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SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN THE SUDAN

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Mr. President,  
Excellencies,  
Ladies and Gentlemen,

It is an honor for me to present before you a brief account of my observations and recommendations with regard to the human rights situation in the Sudan.

This report is based on my fourth visit to Sudan since my appointment as Special Rapporteur. The present report covers the period 1 August 2006 to 31 August 2007, and findings of my most recent visit from 25 of July to 2 August 2007. I would like to thank the Government of National Unity, the Advisory Council for Human Rights and the Government of Southern Sudan for facilitating my visit to the country. I would also like to thank UNMIS Human Rights for their excellent support.

I visited Khartoum, El Fasher, Juba, Wau and Kadugli and held extensive consultations with officials of the Government of National Unity, the Government of Southern Sudan, the Southern Sudan Human Rights Commission, civil society representatives and UN staff and received information about the human rights situation in the country.

During the period under review, the Human Rights Council expressed its serious concerns with regards to the human rights situation in Darfur and undertook a number of initiatives including a special session of the council on Darfur, the appointment of the High Level Mission to Darfur, and more recently a group of experts on Darfur to work with the government of Sudan to foster effective implementation of previous human rights recommendations. In light of my participation in these bodies and emphasis of the council on the situation in Darfur, I decided to focus my mission on the other parts of the country.

The protection of human rights in Sudan continues to be an enormous challenge. Some slow progress has been made during the reporting period including the signing of the Convention on the Rights on Persons with Disabilities, a new national policy for women's empowerment, the Khartoum state guidelines on relocation based on international standards, drafting of new bills and the issuance of orders. However, these positive steps have not yet had a tangible effect on the human rights situation on the ground. Many of the concerns highlighted in last year's report remain the same one year later.

Darfur remains a region where gross violations of human rights are perpetrated by all parties. Arbitrary arrest, torture, illegal taxation, extortion, forced displacement, killing, and sexual violence continue.

The conflict in Darfur has no military solution. Political solutions are urgently needed. Some progress has occurred in Sudan on the political front, although these potential advances largely remain unrealized. I welcome the agreement between the Government of the Sudan and the UN/AU and the adoption of the United Nations Security Council Resolution 1769 on 31 July 2007, which authorized the deployment of the hybrid operation and should help the protection of human rights of civilians. However, the protection of civilians should remain the state's primary responsibility and is still insufficient.

I was happy to see the Comprehensive Peace Agreement (CPA) was in place at the time of my trip, and I hope it will remain. However, it is hampered by poor implementation. Significant portions of the CPA that would improve the human rights situation have not been implemented. As a result, the country's legal and institutional human rights framework remains weak. The National Human Rights Commission has not yet been established. Some sixty laws need to be reformed in order to comply with the Interim National Constitution and international standards. The process should be open, inclusive and participatory. The lack of implementation has caused disappointment and reduced confidence between the parties and the people in Sudan.

The GNU informed me that a number of bills have been prepared including a draft Armed Forces Act, which reportedly contains a chapter on IHL and affirms the individual responsibility for crimes committed by members of the Armed forces. The other draft bills include a Police Act, a National Security and Intelligence Act and an Elections Act. These bills have been presented either to the council of ministers or to the National Assembly.

Without adequate resources and equipment, legal reform, law enforcement, the administration of justice in southern Sudan is very weak. While the appointments of a Chief Justice, his deputy and more than 200 legal counselors and prosecutors for southern state are positive moves, the legal apparatus has yet to reach the remote areas. There are no facilities in place to promote the rule of law.

Another positive act by the GoSS was the establishment a Human Rights Commission (HRC). However, the functioning of the commission has been delayed because the HRC Act has not yet been passed by the Assembly. There are some concerns about whether the investigation powers of the human

rights commission will fully comply with the Paris principles. The establishment of an independent human rights commission is essential to the protection and promotion of the human rights in the Sudan.

In March 2006, the ACHR informed me that it had recommended that Sudan should ratify the Convention Against Torture and it was considering ratification of the Convention on Elimination of All Forms of Discrimination Against Women. Regrettably, neither instrument has been ratified.

I mentioned the situation in Eastern Sudan in my report last year and remain concerned that the victims of the massacre in Port Sudan have still not received justice. On 18 February 2005 the Government established a committee of investigation. However, the findings have still not been published.

In the transitional areas, the administration of justice faces enormous challenges because two parallel judicial systems are in place. In addition, the division of roles between the police and the military remains unclear as SPLA and SAF continue to conduct patrols and arrest civilians. Clashes over land, water points and cattle have resulted in numerous killings and large displacement of civilian population. The demarcation of the border will be paramount to determine the status of this region and the future livelihoods of its populations.

Despite the potential for democratic transition and optimism created by the Interim National Constitution (INC) and Bill of Rights, violations of civil and political rights continue. A major case of concern is the tense situation in the area of the dams in Kajbar, Merowe and Amri in Northern Sudan where civilians were killed and arrested. The investigation of the incidents has not been transparent. The perpetrators have not been brought to justice.

Human rights continue to be violated. Fundamental rights, including freedoms of expression and association, are being violated by the national security forces. In clear violation of the CPA and INC, political opposition parties, journalists, students, IDP's, and tribal leaders continue to be targeted for their activities. I received credible reports that the security apparatus continues to arbitrarily arrest and detain civilians. Detainees are often subjected to torture and ill treatment. They are denied access to legal services. These violations have been documented in Khartoum, Darfur, northern Sudan and southern Sudan.

The advancement of economic, social and cultural rights is going at an extremely slow pace. Widespread poverty and marginalization continue to aggravate the political unrest throughout the country. This situation seriously inhibits the delivery of basic social services such as health, education and water, especially in southern Sudan.

Justice and accountability are another challenge. Several investigative committees have been formed following allegations of serious human rights violations in the north and in southern Sudan. However, the findings of the investigation have not been made public. According to the information received, no perpetrators have been prosecuted.

Recommendations:

*The Government of National Unity:*

1-Reform the laws according to the CPA, the Interim National Constitution, and international human rights standards. Immediate attention should be given to the National Security Act, Armed Forces Act, Police Act, Election Act, and other required laws. Consultations should be held with relevant groups, including the women's groups, to ensure that women's rights are granted.

2-Accelerate the implementation of CPA and establish the remaining commissions that are part of the CPA such as the Electoral Commission, Land Commission, and, especially, the National Human Rights Commission. The Human Rights Commissions mandate must comply with the Paris principles, guarantee its independence, and provide sufficient funds to ensure its effectiveness.

3- Foster the disarmament, demobilization, and reintegration of the militia and other armed groups all over Sudan in order to make the situation conducive for the people to be able to exercise their political rights for the upcoming election.

4- Protect the physical security and freedom of movement in the country by putting in place credible, capable and professional police forces, sufficient prosecutors and strong judiciary, ensure strict vetting procedures in accordance with international human rights law to ensure that those responsible for war crimes and crimes against humanity are not put in position of power.

5-Investigate all reports of human rights violations with transparency, make the reports of the investigative committee public, and bring perpetrators to justice to stop the culture of impunity and promote the rule of law.

6-Ensure the physical integrity and human rights of all detainees and ensure the access to the legal aid, medical facilities and relatives. Special attention should be paid to the women and children who are in detention.

7-Fully cooperate with ICC and international community to arrest the people who are accused of war crimes and crimes against humanity

8-Guarantee the enjoyment of all the freedoms by journalists, human rights defenders community activists, and members of the political parties.

6-Ratify the remaining international instruments for the protection of human rights, including the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Protection of the Rights of All Migrant Workers and Their Families, and the ICC.

*The Warring Factions:*

- 1-Respect their obligations under international human rights law and international humanitarian law, in particular with regard to the protection of civilians.
- 2-Facilitate the provision of humanitarian assistance by the UN and other agencies to the people in need.
- 3-Fully cooperate with the UN/AU peacekeeping forces on the ground to protect civilian and support the political process for peaceful solution to the Darfur conflict.

*The Government of Southern Sudan:*

- 1-Accelerate the process of legal reform according to the CPA, the South Sudan Constitution and international standards of human rights. Ensure the law enforcement officials are given training and resources for their effective functioning.
- 2- Accelerate the disarmament, demobilization and reintegration (DDR) of ex-combatants and OAG's in order to ensure the security of the citizens in the Southern Sudan.
- 3-Prevent SPLA interference in the administration of justice, especially in police and judiciary, and provide training according to their required job.
- 4-Accelerate development by providing social services to the people, especially the returnees and other vulnerable groups. Create job opportunities for the young and for women as heads of household.

5- While I appreciate the establishment of the human rights commission in Southern Sudan, I would like to stress the importance of passing the act of the Human Rights Commission according to the Paris principles and with sufficient funds for effective functioning.

*The International Community:*

1- Continue to provide technical and financial support to the Government of National Unity and to the government of Southern Sudan to implement the CPA and build democratic national institutions for protection of human rights and equality of the citizens.

2- Support the UN resolution AU/UN hybrid force politically and financially to enable the peacekeeping to protect the human rights of civilians in Darfur and stop the culture of impunity.

3- Support and facilitate the political process to end the conflict in Darfur, without allowing victims of violations of human rights to be victimized once again in the name of security or peace.

4- Support the Government of National Unity and the Government of Southern Sudan to build the rule of law and promote the democratic transition based on equality and human rights.

*The UN:*

- 1- The UN should continue to take a more proactive role for the protection of civilians and respect for human rights. The mandate of the peace keeping in the Sudan should be widely disseminated.
- 2- Advocate for accountability and justice in Sudan. Ensure that there is no amnesty for war crimes and crimes against humanity.
- 3- Appoint a more senior level human rights officer on the ground to help with the establishment and training of legal system in Sudan. Special attention should be paid to Southern Sudan.
- 4- Special support by OHCHR for the capacity building of the Human Rights Commission of Southern Sudan.

Mr. President;

To conclude, it is the responsibility of all of us to help the people of Sudan to achieve sustainable peace. Peace will not be sustainable without accountability, justice and respect for human rights.