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**Statement by  
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in the Sudan**

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**ONLY THE TEXT IN BOLD WILL BE READ**

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

**It is an honour for me to address the Human Rights Council in my capacity as Special Rapporteur on the human rights situation in the Sudan.**

**Since my appointment in August 2005 I have conducted three missions to the Sudan to gather information about the situation and action taken by the Government to promote and protect human rights.**

**My first visit was in October 2005 following which I delivered an oral statement at the sixtieth session of the General Assembly. The report you have before you was written following that visit and still remains pertinent today (E/CN.4/2006/111).**

**I returned to Sudan in February and again in August 2006 to update my findings and will present my second report to the General Assembly in October.**

**I have visited Khartoum, Juba and the three states of Darfur and met with a wide range of interlocutors including senior government officials, representatives of the civil society, members of the criminal justice system, NGO's, internally displaced persons, and representatives of the African Union and UNMIS.**

**I would like to take this opportunity to thank the Government of National Unity and the Government of Southern Sudan for their full cooperation with my visits. Special thanks to the Advisory Council for Human Rights who were my main counterpart and organized my programme. I would also like to thank UNMIS for providing me with support.**

**I highly commend the work done by human rights defenders, UNMIS, humanitarian agencies and the African Union to protect human rights and fundamental freedoms in the Sudan.**

**Mr. President**

**Sudan is a vast country with a complex history and a diverse population. Following the signing of the Comprehensive Peace Agreement in January 2005 the Sudan embarked on a difficult path of peace building, reconciliation and reconstruction. In 2005 a new Government of National Unity was formed and a new interim national constitution adopted containing a bill of rights. Later in the year the Southern Sudan Legislative Assembly was formed. The Interim Constitution of Southern Sudan was adopted in December 2005. This put in place a framework for the protection of human rights.**

In May 2006 the Government and SLA Minawi faction signed the Darfur Peace Agreement bringing to end hostilities between the two signatories. Minawi was appointed as Senior Assistant to the President and a number of detainees held in connection with the Darfur conflict were released. A plan for disarmament of janjaweed was formulated and one disarmament exercise conducted in South Darfur. Peace talks are also underway to resolve the conflict in Eastern Sudan.

However, despite these positive developments I was informed of delays in the implementation of the Comprehensive Peace Agreement (CPA). In particular with regard to the process of harmonizing national legislation with the Interim National Constitution, which recognizes international human rights standards as an integral part.

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 certain groups continue and basic rights such as access to food, shelter, health and education are not guaranteed.

Mr. President

As time is short I will only highlight some of my observations and recommendations.

Right to life, liberty and security of the person

The right to life continues to be violated, in particular in Darfur. Killings and harassment of civilians in villages and IDP camps continues. The perpetrators are government forces, militia, and other armed groups such as rebel factions and Chadian Opposition.

The Government has failed in its responsibility to protect the population from attacks in areas where it has control.

In rebel held areas the military offensive conducted by the Government against rebels, breaches of the ceasefire agreements by all parties and violations of obligations under international humanitarian law has exacerbated the suffering. Many civilians have been killed and displaced. Moreover, due to the conflict many parts of Darfur are now inaccessible for humanitarian relief workers leaving communities without vital food and health aid resulting in further fatalities.

In Southern Sudan, outside the towns insecurity continues due to absence of the rule of law and presence of different armed groups/militias. The Lord's Resistance Army

has been responsible for attacks on civilians. In this context I welcome the recent agreement between the GoSS and the Ugandan government and LRA which will hopefully alleviate the threat.

#### Rape and sexual violence

**Rape and sexual violence against women continues, in particular in Darfur. The majority of the victims of sexual violence are women and girls who live in IDP camps.** Many of these attacks take place when women and girls 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. The perpetrators are described as armed men wearing khaki uniforms or militia.

Following the DPA gender based violence and rape is said to have increased in some areas due to the increased fighting, targeting of women perceived of being associated with the opposition and the absence of AU firewood patrols.

**In November 2005 the Government publicly acknowledged the existence of sexual violence in Darfur although it contested the magnitude of the problem. Since then it has taken some steps to tackle the issue. A plan of action for eliminating violence against women in Darfur was created and State Committees to supervise the implementation of the plan established. A Unit to combat violence against women was created under the Ministry of Justice to institutionalize efforts nationwide. The Unit established advisory units in the three Darfur States to support the work of the State Committees to combat violence against women. So far the functioning of the State Committees has been irregular. Efforts have been made to address the consequences of rape through better access to medical and psychosocial care. However less work has been done on prevention and accountability which must be made a priority. Law reform and new legislation is also required to eliminate the gaps in the legal framework for the promotion and protection of women's human rights.**

**In most cases victims and their representatives do not approach the authorities, for fear of reprisals, 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. Recently, there have been a few successful cases where perpetrators of rape were prosecuted.**

#### 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 Government of the Sudan has created numerous mechanisms to deal with the alleged crimes in Darfur however, these efforts at establishing accountability and ensuring justice and reparation for the victims of the conflict have proved inadequate. The Security Council decided to refer the case of Darfur to the ICC to ensure those responsible for war crimes and crimes against humanity are brought to justice.**

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.

On a positive note I was informed that on 26 April 2006, the remaining 10 defendants accused of an attempted coup in September 2004 were acquitted by the Special Court in Bahri, Khartoum. On returning the not guilty verdict, the trial judge accepted that the confessions had been obtained under torture and were unreliable and therefore inadmissible as evidence against the accused.

**I was informed that the judiciary in Southern Sudan is not functioning properly as they lack both human and financial resources.**

**Accountability is crucial in any peace process, as many of the key causes of the conflicts relate to perceptions of injustice and discrimination. I recommend that a mechanism for justice and reconciliation should be developed for Sudan through an inclusive dialogue with all stakeholders. The people of Sudan need to start a genuine reconciliation process in order to heal the wounds of many years of conflict and suffering.**

#### Freedom of association and freedom of expression

**The space for freedoms of expression, association and assembly is closing. In the reporting period there has been a noticeable crack down on human rights defenders, lawyers, journalists, and members of political opposition parties. This is in violation of international standards which state that everyone has the right**

**individually, or in association with others, to promote and strive for the protection and realization of human rights and fundamental freedoms.**

The new Organization of Humanitarian and Voluntary Work Act, commonly known as the NGO law, was signed into law on 16 of March 2006. There was a consultative process and the National Assembly did make some minor improvements to the bill however concerns remain. In May 2006, five NGOs submitted a petition to the Constitutional Court challenging the constitutionality of the Act stating that the Act violates the right of freedom of association enshrined in the Interim National Constitution by imposing unreasonable restrictions on the activities of NGOs. The petition cited many Articles including Article 7.1 (ministerial approval of project), 7.2 (approval of funding), 11 (renewal of license) of the Act 2006. It also states that the Act violates Article 139, 149, 195 of the INC (regarding sources of income, grants and foreign assistance for National, Southern Sudan and State Government). A Preliminary hearing was held on 6 June and the petition accepted by the Court however subsequent delays have raised concerns.

**Peaceful demonstrations have been violently dispersed and demonstrators arrested and detained.** For example, in Khartoum, on 30 August, a peaceful demonstration attended by a coalition of opposition parties, labour unions and civil society groups to protest the price increases for sugar and petrol was violently dispersed by police forces and National Security. As soon as the march began, demonstrators were almost immediately showered with tear gas. Policemen and National Security severely beat a large number of demonstrators, including women and elderly men. One person died from tear gas inhalation and several injuries were reported. At least 80 persons were arrested in the course of the incident, including at least 13 students from Khartoum universities. The majority of those arrested reported that they were harassed and severely beaten both at the time of the arrest and in police custody. On the same day, groups of students in Omdurman were dispersed by police using tear gas.

Prior to the demonstration, a series of arrests were carried out to prevent opposition leaders and others from joining the rally. On 29 August, four members of opposition parties were arrested in the evening hours. On 30 August, one of the organizers was arrested in the city centre, whilst Reserve Forces entered the University of Khartoum to stop students from participating in the demonstration. Reportedly, two lecturers and one student were arrested.

Sudan has a lively and growing independent press, but **recently there has been a wave of press censorship in Khartoum**, largely enforced by National Security, following the murder of journalist Mohammed Taha on 6 September. Four daily newspapers, Al Sudani, Al Sahafa, Al Ayaam and Ray al Saab, have borne the brunt of this censorship. All copies of Al Sudani newspaper were confiscated by National Security prior to publication during an inspection of its office in Khartoum.

**Journalists have faced harassment, suspension and arrest, particularly when reporting on human rights concerns in conflict or marginalized areas .**

**This type of censorship of the press by the government violates Article 19 of the ICCPR and Article 39 of the Interim National Constitution.**

#### Internally Displaced Persons

**Approximately 2 million internally displaced persons (IDP's) who fled their homes due to conflict now live in camps and informal settlements in and around Khartoum. These communities represent Khartoum's most marginalized populations, making them prime targets for police abuse, including extortion. When the police engage in abusive activities, these victims generally have no avenue to seek redress.**

**I would like to express my concern with incidents such as Soba in May 2005 and Dar Assalam in August 2006.**

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. Over 600 former Soba Aradi residents were arrested in the days following the riots in May 2005, they were held at various police stations and severely beaten. At least one detainee died in custody. Most of the detainees were released without charge by mid-June 2005, but some 160 remained in custody. The police also arrested one of the lawyers representing the detainees. In June and July 2005, 59 detainees were charged with rioting; 31 were convicted, including six children. The adults were sentenced to terms of imprisonment, the children to 20 lashes each.

In March 2006, the trial of the 137 defendants, all initially charged with murder, commenced. A positive development is that Khartoum Criminal Court dismissed charges against 62 of them due to lack of evidence (Article 141 Criminal Procedure Act 1991) in June and August 2006. However, it is regrettable that they were detained for one year in Kober prison and Dar El Thoba prison in overcrowded conditions

**On 16 August the demolition of homes in Dar Assalam squatter camp started. Residents reported that the forces arrived with bulldozers at 4am and started demolitions. Armed police and Special Forces with tanks and vehicles with mounted machine guns were heavily present at the site and the entire area was cordoned off. Tear gas was used, resulting in a number of injuries, some serious and four fatal, including the death of children.**

The forced relocation occurred in breach of a Memorandum of Understanding signed in January 2006 between the locality and the Committee representing Dar Assalam community. A relocation was accepted on the conditions that a suitable site was agreed on by the parties and essential services of water, education, health and security and certificate of land ownership were provided to the residents. The habitability of the new

site had been questioned on the basis of a survey indicating that the soil was polluted with waste from nearby chemical factories.

On 17 August I visited the site and verified that the camp, which housed an estimated population of 12 thousand people, had been reduced to rubble in 24 hours.

Mr. President,

#### Recommendations

Addressing the situation in Darfur is a priority. I urge all parties to cease all hostilities, comply with the peace agreements and enter into an inclusive dialogue process to resolve the conflict peacefully.

Furthermore I call on all parties to respect international humanitarian law and human rights law, in particular with regard to the protection of civilians.

The Government should facilitate the provision of humanitarian assistance and grant relief workers unimpeded access to IDPs and other communities in need.

The Janjaweed, militia and other armed groups need to be disarmed without delay. Strict vetting procedures should be put in place to ensure that those responsible for the most serious human rights and humanitarian law violations are not absorbed into the regular armed forces or given Government positions.

All reports of human rights violations should be investigated pro actively and perpetrators brought to justice to combat the culture of impunity.

The Government should strengthen its co-operation with the ICC and ensure that there is no domestic amnesty from prosecution for persons who committed war crimes and crime against humanity.

I encourage the Government to pursue the implementation of the Comprehensive Peace Agreement and the new Interim National Constitution without further delay, with a special focus on law reform. Priority should be given to the Criminal Act, Criminal Procedure Act, National Security Act, Armed Forces Act, Police Forces Act and Press and Publications Act. The bills should be submitted to the National Constitutional Review Commission. Consultations should be held with a broad spectrum of society, especially relevant professional groups, to ensure the proposed reforms effectively respond to the actual needs of victims and society in general.

I urge the Government to protect all human rights and fundamental freedoms by creating conditions in the social, economic, political and other fields, as well as legal guarantees, to ensure that all persons, individually and in association with others, are able to enjoy all those rights and freedoms in practice.



**The Government should ensure that relocations occur in a manner that respects the dignity and rights of affected people and basic social services are provided to the communities.**

**The National Human Rights Commission should be established in accordance with the Paris Principles, guaranteeing its independence with sufficient funds to ensure its effectiveness**

**The international community should provide 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.**

**The international community should continue to provide financial and technical support to the GNU and the Government of Southern Sudan to implement the CPA and build democratic national institutions for protection of human rights.**

**Finally, I call on the international community to support and facilitate an inclusive dialogue process in Darfur, and other parts of the Sudan, to address the roots of the conflict towards sustainable peace and stability.**

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

**I thank you for your attention.**