

Check Against Delivery



**Statement by
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in the Sudan**

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**Item 71 (c): Human rights situations
and reports of special rapporteurs and representatives**

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**Mr. President,
Excellencies,
Ladies and Gentlemen,**

It is an honour for me to present before you a brief account on my observations and recommendations with regard to the human rights situation in the Sudan, in conformity with resolution 2005/82 adopted by the Commission on Human Rights on 21 April 2005. By this resolution, the Commission decided to establish the mandate of a Special Rapporteur on the situation of human rights in the Sudan for one year and requested the Special Rapporteur to monitor the human rights situation in the Sudan and to submit an interim report to the General Assembly at its sixtieth session, and to report to the Commission at its sixty-second session.

I conducted my first mission to the Sudan from 15 to 22 October 2005. Prior to my mission, I received a number of briefings from OHCHR, NGOs and representatives of the diplomatic community in Geneva, including the Permanent Mission of the Sudan to the UN.

I would like to thank the Government of the Sudan and in particular the Advisory Council for Human Rights (ACHR) as well as UNMIS Human Rights for facilitating my mission and providing me with logistic and substantive support. I would also like to commend the work done by UNMIS, humanitarian agencies and non-governmental organizations, as well as by the African Union.

In Khartoum, I met with senior Government officials, including the Vice-President, the Minister and the State Minister for Foreign Affairs, the Minister of Justice, the Minister of Interior, the Minister for Humanitarian Affairs, the Legal Advisor to the President of the Sudan, representatives of civil society, UN agencies, and the diplomatic community. I travelled to Juba in Southern Sudan where I met the first Vice-President, the Police Commissioner for Southern Sudan, and representatives of the civil society. In Nyala, Darfur I met with local officials including the Deputy Governor, the Chief of the Judiciary, the Prosecutor General and representatives of the African Union and civil society. I visited the Kalma IDP camp outside Nyala, the prisons of Juba and Kober prison in Khartoum. I also met with representatives from Eastern Sudan who shared with me serious concerns about the humanitarian situation in the region, the state of emergency which is still in force and grave human rights violations committed in Port Sudan in January 2005.

The purpose of my mission was to acquaint myself with the human rights situation in the Sudan and prepare a presentation to the General Assembly as well a report to the Commission on Human Rights next year.

The Sudan has embarked on a difficult path of peace building, reconciliation and reconstruction. I was informed of some positive developments in the political process – a new Government of National Unity has been inaugurated, a new interim national constitution has been adopted and peace talks on Darfur are

under way in Abuja, Nigeria. I was just informed that the new Government of Southern Sudan was sworn in last Monday, 24 October. Three international instruments were ratified by the Sudan in 2004 and 2005 – the African Charter on the Rights of the Child and the two optional protocols to the Convention on Rights of the Child. In addition, a new law on child protection was adopted. Moreover, in August 2005, the Sudan adopted the two 1997 optional protocols to the Geneva Conventions.

However, I was also informed of important delays in the implementation of the Comprehensive Peace Agreement (CPA), in particular with regard to the setting up of various Commissions such as the Assessment and Evaluation Commission, aimed at monitoring the implementation of the CPA. **The process of harmonizing national legislation with the Interim National Constitution, which recognizes international human rights standards as an integral part, is also delayed.**

Since the formation of the Government of National Unity the people of the Sudan have seen little change in their everyday life – the emergency laws are still in place in Darfur and the East and are also applied in Khartoum, people are arbitrarily arrested and held incommunicado by security forces; torture, ill-treatment and killings of civilians continue. Discrimination and marginalization of groups continue and basic rights such as access to food, shelter, health and education are not guaranteed.

I would like to share with you some of my preliminary observations and recommendations with regard to the human rights situation in the Sudan.

Right to life, liberty and security of the person

The right to life continues to be violated, in particular in Darfur. Numerous cases of killings and harassment of civilians in villages and IDP camps in the three regions of Darfur have been recorded. I was informed that between 1 July and 30 September 2005, UNMIS has recorded 152 civilians who were killed or harassed by either the Government of the Sudan (GoS) armed forces or by armed men wearing khaki uniforms. 64 of the victims were internally displaced persons (IDPs), the rest were attacked in or around their villages. The majority of the victims were adults. Two types of attacks can be identified – (i) attacks around IDP camps, which result in a relatively low number of victims, looting or rape, by perpetrators who do not seem to be organized; (ii) storming IDP camps and villages, which lead to higher numbers of victims and are characterised by better organised perpetrators, sometime reportedly accompanied by GoS armed forces.

I was also informed of the violation of the right to life and other rights by armed groups such as SLA, JEM or unknown perpetrators in South and North Darfur, most recently the killing of 5 AMIS soldiers and 2 civilian contractors in South Darfur and the abduction of more than 30 AMIS officials in West Darfur. The violations reported include also looting, extortion and taxation of civilians.

I would also like to express my concern at the unfortunate events which followed the death of Dr. John Garang, from 1 to 3 August, when more than 130 civilians were killed. Hundreds of people have been detained; some of them minors. They were allegedly ill treated and tortured while in detention. I was also informed of violence and looting which took place in Southern Sudan.

The Ugandan rebel movement – the Lord's Resistance Army (LRA) – has moved deeper into Southern Sudan and is increasingly attacking civilians in the Equatoria region. On 11 October, 18 civilians were reportedly killed by the LRA in Liria, most of them women.

The abduction of women and children is a complicated part of the human rights crisis in the Sudan. Thousands of people were abducted in the context of different conflicts in Southern Sudan. I have also been informed of alleged abductions being carried out in Darfur. In response to a resolution of the UN Commission on Human Rights adopted in 1999, the Government set up the Committee for the Elimination of Abduction of Women and Children (CEAWC) with a mandate to end abductions, prosecute abductors and return abductees.

Right of physical integrity

Rape and sexual violence against women continue with impunity, in particular in Darfur. The majority of the victims of sexual violence are women and girls who live in IDP camps. Between July and September 2005, 37 incidents of rape, attempted rape and physical assault involving a total of 125 victims have been reported to UNMIS in Darfur. The perpetrators are described as armed men wearing khaki uniforms or militia members, often with their faces covered. In most cases, the crimes took place on the outskirts of IDP camps. For instance, I was informed of 25 cases of rape that took place within and in the surroundings of Kalma camp in the last three weeks.

Many of these incidents take place when victims go to collect firewood or grass or are travelling between major towns in Darfur, mainly for income-generation purposes. Collective rapes of women and girls are also common. The victims are often insulted and humiliated, threatened with death and beaten. In most cases victims and their representatives do not approach the authorities, for fear of reprisals, cultural constraints or mistrust in the police and the judiciary. Even when the victim has sought legal recourse, in most of the cases the authorities have failed to bring perpetrators to justice. For instance in South Darfur, since July 2004, 6 judgements were issued, 4 cases referred to the court and 11 under investigation; in West Darfur, from January to May 2005 – 8 judgements issued, 8 referred to the court and 17 under investigation; in North Darfur, from January to May 2005, – 10 judgements issued, 2 referred to the court and 17 under investigation.

The Government acknowledges the existence of sexual violence but contests the magnitude of the problem. It has taken some steps to tackle the issue such as the drafting of a plan of action for eliminating violence against women in Darfur and the establishment of a state committee to deal with the problem. **However, these steps have not produced any tangible results so far.**

As recently as 17 October, eight members of a student organization in Khartoum were detained and tortured by National Security personnel out of a concern that they might criticize the government for an agricultural development scheme it instituted in Al-Gazeera. Non-violent gatherings and expressions of criticism cannot be a trigger for arrest and torture.

Justice and reconciliation

I believe that lasting and sustainable peace is not possible without justice and reconciliation. In this regard, ending impunity and ensuring accountability is of the utmost importance. The commitment of the Government to bring the perpetrators of human rights violations to justice is yet to be confirmed.

I met with the Chairman of the National Investigation Commission into the events in Darfur, the Chairman of the Reparation Commission, and a judge from the Special Criminal Court on the Events in Darfur which was created by decree in June 2005. I was informed that 200 perpetrators were identified by the Investigation Commission and that a Special Prosecutor Office for Crimes against Humanity was established in September 2005. However, only 6 cases were referred to the Court. Furthermore, none of these cases deals with responsibility for the major violations of human rights and humanitarian law which characterized the conflict in Darfur (mass killings of civilians, widespread burning of villages, systematic rape, and other crimes documented by the International Commission of Inquiry). The cases dealt with individual abuses, only marginally related to the major violations committed in Darfur. Such cases do not require or merit being heard by a specialized court which was purportedly set up specifically to address the major violations in the Darfur conflict. The Court is also lacking material and human resources. I was informed that when sitting in Nyala the Court had no administrative officer, registrar, or clerk to assist the Court, provide information of cases or assistance to the public.

I was informed that the judiciary in Southern Sudan is not functioning properly. Local commanders of SPLM are reportedly not cooperating with the judiciary in order to enforce the decisions of the judiciary. **The issue of truth and reconciliation both in Southern Sudan and Darfur should also be addressed by the Government and other relevant actors, including the civil society.** Both the people of Southern Sudan and Darfur are expecting to hear the truth and that a genuine reconciliation process is engaged in order to heal the wounds of many years of conflict and suffering.

Detention

I was able to visit the prison in Juba which has 492 detainees **as well as Kober prison in Khartoum** which currently holds approximately 900 prisoners including 147 prisoners on death row and 77 detainees related with the Soba Aradi events. I was also informed of the existence of approximately 100 political prisoners - 80 detainees in Khartoum, 10 in Darfur and three in Kassala. Most of them are accused of being involved in Darfur-related activities against the State. Some of them have been in detention for over a year and a half. There are also allegations that some detainees have been subjected to torture.

There are also 904 detainees in the jails of Khartoum in connection with Soba Aradi incidents. Some of those who have been released complained of torture and ill-treatment as well as of very poor prison conditions and denial of access to legal advice and representation. I was able to confirm this during my visit.

I was informed that UNMIS has been allowed access to many detention facilities throughout Sudan, including Darfur. However, it has not been allowed access to national security facilities, with the exception of some facilities in South Darfur. Several cases of arbitrary arrest and detention were documented during the last three months. Around 20 cases of detention were reported in the Darfur region. National Security and Military Intelligence arrested or detained 45 persons accused of rebel complicity. While most of these detainees were released, many were tortured during their detention. I have been also informed that besides official national security detention facilities, such as Kober and Dabak, there are unofficial holding places, such as private houses.

In this regard, I was informed of the cooperation which has developed in the framework of the Joint Implementation Mechanism (JIM) and Sub-JIM between UNMIS and the Government, and would like to welcome the decision of granting access to detention places.

Freedom of association and freedom of expression

On 4 August 2005, the President issued the Provisional Decree on the Organisation of Humanitarian Voluntary Work Act 2005. I met with a number of NGOs, media representatives and civil society organizations who voiced their concern about the Act as it violated rights guaranteed by the Interim National Constitution (INC) in its article 109 (1 and 2) and does not comply with international human rights conventions to which Sudan is a party, in particular it curtails the freedom of association enshrined in both the CPA and the INC Bill of rights. The organisations directly affected by the Act were not given an opportunity to review the draft and provide comments. The definition of 'voluntary organisations' in the Act is problematic since it does not comprehensively cover all types NGOs activities. It annuls all previous registrations of national NGOs and requires they all re-register within 90 days of issuing the decree. The General Registrar of Organizations may cancel the registration of any federal civil society organization or any INGOs if satisfied that there has been fraudulent behaviour or if they defy General State Policy. However the text does not define what constitutes fraudulent behaviour or 'General State Policy'. Registration can also be denied on recommendation of any other technical or specialised government body which places the NGOs directly at the mercy of various security and intelligence organs. The Act also does not provide an independent or judicial mechanism for reviewing a decision to cancel or refuse registration. I welcome the initiative by the Advisory Council for Human Rights which, in response of concerns raised by NGOs, will organize a seminar in November 2005.

Sudan has a lively and growing independent press, but in the past some journalists have faced harassment, suspension and arrest, if they covered stories critical to the authorities, particularly when reporting on human rights situations in conflict or marginalized areas. **Media representatives also expressed their concern that the legislation regulating their activities has not been revised in conformity with the new Constitution.** The existing Press Law contains numerous restrictions, in particular the requirement of licence for journalists and financial requirements that many media cannot afford.

Internally Displaced Persons

In the region of South Darfur which I visited, harassment and attacks on IDPs by armed men continues to be reported outside IDP camps. Kalma camp, the biggest in South Darfur, continues to be the main concern of the international community. The situation is tense as there is continued insecurity outside the camp, and a rapid increase in the number of sexual based gender violence, in particular rape of IDP women and girls. Incidents reported to have been committed on the northern and southern perimeter are alleged to have been carried out by a mixture of PDF, police reserve forces and militia. There is no GoS police stationed inside the camp since the 19 May 2005 riots. The AU has limited access to the camp and joint AU/GoS patrols on the camp perimeter are failing to protect the population. In many areas of South Darfur IDPs are forced to stay within the boundaries of their camps since venturing a few kilometres away represents a security threat.

With regard to IDP camps in the outskirts of Khartoum, I would like to express my concern with incidents such as in Soba in May and Shikan in August 2005. The attempted relocation of Soba residents on 18 May 2005 resulted in violent riots, in which 15 policemen and at least 5 civilians were killed and many others wounded. 59 people were tried on public disturbance charges with sentences ranging from whippings for minors to imprisonment of four months and 28 acquittals. Trials are upcoming for 137 people charged with assisting the commission of the act of murder, undermining the constitutional system, waging war against the state, disturbance of public peace, causing intentional wounds, resisting lawful arrest, robbery and criminal mischief.

I concur with the main conclusion of the Representative of the UN Secretary General on the human rights of IDPs, who visited the Sudan from 4 to 13 October 2005, and concluded that the volatile security situation, the lack of resources and infrastructure as well as the absence of solid state structures in the South pose serious threats to the human rights of returnees and IDPs.

Recommendations

To the parties in conflict

I urge all parties to the conflict to cease all hostilities and sit at the negotiation table. Furthermore I call on all parties to respect international humanitarian law and human rights law, in particular with regard to the protection of civilians.

To the Sudanese authorities

I strongly encourage the Government of National Unity to pursue the implementation of the Comprehensive Peace Agreement and the new Interim National Constitution without further delay, with a special focus on the protection and promotion of human rights of all Sudanese.

I urge the Government, in close cooperation and coordination with AMIS to effectively deploy police in vulnerable locations within Darfur as a way to protect

the civilian population, particularly internally displaced persons and to put in place concrete measures to prevent attacks on women.

I encourage the Government to undertake a comprehensive disarmament, demobilisation and reintegration programme of all militia groups, particularly in Darfur.

I call on the Government to carry out a comprehensive law reform program to harmonize its national laws with international human rights instruments ratified by the Sudan. The law reform process should be inclusive, and all parties to the CPA, civil society, independent experts, jurists and human rights constituencies should be integral part of any law reform process.

I received conflicting information from Government officials with regard to their intentions to ratify the Convention on Elimination of All Forms of Discrimination against Women (CEDAW). I would like to urge the Government to accede the CEDAW and ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without reservations and without further delay.

I urge the Government to take concrete action to end the culture of impunity for perpetrators of human rights violations, and ensure that they are brought to justice systematically and without delay. In this regard, I appeal to the Government to ensure effective coordination between law enforcement actors such as police and prosecution, and the judiciary.

I also encourage it to ratify the International Criminal Court (ICC) Statute and to strengthen its cooperation with the ICC.

The Government should urgently reform the National Security Act as per the provisions of the Interim National Constitution. I also call on the Government to provide unrestricted access for UNMIS human rights officers to national security facilities.

I would like also to urge the Sudanese authorities to ensure that detainees are not subject to ill treatment and torture during their pre-trial detention and that fair trial standards are met.

I recommend that the Humanitarian Voluntary Work Act, the Provisional Order on the People's Armed Forces Act 1986 as well as the Press Act are revised in conformity with the Interim National Constitution.

I recommend that relocations of IDP camps when justified be carried out in a dignified and humane manner, with sufficient notice to the residents and to relocation site which fulfils minimum habitable standards.

I strongly encourage the establishment of an independent national human rights commission in conformity with the Paris Principles.

I call on the Government for encourage and facilitate larger participation of women in the institutions responsible for the implementation of the CPA, particularly in decision-making bodies.

I request the Government of National Unity and the Government of Southern Sudan to develop measures to end abduction and prosecute abductors that take account of the changes brought by the peace process and propose that CEAWC be replaced by a body more suited to the period of peace.

To the international community

I would also like to encourage UNMIS and the international community to support the Government in the implementation of the Comprehensive Peace Agreement (CPA) and the harmonization of the national legislation with international new Interim National Constitution. In this regard I call on the international community to honour their pledges at the Oslo Conference as well as in other bilateral agreements. The international community should provide assistance and monitor the progress made in the implementation of the CPA.

I would like to encourage UNMIS, the humanitarian agencies and non-governmental organizations, as well as by the African Union to strengthen their presence aimed at promoting and protecting human rights throughout the Sudan, and particularly in Southern and Eastern Sudan where their presence is still insufficient.

I encourage the international community to assist the Government of the Sudan in its disarmament, demobilisation and reintegration programmes.

I recommend that the international community provides the necessary technical support, resources and equipment to the African Union Mission in the Sudan (AMIS) to ensure effective protection of civilians, in particular those in IDP camps.

I urge the international community to strengthen further the technical assistance including capacity building, training and human rights awareness activities provided to national institutions and civil society.

Mr. President, Excellencies, Ladies and Gentlemen,

I thank you for your attention.