed UNAMID that the patrols have led to a reduction in attacks on civilians by armed men. In an incident reported on 5 February, a 20-year-old Erenga IDP was reportedly beaten and seriously injured when he went to the south of Abu Suruj to collect firewood. The victim was transferred to El Geneina. The SAF Commander along with the Director of the Administrative Unit for Localities, who was on a visit to Abu Suruj on that day, visited the Arab settlement in Darankala close to where the incident took place and talked to the community leaders in the Arab settlement. SAF also recently followed a group of armed Arab nomads who looted 18 goats from Kooma village situated north east of Abu Suruj, captured 15 of their camels and forced the Arab nomads to mediate and bring back the looted livestock.

While SAF patrols in Abu Suruj has been effective, in Masteri, West Darfur, members of the SAF curfew patrols in the town have engaged in serious human rights violations, including unlawful killing. On 11 December 2008, a soldier on the SAF patrol shot and killed a 28-year-old IDP male. Former members of the Movement of Popular Forces for Rights and Democracy (MPFRD), now integrated into SAF, have have perpetrated human rights violations, such as physical assaults, arbitrary detentions and torture or ill-treatment of individuals perceived to be alleged collaborators with SLA/Khamis Abdallah Abakir or defectors from the MPFRD.

Assessment of Recommendation 1.1.5 and 1.2.3

The Government has taken important steps in establishing patrols by the Sudan Armed Forces to protect vulnerable populations in Sisi, West Darfur, and Abu Suruj. While these patrols have been effective in Abu Suruj, in Masterti, West Darfur, members of the SAF curfew patrols have been involved in serious human rights violations, including unlawful killings. The patrols should be transitioned from the Sudan military to police. The assessment has not been met since the number of government patrols remain limited.

- **Recommendation 1.2.1**

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

Government Action on Recommendation 1.2.1

National action plan made public

Information Received from Other Sources on Recommendation 1.2.1

The National Action Plan on Combating Violence against Women and its implementation has been published.

Assessment of Recommendation 1.2.1

Recommendation implemented

- **Recommendation 1.2.2**

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

Indicator: *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.*

Action taken by the Government on Recommendation 1.2.2

The Government reported the following:

In North Darfur, the SGBV State Committee organised an awareness raising workshop in Alteena locality to educate women about women's rights and legal procedures for combating violence against women. A similar workshop was organised a week later in El Fasher by the Committee in conjunction with Amel Center, a local NGO, to raise awareness about and the rights of women and children.

In South Darfur the SGBV State Committee paid working visits to several localities including Alsaif, Mosae, Atash, Draij and Sakli during which it unveiled plans to train staff of the Ministry of Health, the police and prosecutors and IDP camp managers on methods for combating violence against women in the camps. The Committee also organised training workshops on sexual and gender based violence for camp managers from Alsaif and Draij camps in November 2008

In Kass, west of Nyala, the State Committee launched a specialized sub-committee on women and children affairs. The Committee plans to replicate these sub-committees through out the south Darfur state.

The Government announced plans to establish an obstetric fistula project in North Darfur in February 2010. The project will be implemented with the assistance of doctors from Pakistan, Malaysia and South Africa. The Government plans to extend the project from El Fasher in North Darfur to Zalingei in West Darfur. It is expected that the centers will

carry out at least 300 operations in a year in addition to providing psychological and social rehabilitation services to patients.

Information Received from Other Sources on Recommendation 1.2.2

There have been no public statements and no subsequent retractions on zero tolerance for attacks on women. There continues to be significant under reporting to authorities due to *inter alia* lack of confidence in the police to investigate and take effective action, as well the social stigma associated with rape.

During the reporting period, UNAMID documented 98 separate reports of sexual and gender based violence against women and girls involving almost 200 victims. 57 of the perpetrators were identified as armed men dressed in military uniform, and 17 belonged to Government security agents. All the victims were IDPs and the majority of attacks took place in the vicinity of IDP camps. 19 of the victims were below the age of 18. Only 14 of the incidents were reported to the police, due *inter alia* to perception of the authorities' inability to respond and the social stigma attached to rape.

Further, UNAMID documented nine incidents of rape in Kondobe and Bir Dagig, West Darfur, in which the community and women leaders claimed to have reported to the police; however, the police in these localities denied receiving complaints or having opened files on such cases.

During the reporting period, UNAMID documented two cases in West and South Darfur demonstrating due diligence of the authorities to respond to cases of SGBV in cases where they are politically willing.

On 2 November 2008, the Nyala Criminal Court found a GoS military soldier guilty of the rape of a 15-year-old girl in October 2007 by four men². The court convicted him under articles 162 (kidnapping) and 149 (rape) of Criminal Law Act 1991 and sentenced him to seven years imprisonment and fined him 500 Sudanese pounds. The court also ordered 100 lashes, which should not be dispensed prior to the expiration of an appeal period (15 days in this case). A second defendant (civilian) was convicted under section 107 (harbouring offenders) and fined 250 Sudanese Pounds. The second defendant was released after paying the 250 fine. The other two defendants, both GoS military soldiers, have been absent from all judicial proceedings.

On 31 October, a 19 year old Fur IDP woman was raped by two armed men in Keabe village, which is 1 km from Nertiti North camp. Reportedly, a group of approximately 17 IDPs and villagers were returning home from their farms when two armed men attacked the group and began beating them with sticks. Although the others quickly fled, the victim was caught by the men and raped by both of them. The incident was reported to the Nertiti Police station on 1 November and the survivor received medical treatment a local clinic, which confirmed the rape. On 2 November, the Fur Omda of Keabe village met with the Arab leadership, who subsequently apprehended one of the alleged perpetrators and brought him to the Nertiti Police. The suspect is currently in pre-trial detention at Zalingei prison. Although this case is a criminal act allegedly committed by a private

² The four perpetrators included three military soldiers and one civilian.

actor, the case reflects both a due diligence of the authorities to response to cases of SGBV, as well as cooperative relations between two major tribes.

Assessment of Recommendation 1.2.2

There have been no public statements and no subsequent retractions on zero tolerance for attacks on women. UNAMID documented 98 separate reports of sexual and gender based violence against women and girls involving almost 200 victims. 57 of the perpetrators were identified as armed men dressed in military uniform, and 17 belonged to Government security agents. In only two cases did authorities exercise due diligence. **The recommendation has not been met since the situation on the ground continues to show that authorities are not taking necessary action to combat impunity.**

- **Recommendation 1.2.4**

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

Indicator: *State committee work plans publicly available*

Action taken by the Government on Recommendation 1.2.4

On 12 and 13 January 2009, the three Darfur State Committees on Sexual and Gender Based Violence in conjunction with UNAMID held workshops in Nyala to discuss the Government's action plan to combat violence against women and children. This year's plan will focus on social work, health and psychotherapy for victims of sexual violence.

Information Received from Other Sources on Recommendation 1.2.4

The North and South Darfur State Committees to Combat Violence against Women published their work plans with technical assistance from the Government of Switzerland project. The plans will be disseminated with further assistance from the project. Regarding the Sub-Committees, the North Darfur State Committee has established Sub-Committees in five localities in North Darfur. On 27 August 2008 the West Darfur State Committee, in collaboration with UNFPA and UNDP, held a workshop on the concepts and application of Form 8. Papers were presented by the Advisor to the Judge in the court of Women and Children and the Judge on Women and Children, however, there is no public work plan published by the West Darfur State Committee.

The activities, priorities, challenges and successes of the State Committees vary from region to region. South Darfur and North Darfur State Committee work plans contain objectives, targets and time-frames, however, they require further assistance in implementation, particularly in terms of commitment from senior officials, and resources. On 13-14 January 2009, UNAMID Human Rights Section organized a 2 day Workshop with 3 Darfur GBV State Committee in Nyala. The main objective of the workshop was to create a platform for the 3 Committees to join together to revisit the activities since their inception, look into success stories, best practices, challenges and most significantly to formulate the work plan for 2009 for the State Committees. UNAMID Human Rights is in consultation with its field offices in order to organize their individual work plan in cooperation with the State Committees.

On 5 February, the South Darfur agreed to establish a subcommittee in Kass locality, South Darfur. The committee and UN agencies are to travel to Kass between 10 to 12 February to inaugurate the new subcommittee.

On 10 May, the Wali of West Darfur issued Decree No. 27 of 2009, "Amendment of the Committee to Eliminate Violence against Women in the State". According to the decree the Wali will serve as the Chair of the Committee, the Minister of Health as Deputy Chair, the Wali's Adviser on Women and Children as Secretary and the Director of Camp Administration of HAC as the Deputy Secretary. The committee comprises representatives from various government departments, NISS, UNFPA, OCHA, UNHCR, UNICEF, UNDP and UNAMID. This is the second time that the committee has been reconstituted since its establishment in 2005. The committee has been at standstill since late 2008 due to political tensions between various governmental representatives in the committee. The reconstitution of the committee represents an opportunity for it to start functioning effectively.

Assessment of Recommendation 1.2.4

Significant steps have been undertaken to implement this recommendation, and two State Committees have finalised their work plans which will be publicly disseminated in the coming months. **Recommendation is close to being met.**

- **Recommendation 1.2.5**

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

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

Action taken by the Government on Recommendation 1.2.5

No information received from Government

Information Received from Other Sources on Recommendation 1.2.5

The new Armed Forces Act 2007 under Article 153.2 makes serious violations of international humanitarian law and human rights law, including rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or perversion when committed as part of a widespread and systematic attack against a civilian population a crime against humanity.

No new instructions were issued by the Government 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.

Assessment of Recommendation 1.2.5

No new instructions were issued by the Government 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. **Recommendation has not been implemented.**

- **Recommendation 1.2.6**

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

Indicator: *Number of instances of non-compliance with Rules of application to Criminal Circular No. 2*

Action taken by the Government on Recommendation 1.2.6

Since the last reporting period, authorities continue to disseminate, and promote compliance with the rules for implementation of Criminal Circular No.2, and State Committees are monitoring compliance.

Information Received from Other Sources on Recommendation 1.2.6

The Unit for Combating Violence against Women and UNAMID Gender office have been the main actors for following up on the implementation of Criminal Circular 2. UNAMID did not document any incident whereby women who experienced sexual violence were denied access to medical care regardless of whether they chose to report their case to the police or not. On 11 March, UNAMID met with the Deputy Attorney General of North Darfur to discuss the status of Form 8, a requirement for sexual assault victims to access medical treatment that forms the basis for the prosecution of their attackers. The Deputy Attorney General advised UNAMID that Form 8 was a legal requirement in Sudan and it has not been abolished. He did indicate that some of the requirements have been relaxed. Victims are allowed to receive medical treatment without first completing the form. In addition, doctors working for the Government or registered with the Government can complete the form on the victim's behalf.

Assessment of Recommendation 1.2.6

Since the last reporting period, authorities continue to disseminate, and promote compliance with the rules for implementation of Criminal Circular No.2, and State Committees are monitoring compliance. Implementation of State Committee work plans and trainings with the assistance of a the Government of Switzerland funded technical cooperation project (Swiss Project) is ongoing to ensure that the message is communicated to all parts of Darfur. **The recommendation has been implemented.**

- **Recommendation 1.2.7**

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

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

Action taken by the Government on Recommendation 1.2.7

During the reporting period, Family and Child Protection Units were established in the three Darfur States, and female police staff were deployed to these units.

The Government of South Darfur reported to the Special Rapporteur that 330 women police were present in the state, including two women police officers, and the Government of West Darfur stated the presence of 150 women police in the state.

Information Received from Other Sources on Recommendation 1.2.7

In a progress report presented to the Chairperson of the African Union Commission in pursuant to the African Union Peace and Security Council communiqué on 21 July 2008, the Government of Sudan reported that Sudanese police have received training from UNAMID on 'police means and human rights laws'. UNAMID Civpol conducted the training. The report states that as a result of the training, community police was created in South Darfur which trained '287 persons including 30 women'. It is not known what areas this group was trained on, who conducted the training, and where they have been deployed. UNAMID has received no information regarding training of Government police officers deployed in IDP camps on sexual violence and other forms of violence against women.

During the reporting period, UNAMID Police conducted training on Criminal Investigations for Government police, among the participants were five women deployed to Police Headquarters in El Fasher. The Family and Child Protection Unit in South Darfur have requested training for its investigators on handling cases of sexual violence, including interviewing skills. In North Darfur, Government police have requested training on Gender from UNAMID Gender Unit.

UNAMID Human Rights and UNAMID Gender Advisory Unit in collaboration with UNDP, UNFPA, UNICEF and UNIFEM organized a two-day training workshop (26 – 27 October) on gender-based violence for fifty Sudanese police officers and personnel from South Darfur Police Unit of Communication & Coordination. The workshop discussed the concept of gender and violence against women in conflict situations.

Women are generally hired as personnel rather than trained as investigative officers with expertise in responding to SGBV cases. Across Darfur, UNAMID has documented only one female police investigation officer assigned to the Family and Child Protection Unit in Nyala.

Assessment of Recommendation 1.2.7

Further work is required to build trust between the police and communities concerned, in particular by deploying female police officers and by resourcing police stations with all

adequate means to enable them to carry out investigative and preventative tasks effectively. More women police of the rank of officers need to be recruited and deployed to Darfur. **Recommendation has not been met.**

- **Recommendation 1.2.8**

Review the current legal framework to address deficiencies and ensure its effectiveness in the prevention and prosecution of crimes of sexual violence. Amend the definition of rape in 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).

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

Action taken by the Government on Recommendation 1.2.8

The Government reported the following:

In January 2009, UNMIS in conjunction with the Advisory Council on Human Rights held a workshop to discuss contradictions in the definitions of rape and adultery in the Criminal Act 1991. At the end of the workshop, participants agreed on a set of recommendations including a proposal to amend the definition of rape, setting minimum penalties and imposing severe punishment for the crimes of rape and adultery and raising the age of responsibility under the Act.

The 1991 Criminal Act was amended to include new provisions on war crimes, crimes against humanity and genocide by the National Assembly on 25 May 2009.

Information Received from Other Sources on Recommendation 1.2.8

A group of laws known as 'Democratic Transformation laws' were to be examined for amendment by Parliament during its last session in November 2008. They included the 1991 Criminal Act. With respect to the definition of rape contained in Article. 149 of the Criminal Act, the new Bill continues to link it to the substantive or evidentiary requirements of adultery or sodomy. A GBV Core Group comprising of civil society groups, UN Agencies, and INGOs has been established in response to the shortcomings and lack of criminalization of gender based violence in the new amended Criminal Bill 2009. The Group held its first meeting on 11 September 2008. UNMIS Human Rights in cooperation with the Government of Sudan's Advisory Council for Human Rights organized a workshop on rape law reform in June 2008 through the Government of Switzerland funded technical cooperation project. Among the agenda were recommendations from five previous workshops on criminalization of rape. The workshop aimed to reach consensus on a set of recommendations to be submitted to the Advisory Council and forwarded to the Ministry of Justice. A follow up workshop was organized by UNMIS and ACHR in January 2009 to discuss contradictions in the definitions of rape and adultery. This ambiguity was cleared at the workshop and recommended.

At the time of writing this report the Special Rapporteur did not have a copy of the amended Criminal Act, but was informed that no amendments had been made to Article 145 or 149.

Assessment of Recommendation 1.2.8

The proposed amendments to the Criminal Act at the time of writing this report were the new provisions on war crimes, crimes against humanity and genocide. **The recommendation has not been implemented.**

- **Recommendation 1.2.9**

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

Indicator: CEDAW and Protocol Ratified

Action taken by the Government on Recommendation 1.2.9

The Government reported the following:

The ACHR has concluded its study on Sudan's accession to the Protocol on Women's Rights of the African Charter on People and Human Rights.

The Government has established a National Policy for the Empowerment of Women which includes a plan to provide statistics on the current situation of women in the economic, social and other professional spheres, in addition to participation in political positions. The policy also looks at health, behaviour, environmental challenges, HIV/AIDS, and elimination of harmful practices. It sheds light on women's education, particularly in rural areas, as well as their economic situation, including awareness raising and capacity building. In the area of women's rights and law it suggests the importance of addressing fundamental issues such as access to justice, legal aid, weaknesses in the law, and gaps between law and implementation. It calls for an increase in participation of women in political parties, unions and professional associations, and affirms the role of women in peace building, as well as the impact of conflicts on women.

The Government has allocated the post of vice-president in the new Human Rights Commission to a woman to ensure gender balance in the membership of the commission

Information Received from Other Sources on Recommendation 1.2.9

Steps have been taken to study Sudan's accession to the Protocol, however, no ratification or accession has taken place.

Assessment of Recommendation 1.2.9

Recommendation has not been implemented according to the stipulated indicators

3. Children and Armed Conflict

- ***Recommendation 1.3.1***

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*

Action taken by the Government on Recommendation 1.3.1

The Government reported the following:

The reporting period witnessed the establishment of new Family and Child Protection Units in the three Darfur states.

Information Received from Other Sources on Recommendation 1.3.1

The Family and Child Protection Units established in Darfur were created by the State police and the State Council for Child Welfare in partnership with UNICEF. The staff are supposed to be specially trained on the UN Convention on the Rights of the Child and child friendly procedures. It is envisaged that with the establishment of these new units, women, children and families can now report crimes such as rape, abuse and domestic violence in a safe and private environment.

Assessment of Recommendation 1.3.1

Recommendation has been implemented. Effectiveness will depend on the Units being fully resourced and their follow up to cases brought to their attention.

- ***Recommendation 1.3.2***

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

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

Action taken by the Government on Recommendation 1.3.2

The Government reported the following:

“The draft bill of the Child Act 2009 approved by the “Council of Ministers” endorses and incorporates the definition of a ‘child’ as stated in international conventions and raises the age of responsibility from 7 to 11 years. Furthermore the bill guarantees the right to education to all children, in particular children with disabilities while prohibiting the use of children prostitution and pornographic films. “

On 22/23 December 2008, UNMIS Human Rights and the ACHR held a workshop on juvenile justice which discussed among other things the legal provisions on juvenile protection under the Criminal and the Criminal Procedure Acts and prison regulations in relation to juvenile detentions. The workshop was attended by judges, prosecutors, the Police and representative from civil society organisations.

On the 15 January 2009, the Federal Ministry of Health in collaboration with UNICEF, launched an Aids awareness program targeting basic and secondary schools in South Sudan and Darfur States. The program also included the training of 2500 teachers to teach aids awareness as a curriculum in the schools.

The Government reported the following measures taken to ensure rigorous prosecutions of violations against children;

- On the 17th of December/2008, the Minister of Justice issued an order establishing specialized prosecution offices for children in 8 States including the States of South Darfur and West Darfur. to supervise investigations of crimes against children in accordance with the Criminal Procedures Act, 1991 and the Child Act, 2004.

In collaboration with Sudatel-(Sudan Telecommunication Company) and the Police, The Unit of Family and Child Protection at the National Council for Child Welfare and UNICEF set up a direct toll-free telephone line for the purpose of receiving complaints, reports and advice concerning violence against woman and children. Police officers, psychiatrists and social workers would answer such calls. The Unit revealed that since launch of its it has received 2405 reports and referred 903 cases to the courts. A total of 111 suspects were convicted thanks to investigations of the forensic laboratories.

The Federal Ministry of Interior and its Emirate counterpart agreed to compensate Sudanese camel jockey children involved in camel racing in the UAE.”

Information Received from Other Sources on Recommendation 1.3.2

The Armed Forces Act of 2007 prohibits the recruitment of children into the military, by including, amongst the qualifications required to be recruited or appointed into the Armed Forces, the condition that the person recruited “*not be less than eighteen years of age upon recruitment or appointment*” (Article 14.1.d), This is in conformity with Sudan’s international obligations³. The recruitment of persons less than 18 years of age is established as a distinctive criminal offence in the Act, which stipulates: “*if cheating is confirmed on enlistment/recruitment of a person below eighteen years of age, the criminal of this act shall be punished with imprisonment for a term not exceeding five years*” (article 176. 2). However, the draft Children’s Bill, *Recommendation 1.3.2*, does not establish child recruitment as a criminal offence. The introduction of a provision in the upcoming Children’s Bill that expressly punishes child recruitment as a war crime, in conformity with international law, would facilitate addressing impunity and potentially serve as deterrent for this serious crime. Under the auspices of the Government of Switzerland technical cooperation project, UNMIS organising a workshop on 24 May 2009, in collaboration with the Advisory Council for Human Rights, to propose further recommendations to the Child Bill.

³ Sudan has signed – not yet ratified - the Optional Protocol to the Convention on the right of the Child on Children and Armed Conflict which prohibits the forced recruitment and the use of children under 18 into armed forces and all recruitment and use of children under 18 by armed groups.

The Government of Sudan reported that 109 child soldiers who had been forcibly recruited by JEM were captured by Government security forces during and after their alleged participation in the JEM attack on Omdurman on 10 May 2008, though the number of children captured may be higher. A combined 106 children were released through two presidential decrees, issued nearly four months and over six months after the attack, respectively. On 8 September 2008, 54 of those children were released to Western Darfur, and 53 had been reunited with their families. An additional 38 children were released to their families in the three Darfur states, Southern Kordofan, and Chad in November 2008, only after many of them had been used as Government witnesses in the five Khartoum trials for alleged JEM participation in the JEM attack, without adequate concern for child-friendly procedures or witness protection.

Assessment of Recommendation 1.3.2

Although significant steps have been taken to reform the national legislation, and there are a number of positive provisions in the Child Bill, it has yet to fully conform to international standards, particularly in relation to deletion of a clause criminalising female genital mutilation. Recommendation is in process.

Recommendation 1.3.3

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 DDR Commissions

Action taken by the Government on Recommendation 1.3.3

The Government reported the following:

“On 14 December 2008, in collaboration with the National Council for Child Welfare, UNICEF and HAC, the ACHR, organised a workshop on protection of children in armed conflicts. The first work paper sheds light on the experience of the Unit of Family and Child Protection in the Child Welfare Council. The second paper deals with the legal framework for child protection, disputes circumstances, lack of protective environment and the means for realising such an environment.

On 22-23 December 2008, in collaboration with UNMIS, the ACHR convened a workshop on juvenile justice. The workshop discussed legal provisions on protection of juveniles in the Criminal and Criminal Procedures Acts, and the prisons regulations. The workshop also discussed experience of the Sudanese judiciary in this respect. The workshop was attended by judges, prosecutors, the police and organisations of civil society.”

Information Received from Other Sources on Recommendation 1.3.3

The National Disarmament, Demobilization and Re-Integration Coordination Council did not facilitate any activities in Darfur during the reporting period.

Assessment of Recommendation 1.3.3

This recommendation has not been met according to stipulated indicators.

4. Protection against Summary Executions, Arbitrary Detention, Disappearances, Torture

- **Recommendation 1.4.1**

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

Indicator: *Instructions issued and widely disseminated; Number of reported incidents attributable to the Government*

- **Recommendation 1.4.2**

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

Indicator: *No instances of secret or incommunicado detention reported; Up to date lists of detainees available*

Action taken by the Government on Recommendations 1.4.1 & 1.4.2

The Government reported the following:

“UNMIS recently presented to the Government the names of eight persons who have allegedly died in Government prisons. Information provided by UNMIS did not indicate further details of the alleged deceased persons such as their place of residence nor of the places of their detention prior to their death. Nevertheless, the Government has set up a joint committee with UNMIS to investigate this matter.

The Government reported that 53 students arrested in connection with the Omdurman attack were released in April to enable them prepare and sit for exams. Furthermore, the Head of the Omdurman Investigation has decided to drop charges against 51 detainees for lack of evidence.”

Information Received from Other Sources on Recommendations 1.4.1 & 1.4.2

Summary executions and other arbitrary killings

UNAMID documented 23 cases which violated the right to life and personal integrity of civilians in Darfur. Three of the victims were minors; two girls aged 9 and 15 years and a 16-year-old boy. The perpetrators were identified as members of the CRP (10 killings), SAF soldiers (6 killings) and in unidentified armed men, wearing military uniforms (5 killings) and members of rebel groups (2 killings). All the killings were reported to the police. Reportedly, one CRP member has confessed to one of the killing, and one SAF is in detention. The HRS is following up on the cases.

Arbitrary Detention

During the reporting period United Nations human rights officers have documented 19 cases – in the three Darfur States, the Khartoum area, and also in other parts of Northern Sudan – in which Government security forces (mainly NISS) continue to arbitrarily arrest and detain political dissidents, human rights defenders, and individuals allegedly involved with rebel groups. These include 5 cases of torture and 6 cases of ill treatment. United Nations human rights officers have closely monitored the practice of detention by the NISS and conducted interviews with many released NISS detainees. According to the information received by United Nations human rights officers, NISS agents – who operate in plain clothes and often use cars not marked as belonging to the security forces – often carry out arrests without identifying themselves, or informing the target person about the reason for the arrest. Arrested persons will usually not be allowed to contact their families or a lawyer. In some cases, NISS agents act on their own, in others jointly with police where persons are initially arrested by the police and then reportedly handed over to the NISS for interrogation. The NISS have occasionally also appeared to use ongoing police investigations into criminal cases as an apparent pretext to detain political dissidents and human rights defenders with no connection to the case. Many of the cases also involved allegations of additional serious human rights violations such as *incommunicado* detention, ill-treatment and torture. NISS detainees may be held for periods ranging from a few hours to several months.⁴

Following the 10 May 2008 attacks on Omdurman by the JEM, Government security forces carried out hundreds of arrests in Khartoum and other parts of the country, including the three Darfur states, reportedly on suspicion of alleged involvement in the attacks. Many of those arrested were civilians arrested on the basis of their ethnic identity or appearance as members of the Zaghawa tribe, the ethnic group from which JEM draws much of its support. By the end of January 2009, close to nine months since the arrests commenced, UNMIS had been unable to verify the release of 376 of the nearly 1,000 people who were feared to be arrested since the attacks and whose names have been communicated to UNMIS Human Rights by families, human rights organizations, activists and political groups. UNMIS has repeatedly requested the Government to provide confirmation of the arrests and detentions, including information on their whereabouts and the legal grounds on which they are being held, but by January 2009 had yet to receive a response on any of the cases. The whereabouts of many remain unknown.

Torture and ill-treatment

Incommunicado detention increases the risks of ill-treatment and torture. “Ill-treatment and torture are reportedly used to intimidate detainees, to punish them, to extract information or to force them to incriminate themselves or others. In some cases death threats are made against detainees prior to their release to prevent them from speaking out

⁴ For a detailed assessment of arbitrary arrest and detention in North/South Sudan (with recommendations for law and policy reform), see the Tenth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan: Arbitrary arrest and detention committed by national security, military and police, 28 November 2008.

about the abuses they suffered in detention.”⁵ A large number of NISS detainees reportedly arrested under suspicion of involvement in the 10 May 2008 JEM attacks on Omdurman and released in the period from September 2008-January 2009 have reported severe ill-treatment and torture in NISS detention to United Nations human rights officers. In the Khartoum area, UNMIS Human Rights Officers have no access to formal places of detention (Kober Prison, Dabak Prison, and NISS detention facilities) or informal NISS places of detention, where most alleged incidents of torture and ill-treatment are reported to take place.

UNMIS monitors have reason to believe that some of 78 (primarily Darfurian) individuals accused of participation in the 10 May 2008 JEM attacks on Omdurman who were recently tried in five Anti-Terrorism courts concurrently may have been detained *incommunicado* for up to four months in undisclosed places of detention. Many have alleged that they were tortured or otherwise ill-treated during interrogations in order to compel them to incriminate themselves. While these defendants have stated during the trials that they had been forced to confess under duress, UNMIS was not aware of any investigations ordered by the judges into the allegations of torture. UNMIS raised allegations of torture and ill-treatment with Government authorities on numerous occasions, and cautioned the Government that unchecked prolonged *incommunicado* detention can lead to serious violations of human rights.

Statement from ex detainees suggests an intentional, concerted and planned action of the NISS to inflict torture upon detainees suspected of involvement in rebel movements. From August 2008 to January 2009, UNAMID documented 19 cases of reported torture and ill-treatment, 15 of which occurred in NISS custody, two cases involving SAF soldiers and one my member from the Military Intelligence and one in SLA/MM custody.

Enforced Disappearances

The Government has not issued new instructions 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.

Assessment of Recommendation 1.4.1 & 1.4.2

No instructions were issued or widely disseminated. Summary executions, arbitrary detention, ill-treatment, and torture are ongoing. **The recommendations see no progress.**

- ***Recommendation 1.4.4***

Ensure institutional and legislative reform of the National Security Service in accordance with the CPA and Interim National Constitution. In particular, broad powers of arrest and detention should be reformed (art. 31 and art. 33 of the national security act) and judicial oversight mechanism established. Emergency laws should not grant security agencies broad powers to arrest and to restrict freedom of movement, assembly and expression.

⁵ Tenth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan: Arbitrary arrest and detention committed by national security, military and police, 28 November 2008.

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

Action taken by the Government on Recommendation 1.4.4

The Government reported the following:

A draft new National Security Bill for the year 2009 has been finalized and laid before GNU partners for their comments and remarks. The draft bill will be submitted to Parliament for its approval before October this year.

Information Received from Other Sources on Recommendation 1.4.4

It is unknown whether Articles 31 and 33 of the National Security Act, which gives broad powers of arrest and detention will be reformed. The Special Rapporteur has not received a copy of the draft Bill.

Assessment of Recommendation 1.4.4

Recommendation has not been implemented according to stipulated indicators

- **Recommendation 1.4.5**
Ratify Convention Against Torture

Action taken by the Government on Recommendation 1.4.5

The ACHR reported that it had submitted to the Council of Ministers a memorandum on Sudan's accession to the Convention Against Torture. ACHR stated that discussion of this memorandum by the Council has however been delayed due to the hostile atmosphere generated by the ICC charges against Sudan.

Information Received from Other Sources on Recommendation 1.4.5

The Government has not ratified the UN Convention against Torture,

Assessment of Recommendation 1.4.5

Recommendation has not been implemented.

5. Protection of Witnesses and Victims

- **Recommendation 1.5.1**
Ensure that human rights monitors have full and unimpeded access to witnesses and victims of human rights violations, that witnesses and victims are not subjected to any violence, reprisals or harassment due to their cooperation with human rights monitors; and that all necessary and feasible measures are taken to protect witnesses and victims against violence, reprisals and harassment by third parties.

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

Action taken by the Government on Recommendation 1.5.1

The Government reports that human rights observers in Darfur and other parts of Sudan work without constraints and have access to victims and witnesses without any hindrance.

Information Received from Other Sources on Recommendation 1.5.1

UNAMID human rights monitors do not have full and unimpeded access to witnesses and victims of human rights violations. In two incidents in West Darfur, victims told the human rights monitors that they have been threatened with consequences if they cooperate with the UN. The Government has not taken all necessary and feasible measures to protect witnesses and victims against violence, reprisals and harassment by third parties.

Assessment of Recommendation 1.5.1

This short-term recommendation is not being implemented.

6. Protection of Human Rights Defenders

• Recommendations 1.6.1

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

Indicator: Number of reported cases

• Recommendations 2.1.4

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

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

Action taken by the Government on Recommendation 1.6.1 & 2.1.4

The Government reported that three Sudanese human rights defenders, one with a dual British/Sudanese nationality were arrested and detained for entering Sudan illegally through South Sudan without obtaining entry visas. Documents pertaining to the International Criminal Court prepared by them were promptly seized. The Government also reported that they were kept at premises of security services for hours for investigation.

Information Received from Other Sources on Recommendation 1.6.1 & 2.1.4

In November 2008, three prominent human rights defenders were arbitrarily arrested and detained for up to three days under allegations of collaboration with the ICC, and two of them reportedly tortured. One of them held dual nationality -- British and Sudanese -- and entered Sudan with a visa issued by the Embassy of the Sudan in Uganda. He was kept in detention for up to five days while others between 3 and 5 days.

On 27 December 2008, the Amel Centre for Treatment and Rehabilitation for Victims of Torture temporarily suspended their free legal aid program. The suspension of activities

followed harassment of the staff at the centre by government security officials. It was believed that the harassment was related to the indictment by the International Criminal Court (ICC) judges against Sudanese President. The temporary suspension of the legal aid program affected access to justice for victims of crimes and human rights violations, who depended on legal aid lawyers for their legal representation in court.

On 1 February 2009, the administrator of an American international non-governmental organisation (INGO) was expelled for introducing Christianity in the region after National Intelligence and Security Services (NISS) and the Humanitarian Aid Commission (HAC) entered the premises of the INGO on 29 January 2009.

UNAMID documented sixteen cases of arbitrary and illegal arrests and detentions by Government security forces. Fifteen of the detainees have since been released while two others remain in detention and have not been charged with an offence as at the time of writing this report. Four of the released detainees reported being subjected to cruel, inhuman or degrading treatment or torture while in detention. UNAMID also documented cases of threats and harassment of human rights defenders, Sudanese staff members of UNAMID, INGOs and civil society members on suspicion of having provided sensitive information to the international community. The actions of the Government have discouraged people from exercising their right to free speech and association.

Assessment of Recommendation 1.6.1 & 2.1.4

In recent months there has been a targeting of human rights defenders and humanitarian workers by the Government which is a serious concern. **These recommendations are not being implemented.**

- **Recommendation 1.6.2**

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

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

Action taken by the Government on Recommendation 1.6.2

The Government reported that a new media bill is currently under discussion among concerned parties including Government officials, parliamentarians and non-governmental organisations. The Government also reported that the bill calls for the formation of a more democratic Press Council through election of a majority of its members. It also aims at doing away with criminal libel.

Information Received from Other Sources on Recommendation 1.6.2

Among the group of 'Democratic Transformation laws' to be examined for amendment by Parliament are the National Press laws. The 2009 Press Bill contains a number of

worrying provisions which are not in conformance with international standards, such as criminal responsibility for Editors-in-Chief, and extensive powers for the Press Council over journalists. Under the auspices of the Government of Switzerland funded technical cooperation project In April 2009 UNMIS organized a workshop jointly with the Advisory Council for Human Rights to provide recommendations on amendments to the Draft Press Bill to bring it in conformance with international standards and the Interim Constitution.

During October and November 2008 journalists from different newspapers reported continuing censorship by the NISS and temporary newspaper suspensions. In protest at these measures, journalists organized strikes and civil society activists joined calls for an end to restrictions on freedom of the press. On 4 November over 100 journalists reportedly went on a 24-hour hunger strike in protest over recent censorship measures, and three national Arabic-language dailies – *Ajrass al Huriya*, *Al Maidan*, and *Ray al Shaab* – stopped production for three days as a means of protest. *Ajrass al Huriya* and *Ray al Shaab* were subsequently penalized and prohibited from publishing for one day after the strike by the NISS, reportedly as retaliation on the grounds that the newspapers' editors had not informed NISS about the intended strike.

Some protests organized by journalists resulted in stand-offs with the security forces. On 11 November 2008, approximately 200 combined police and security forces reportedly surrounded the Khartoum offices of *Ajrass Al Huriya*. On that day, journalists from a range of media outlets were scheduled to meet at the newspaper offices to prepare joint peaceful protest activities against press censorship. Security forces reportedly arrived as early as 6 a.m. and remained in the area for approximately 12 hours. No mention of the campaigning activities or the stand-off with the security forces appeared in any of the following day's newspapers.

On 17 November 2008 police in Omdurman arrested and briefly detained around 74 journalists from the steps of the National Assembly, where over 100 journalists had gathered at around 10.30 that morning. They were planning to deliver a petition in protest at ongoing censorship of the media. Shortly after the arrival of the journalists, an estimated force of over 200 policemen (regular police and riot police) arrived at the scene and reportedly began putting the journalist demonstrators into police trucks. The 74 journalists were taken to Omdurman South police station, where they were detained throughout the afternoon. It appears that the arrests were carried out arbitrarily, in an effort to prevent peaceful protest activities against restrictions on freedom of expression. All journalists were eventually released, most reportedly on the same day of the arrests. UNMIS learned that journalists were required to provide their personal contact details to the police before they were released, and they were also reportedly informed that charges would be brought against them. On 20 November a number of Arabic-language dailies carried reports of public statements made by the NISS Director General, Lt. Gen. Salah Gosh, in which he justified the continuing censorship as necessary, legal, and constitutional.

Assessment of Recommendation 1.6.2

While efforts are underway to reform National Press Laws, the draft Bill remains of serious concern. Restrictions on the press and the work of human rights defenders in particular have increased. **The recommendation has not been implemented.**

B. Humanitarian Access

1. Protection of humanitarian workers from harassment and attack

- ***Recommendation 2.1.1***

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

Indicator: *Public declaration made; no subsequent retraction*

Action taken by the Government on Recommendation 2.1.1

The following was reported by the Government:

Aid workers have access to all IDP camps in Darfur. Sudan's Armed Forces and the Police continue to escort aid convoys all over Darfur, sometimes jointly with UNAMID.

The High Level Committee (HLC) established by the Joint Communique on the Facilitation of Humanitarian Activities in Darfur held a meeting held on 9 February 2009 and welcomed progress made particularly in the renewal of the extension of the Moratorium on Restrictions, the efforts of the Federal (TJTC) team on drafting a standard technical agreement format, the work to improve harmonization between policy at federal and state level. In addition, the meeting appreciated all the work that has been conducted to revise the general directory of procedures. Endorsement of the Government for the 2009 UN and partners action plan concerning Sudan was also commended.

HLC members also agreed to work jointly towards timely and efficient delivery of assistance particularly when an emergency occurs. It was noted that further efforts by all partners were required to continue to address some constraints directly impacting INGOs and their ability to timely deploy international staff to field locations. The committee commended the new technical agreement (TA) format. However, the delay in finalizing the TA format was highlighted as a matter of urgency. The committee called for the national implementation of the TA and commended the decision to extend until the end of the existing moratorium all procedures for core INGO staff.

Participants appreciated commencement of the web based data base that will monitor the implementation of the joint communiqué facilitating the Government administrative procedures. The partnership between the INGOs and national NGOs was supported through dialogue, capacity building and joint planning . the need for commitment from all to build confidence and facilitate humanitarian assistance was also stressed.

Attendees at the meeting included representatives of the Humanitarian Aid commission, Ministry of Foreign Affairs, representatives of the international community, NGOs and the UN.

“On the 8th of January/2009, the Armed Forces in South Darfur State recaptured five Toyota cars and one Land cruiser belonging to the UNAMID forces and organizations working in Darfur. The vehicles were hijacked by the armed groups.

On 19 November 2008, a joint force involving the armed forces, Central Reserve Forces and the National Security and Intelligence Service in Alusraif Bani Hussien locality in North Darfur state recaptured a UNAMID vehicle that had been hijacked.

Information Received from Other Sources on Recommendation 2.1.1

In a progress report presented to the Chairperson of the African Union Commission in pursuant to the African Union Peace and Security Council communiqué on 21 July 2008, the Government of Sudan reported that it was working with UNAMID to assist in ‘the security of civilian needs and to protect relief operations’. The Government also stated that 720,851 IDPs have voluntarily returned to 526 villages in Darfur. It is unknown whether the IDPs have returned to their original villages or to the ‘model villages’ being constructed by the Government particularly in South Darfur. During a patrol to Otash IDP camp, Nyala, South Darfur on 31 October, UNAMID Police were informed that 2000 IDPs have decided to return to their villages on a permanent basis. On 11 September 2008, UNAMID Human Rights monitors in West Darfur conducted a field mission to Jebel Moon (Falcao area, controlled by JEM). The team met with JEM commanders in the area, their Humanitarian Coordinator, and a group from the local population. According to JEM leaders, 80 per cent of the civilians (7,000 persons) have returned from Chad to their villages in Jebel Moon area and are resuming normal life and farming.

On 6 October 2008, a UNAMID patrol was ambushed by unknown armed men between Manawashi and Khor Abeche in South Darfur. One UNAMID peacekeeper died during the incident. One wounded member of the armed group was apprehended by UNAMID and subsequently handed over to the local police in Nyala.

The UN Undersecretary-General for Humanitarian Affairs, John Holmes visited Darfur between 24 – 30 November 2008 to overlook the humanitarian situation. John Holmes held talks with UNAMID senior management and Sudanese Government officials. Also in November 2008, the Government extended the Moratorium facilitating humanitarian aid to Darfur until 31 January 2010. The moratorium removes obstacles to humanitarian work, including suspension of visa restrictions for all humanitarian workers and permitting freedom of movement for aid workers throughout Darfur. On 5 March 2009, the Government expelled 13 international NGOs, and revoked the licences of 3 national NGOs providing critical humanitarian aid. Assets of a number of NGOs were seized and staff reported harassment.

Assessment of Recommendation 2.1.1

There was a retraction of the Government’s commitment through the expulsion of NGOs. **The recommendation was clearly not implemented.**

- **Recommendation 2.1.2**

Allow aid organisations 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*

Action taken by the Government on Recommendation 2.1.2

On 5 March 2009 the Government expelled 13 international NGOs from the country and revoked the licences of 3 national NGOs.

Information Received from Other Sources on Recommendation 2.1.2

The 13 expelled international NGOs and 3 national NGOs have not been allowed to return to their work in the country.

Assessment of Recommendation 2.1.2

Recommendation not implemented

- **Recommendation 2.1.3**

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

Action taken by the Government on Recommendation 2.1.3

No information was received from the Government

Information Received from Other Sources on Recommendation 2.1.3

On 29 September 2008, Sudan Liberation Army/Abdel Wahid (SLA/AW) informed UNAMID to avoid flying over the southern part of Jebel Marah Nyama. The Movement stated that it is on standby to shoot down any white helicopter flying over the area. It further stated that if UNAMID for any reason should need to fly over the area, that SLA/AW should be notified in advance. The need to arrange safe passage is greatly complicating the provision of humanitarian services in that area.

On 26 October 2008 a warning was received by UNAMID Team Site in Labado from SLA/MM that they would shoot at any Supreme (UNAMID contracted helicopter company for delivery of Field Support Services) helicopter over flying areas controlled by SLA/MM. The reasoning for this threat was that Supreme helicopters are unmarked and white, and SLA consider any helicopters so marked as belonging to the Government. Supreme management in response to this has marked the underside of their helicopters with large Blue letters "FSS" (Field Support Services). UNAMID human rights monitors also received two reports of sightings of white helicopters in West Darfur.

On 11 October 2008, a UNAMID routine patrol was stopped and prevented from patrolling by Arab militias in Ardebet Kobesh village. The militia fired warning shots to stop the UNAMID patrol which was on a mission in the area from Mujaheria location. The militia informed the patrol that they would not allow UNAMID safe passage through the area. They alleged that they came to the area following an attack by SLA/MM on 9 October 2008 on their village and alleged that the SLA/MM, during their attack on the militia, used white vehicles similar to UNAMID vehicles.

From 31 January to 01 February 2009, UNAMID received reports that an unidentified white aircraft flew over Mujaheria town prior to several air strikes.

On 2 February 2009, an unidentified white aircraft was seen by UNAMID military observers conducting several sorties over the location.

Assessment of Recommendation 2.1.3

White aircrafts or vehicles without markings continue to be observed. **Recommendation is not being implemented.**

2. Facilitating access to civilians, including those displaced

- **Recommendation 2.2.1**

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

Indicator: *Number of incidents of non-compliance with commitments made therein*

Action taken by the Government on Recommendation 2.2.1

No information was received from the Government

Information Received from Other Sources on Recommendation 2.2.1

There were a total of 226 attacks against the humanitarian community from August to December 2008. On four separate occasions, unknown armed men ambushed peacekeepers across the three states of Darfur resulting in the deaths of three peacekeepers and four seriously injured.

Since August, unknown assailants have fired on at least four UNAMID helicopters, killing four people. Following reports of a massive offensive by Government forces against rebel positions in North Darfur, on 17 September, a UNAMID assessment mission to Disa and Birmaza villages was aborted when the UNAMID helicopters came under fire by unknown group. Sudanese government forces have denied any military activity in North Darfur, stating that the increased SAF presence was due to soldiers securing roads to support food aid convoys. On 2 September, a UNAMID patrol escorting a fuel tanker from Kabkabiya to El Fasher was delayed twice at two different locations by the Jundimathrun and SLA/AW factions respectively. SLA/AW alleged that the NISS officials disguise soldiers as civilians to drive commercial fuel tankers in order to reconnoitre SLA/AW positions. On 2 September 2008, the Humanitarian Aid Commission (HAC) ordered an INGO in West Darfur to suspend two of its projects. According to the HAC, the INGO projects which provide assistance for women on health and legal assistance has had no impact on the ground and furthermore, the implementation of the projects was allegedly not in line with the donors instructions.

Following the fighting between Ma'aliya tribesmen and SLA/MM militia in Abu Dungal and Um Shegeira in the Muhajeria area, an NGO assessment indicated the preliminary figure of 2,575 households displaced between September and October 2008. As of October 2, UNAMID had not established a presence in the area due to continuing security concerns. Due to insecurity, UNAMID is currently operating at UN Security Phase 1V.

On 26 September 2008, a UNAMID night patrol in Nyala town was stopped by GoS police, who stated that night patrols by UNAMID are not necessary and not acceptable,

unless carried out jointly with the GoS. On 27 September 2008, a night patrol returning to Nyala from Otash IDP Camp was again stopped. A senior GoS officer warned that UNAMID vehicles may be confiscated if the night patrol continued. On 28 September 2008 an agreement was reached to the effect that GoS Police will conduct regular night patrols with UNAMID and that UNAMID will inform GoS authorities whenever the Mission's night patrols passed through the town to other locations.

Assessment of Recommendation 2.2.1

Although the Moratorium has been extended, **the recommendation is not being implemented**

Recommendation 2.2.3

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*

Action taken by the Government on Recommendation 2.2.3

No information was received from the Government

Information Received from Other Sources on Recommendation 2.2.3

There has been no reform of the Organization of Voluntary and Humanitarian Work Act of 2006 in accordance with the Interim Constitution, the United Nations Declaration on Human Rights Defenders and other relevant international standards.

Assessment of Recommendation 2.2.3

No implementation according to stipulated indicators

C. Accountability and Justice

- **Recommendation 3.1**

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

Indicator: *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*

Action taken by the Government on Recommendation 3.1

The Government reported the following:

“The Committee responsible for investigating crimes in Darfur had made significant progress in its investigations of the Dlaig incidents in West Darfur. It had cross examined 15 witnesses, examined burial sites but had not concluded its work. The committee is investigating more than 28 people in connection with the Dlaig incident including Major Hamdi Sharafeldeen and Ali Abdurrahman Koshaiib against whom a report has been filed. The report relates to allegations of complicity, conspiracy, robbery, murder and abduction under the Criminal Act 1991.”

Information Received from Other Sources on Recommendation 3.1

The Government took a number of steps to address impunity. On 6 August 2008, the Sudanese Justice Minister Abdul Basit Sabdarat announced the appointment of Moulana Nimir Ibrahim as a special prosecutor to investigate and to prosecute alleged crimes committed in Darfur. On 23 to 28 August, Mr. Ibrahim visited El Geneina. In a meeting with a Human Rights Monitor on 27 August 2008, he confirmed that he would investigate alleged crimes committed in Wadi Saleh of West Darfur in 2003, in addition to following up on and completing the work of the National Commission of Inquiry, established by a Presidential Decree in May 2004 to investigate human rights violations committed by armed groups in Darfur in 2004. In a separate development, on 27 August 2008, the Prosecutor of West Darfur announced that the Wali of West Darfur established a Committee of Inquiry to investigate the arbitrary killing of nine men and two children on 11 July by armed men described by witnesses as Arab militias from the Awled Zeid and Awled Rahma tribes in Masteri, West Darfur. The Committee of Inquiry has yet to issue a report. Following the killings in Kalma IDP camp by government security forces, the Government announced a Committee of Inquiry into the incident. The Committee has yet to issue a public report on its findings. The various committees set up by the Government have yet to publicly issue their findings and perpetrators held accountable.

The lack of public findings of various committees of inquiry lead the Special Rapporteur to conclude that there were no 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 attacks on civilians in Saraf Jidad, Sirba, Silea and Abu Suruj in January and February 2008.

Assessment of Recommendation 3.1

According to information received some steps were taken but the recommendation has not been implemented. Where investigation committees were established in a number of cases, their findings were not made public. No legal action has been taken so far against the perpetrators including those with command responsibility or compensation provided to the victims. Recommendation has not been implemented according to stipulated indicators.

- **Recommendation 3.2**

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.

Indicator: *Legal immunities for armed state agents abolished; Blanket waiver issued*

Action taken by the Government on Recommendation 3.2

No information was received from the Government

Information Received from Other Sources on Recommendation 3.2

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

Assessment of Recommendation 3.2

No implementation according to stipulated indicators

- **Recommendation 3.3**

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*

Action taken by the Government on Recommendation 3.3

No information was received from the Government

Information Received from Other Sources on Recommendation 3.3

The Government has rejected cooperation with the International Criminal Court mandated by the Security Council to investigate and prosecute international crimes committed in Darfur.

On 21 July 2008, the Peace and Security Council (PSC) of the African Union (AU) at its 142nd meeting adopted decision PSSC/MIN/Comm (CIXLII) in relation to the Prosecutor of the ICC application for arrest warrant for the President of Sudan. In the decision, the AUPSC called for the establishment of a High-Level Panel on Darfur (AUPD).

The decision was reiterated in the AU PSC decision PSC/PR/Comm (CLXXV) on 5 March 2009 at its 175th meeting, following the decision of the Pre-Trial Chamber I of the

ICC to issue an arrest warrant against the President of the Sudan. In this regard, on 19 March 2009, the Chairperson of the AU Commission appointed eight African personalities as members of the AUPD. The panel is chaired by Thabo Mbeki, former President of South Africa. The panel is an independent body which is tasked to examine in-depth the situation in Darfur and to submit recommendations 'on how best the issues of accountability and combating impunity, on the one hand, and reconciliation and healing, on the other, could be effectively and comprehensively addressed, including through the establishment of truth and/or reconciliation commissions.' The Panel visited Darfur in 2009 to assess the measures taken by Sudanese authorities to address the human rights and international humanitarian law violations, and other related acts committed in the Darfur region

Assessment of Recommendation 3.3

No implementation according to stipulated indicators

- **Recommendation 3.4**

Start to review compatibility of domestic legislation with the interim national constitution and bill of rights, and harmonise 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*

Action taken by the Government on Recommendation 3.4

Armed Forces Act passed with amendments, Police Act passed, and National Security Act under discussion

Information Received from Other Sources on Recommendation 3.4

Nothing to report other than action taken by Government

Assessment of Recommendation 3.4

While some positive provisions have been included, laws passed do not conform to international human rights standards

D. Monitoring Of Implementation of Recommendations

- **Recommendation 4.1**

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

Indicator: *National Human Rights Forum established and functioning*

Action taken by the Government on Recommendation 4.1

The Government reported the following:

Intensive consultations have been carried out between the ACHR, UNMIS and UNAMID concerning convening two human rights forums to address human rights issues in Darfur and rest of Sudan respectively.

- On 26 November 2008, the ACHR in conjunction with UNAMID convened the first Darfur human rights forum in Nyala. The forum was inaugurated by the South Darfur State Governor and attended by state ministers, head and members of the legislative council of the state and other Government officials. The second meeting of the Darfur Human Rights Forum was held in El Geniena, West Darfur on 15 April 2009.

Information Received from Other Sources on Recommendation 4.1

On 26 November, the Advisory Council for Human Rights (ACHR) and UNAMID successfully launched the “Darfur Human Rights Forum”. The Forum provides a venue for transparent and constructive discussions on 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. Two meetings of the Forum have already been held and relevant members of the international community are invited to participate as observers.

On 14 April 2009, UNAMID in conjunction with the Government of Sudan’s Advisory Council on Human Rights held the second regular meeting of the Darfur Human Rights Forum in El Geneina, West Darfur. The event brought together officials from the Government at both local and national levels, consisting of representatives from the Ministries of Justice, Interior, Foreign Affairs, and West Darfur state officials. Also in attendance were members of the diplomatic community representing the United Kingdom, Switzerland, Sweden, France, Japan, Netherlands, Russia, the European Union and the African Union. The meeting was addressed by the newly appointed Government Prosecutor General for Crimes committed in Darfur since 2003 who thereafter briefed members of the Forum about his mandate and progress made in his investigations into Darfur conflict related crimes.

Assessment of Recommendation 4.1

Recommendation has been implemented

- **Recommendation 4.2**

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

Action taken by the Government on Recommendation 4.2

The Government provided UNMIS Human Rights monitors with a list of individuals detained during the May 2008 Omdurman attacks.

Information Received from Other Sources on Recommendation 4.2

The provision of a list is an initial step, however access to places of detention remains extremely limited

Assessment of Recommendation 4.2

Recommendation has not been implemented

- **Recommendation 4.3**

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

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

Action taken by the Government on Recommendation 4.3

No information was received from the Government

Information Received from Other Sources on Recommendation 4.3

Access is extremely limited, and there is no access granted to NISS detention facilities.

Assessment of Recommendation 4.3

Recommendation has not been implemented

- **Recommendation 4.4**

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

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

Action taken by the Government on Recommendation 4.4

The Government has not issued any standing invitation to UN Special Procedures.

Information Received from Other Sources on Recommendation 4.4

Thematic Special Procedures have requested country visits. Only the visit of the Special Rapporteur on the situation of human rights in the Sudan has been approved.

Assessment of Recommendation 4.4

Recommendation has not been implemented

- **Recommendation 4.5**

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

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

Action taken by the Government on Recommendation 4.5

No information was received from the Government

Information Received from Other Sources on Recommendation 4.5

The Government has not set up any systems that are publicly available to human rights defenders.

Assessment of Recommendation 4.5

Recommendation has not been implemented

- **Recommendation 4.6**

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*

Action taken by the Government on Recommendation 4.6

Completed

Information Received from Other Sources on Recommendation 4.6

On 13 – 14 January 2009, under the auspices of the Government of Switzerland funded technical cooperation project, UNAMID organized a 2 day Workshop with the 3 Darfur State Committees to Combat Violence in Nyala. The workshop undertook public evaluation of 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.

In all three States of Darfur, UNAMID and United Nations Agencies continue to provide expert, logistical and financial support to the Committees. UNAMID and UN agencies

participate in the Committees as observers. The State Committees continues to face financial constraints in implementing its activities.

Assessment of Recommendation 4.6
Recommendation implemented.

- **Recommendation 4.7**

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

Action taken by the Government on Recommendation 4.7

The Government reported the following:

The National Human Rights Commission Act was passed in April 2009. In accordance with the Paris Principles the commission shall have an independent existence with an independent budget and wide representation from civil society organisations and women.

Information Received from Other Sources on Recommendation 4.7

The Act is a positive measure and many of its provisions are in compliance with Paris Principles

Assessment of Recommendation 4.7

While initial steps have been taken towards implementation, it remains to be seen how the Commission will be set up, and whether it will have powers of independence in practice.

- **Recommendation 4.8**

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

Indicator: Op-CAT ratified

Action taken by the Government on Recommendation 4.8

No information was received from the Government

Information Received from Other Sources on Recommendation 4.8

The Government has not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Assessment of Recommendation 4.8

Recommendation has not been implemented
