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**Human rights situations that require
the Council's attention**

Report of the independent expert on the situation of human rights in the Sudan, Mohammed Chande Othman*

Summary

The report of the independent expert on the situation of human rights in the Sudan is submitted pursuant to Human Rights Council resolution 11/10, in which the Council decided to establish the mandate of the independent expert on the human rights situation in the Sudan in accordance with the Commission on Human Rights resolution 2005/82 and Council resolutions 6/34, 6/35, 7/16 and 9/17. The present report covers the period from June 2009 to April 2010.

* Late submission.

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I. Introduction

1. In its resolution 11/10, the Human Rights Council decided to establish the mandate of the independent expert on the situation of human rights in the Sudan. It requested the mandate holder to engage with the newly created human rights forums in the Sudan as well as the human rights sections of the African Union, the United Nations Mission in the Sudan (UNMIS) and the African Union-United Nations Hybrid Operation in Darfur (UNAMID), and to report to the Council at its fourteenth session.
2. In resolution 11/10, the Council also decided that the independent expert would assume the mandate and responsibilities of the Special Rapporteur on the situation of human rights in the Sudan as previously set out in Council resolutions 6/34, 6/35, 7/16 and 9/17.
3. On 2 October 2009, the Council, at its twelfth session, appointed Mohamed Chande Othman as independent expert. On 30 December 2009, the Government of the Sudan agreed to the independent expert's request to visit the Sudan.
4. The present report covers the period from 18 June 2009 to 30 April 2010. In line with the code of conduct for special procedures mandate holders of the Council (resolutions 5/2 and 1/11), a draft of the present report was shared with the Government of the Sudan in order to provide it with an opportunity to comment on the observations and findings of the independent expert.
5. The report is based on information made available to the independent expert, as well as information received during his visit to the Sudan from 23 January to 11 February 2010.
6. The independent expert wishes to thank the Government of National Unity, the Government of South Sudan, UNMIS, UNAMID and the United Nations agencies in the Sudan for their cooperation and the invaluable assistance provided. A word of appreciation must also be extended to members of the diplomatic community in Khartoum with whom the independent expert was able to exchange views on the human rights situation in the Sudan.

II. General human rights situation

7. The Government has made notable progress in institutional and legislative reform in accordance with the Comprehensive Peace Agreement and the Interim National Constitution of 2005, including the passage of new laws, such as the Child Act, the Press and Printed Materials Act, the Southern Sudan Referendum Act, the Popular Consultation for Blue Nile and South Kordofan States Act and the Abyei Referendum Act. However, a number of laws still exist with provisions that frustrate the full realization of human rights.
8. Some concrete steps have also been taken by the Government to implement the recommendations of the Group of Experts on Darfur, including by ensuring the deployment of more police personnel in Darfur. In collaboration with the United Nations and other international partners, the police, prosecutors, prison staff and other law enforcement agencies have received training and awareness-raising on human rights and international humanitarian law through the assistance of a technical cooperation project funded by the Government of Switzerland.
9. South Sudan continues to be plagued by increasing tribal violence, with attendant loss of life, especially among women and children. Tensions between ethnic groups, competition over resources, resistance to disarmament and occasional acts of indiscipline by armed State agents, such as members of the Sudan People's Liberation Army (SPLA) are the most common causes of the violence in the South. Also underlying the violence is

the widespread proliferation of arms together with the increased militarization of civilian communities.

10. The situation in South Sudan has been compounded by structural weakness in the State's justice sector and capacity constraints. Serious deficiencies in justice sector institutions, including an ill-equipped and under-resourced police force, inadequate prison facilities and the near absence of basic rule of law infrastructure beyond the major urban areas continue to have a negative impact on the promotion and protection of human rights.

11. In Darfur, notwithstanding the general improvement in the security situation, banditry, criminal activities and intermittent military activities by the parties to the conflict have continued. In some areas, aerial bombardment and troop mobilization by Sudanese Armed Forces have been reported. In the context of this ongoing violence, United Nations and humanitarian personnel face significant risks to their lives. During the reporting period, a significant number of UNAMID and humanitarian staff were deliberately attacked; some were abducted and held in captivity for long periods.

12. Also in Darfur, access to justice continues to be a major challenge owing to the scarcity of law enforcement and rule of law institutions outside the main urban centres. This lack of capacity, including acute shortages of police personnel, judges and prosecutors, coupled with the lack of material resources and training within the justice sector institutions, put the formal justice sector beyond the reach of a vast number of people. Very few perpetrators have been brought to trial for crimes committed in the course of the conflict despite the Government's establishment of various mechanisms to address impunity.

A. International legal framework

13. While the Sudan is a party to several core international human rights instruments,¹ including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, it is yet to ratify other key universal human rights treaties, including the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and the Convention on the Elimination of Discrimination against Women.²

B. National framework, institutions and reforms

14. Legislative and legal reform was a visible development during the reporting period. In conformity with the Comprehensive Peace Agreement, the Southern Sudan Referendum Act was passed by the National Assembly and came into effect on 31 December 2009. The Abyei Referendum Bill and the Popular Consultation Bill for South Kordofan and Blue Nile States were also passed on 30 December 2009.

15. Another important legislation, the Child Act was passed by the National Assembly on 29 December 2009. Among its many constructive provisions, the new law defines a child as anyone who has not reached the age of 18 years and revokes "signs of maturity" as

¹ The list of instruments is available at www.ohchr.org/EN/countries/AfricanRegion/Pages/SDIndex.aspx.

² The Sudan has also ratified the Convention on the Rights of the Child and the two Optional Protocols thereto, the International Covenant on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of Persons with Disabilities, the 1949 Geneva Conventions and the two Optional Protocols thereto, and the African Charter on Human and Peoples' Rights.

a criterion for defining a child. It also raises the age of criminal responsibility from 7 to 12 years, criminalizes child exploitation and abuse and establishes a comprehensive juvenile justice system. Despite these positive reforms, the act failed to criminalize female genital mutilation.

16. On 8 June 2009, the National Assembly passed the Press and Printed Materials Act. The Act provides, among other things, for no restrictions to be imposed on press publications unless prescribed by law to protect national security, public order and health. It also allows for the right of access to information in accordance with the law. In September 2009, the President of the Republic issued a decree lifting pre-censorship of the print media. Despite these improvements, concerns remain about the extensive powers conferred on the press supervisory body and on restrictions on the press in practice.

17. In relation to children, the Government has established specialized prosecutors for children as well as child and family units as part of law enforcement agencies in the country.

18. In spite of the above-mentioned achievements, there was little progress in other areas of human rights concern. While the National Human Rights Commission Act was passed by the National Legislature in April 2009, the Government has still not appointed the members of the Commission. On 20 December, the National Assembly passed a bill repealing the National Security Forces Act of 1999 and reforming the Sudanese National Intelligence and Security Service (NISS). Under the new law, which came into effect on 28 January 2010, the NISS has powers of arrest and detention for a period of 30 days without any prosecutorial approval or judicial order. The new law also grants NISS personnel immunity from criminal prosecution and civil liability.

C. Elections

19. As a major step towards democratic transition and as envisaged in the Comprehensive Peace Agreement, the Sudan conducted general elections at all levels of government (national, State and local) from 11 to 15 April 2010. The elections marked the country's first multiparty elections in 24 years. They are expected to help transform the country into a democracy ahead of a key referendum in 2011 to determine the fate of the autonomous Southern Sudan region. Three major opposition parties from Northern Sudan, the Umma National Party, the Communist Party and the Umma Reform and Renewal Party boycotted the process, while the dominant political movement in the South, the Sudan People's Liberation Movement (SPLM) also withdrew from the national presidential elections and decided not to participate in elections in Darfur. The electoral process was beset by a range of technical, operational and logistical problems compelling the election authorities to extend the voting period for two days. Nevertheless, the voting process was largely orderly and peaceful and within a well-maintained security environment. In Darfur, where a low-level civil war rages on, voting also passed reasonably peacefully and was largely free of major incidents.

20. An important percentage of Sudanese citizens eligible to vote exercised their right to do so. Women participated fully in the process and special arrangements were made to allow prisoners, people in hospitals, people living with disabilities to participate in the process. In the final results released by the National Election Commission more than 10 days after voting closed, President Al Bashir was declared the winner in the national presidential ballot, with 68 per cent of the vote, while the President of the Government of Southern Sudan and leader of the SPLM, Salva Kiir, was declared the winner in the Southern Sudan elections, with 93 per cent of the vote.

21. Although significant progress was made in the legal framework and the institutional arrangements, needed reforms were not made with regard to a number of domestic laws necessary for the realization of civil and political rights, including reform of the NISS law, the Criminal Procedure law, the Media law and the Non-Governmental Organization Act. In Darfur, where a state of emergency continues to be in force, concerns were raised about applicable legislation, such as the 1997 Emergency and Safety Act, which allows for lawful limitations on the rights to peaceful assembly, association, freedom of expression and freedom of movement.

22. In the lead-up to the elections and during the process itself, UNMIS recorded a number of incidents where the exercise of political and civil rights and freedoms was frustrated through intimidation, harassment, arrests and detentions. In the North, there were reports of harassment of independent candidates, while in the South, similar incidents were reported about SPLM intimidation of opponents. On 7 and 14 December 2009, security forces in Omdurman broke up demonstrations organized by a coalition of political parties using tear gas and batons. About 300 people, including 8 journalists and SPLM parliamentarians, were arrested. Some reported that they were ill-treated by the police while in detention. In Darfur, UNAMID documented several cases of election-related arrests and detentions targeting prominent political figures from opposition parties, in particular the SPLM. On 7 August 2009, two members of the SPLM and two others from the People's Congress Party were arrested, allegedly for conducting political activities.

23. Concerns were also raised about the voter registration process, which was fraught with numerous irregularities including the registration of minors, impeded access to registration centres, obstruction and harassment of election monitors, the registration of security and military service members in their duty or work locations rather than their geographical constituency of residence, and the harassment and intimidation of members of opposition parties by security forces and law enforcement agencies. In the South, there were concerns about the propriety of contesting governors remaining in office during the final electoral phase and having at their disposal State assets and resources. However, viewed in its totality, it does not appear that the process was subjected to any systematic manipulation intended to force a predetermined outcome.

24. The elections were monitored by observers from the African Union, the European Union, the League of Arab States and other concerned actors. In spite of the reported flaws, such as the non-display of voters' registers in some polling stations, the mixing up of ballot papers, the shifting of polling stations and some instances of intimidation, the peaceful conclusion of the process was welcomed by some observers. Others concluded that the elections had failed to meet international standards, but nevertheless paved the way for the remaining provisions of the Comprehensive Peace Agreement to be implemented. No evidence of fraud was detected by the National Election Commission or by any of the observers. Either way, it is important for the Sudan to draw lessons from the process in order to ensure that the forthcoming referendum on Southern Sudan does not suffer the same technical and logistical flaws. It is equally essential that the Government take concrete measures to address the current legal environment, which infringes on the exercise of political rights and freedoms, and to ensure that legitimate electoral grievances and disputes are addressed impartially and effectively through appropriate institutions.

D. Human rights forums

25. On 2 February 2010, the independent expert participated in the fourth UNMIS/Government of the Sudan Human Rights Forum held in Khartoum. The forum, co-chaired by the Sudan Advisory Council on Human Rights and UNMIS, was attended by representatives of the Government, the United Nations, non-governmental organizations

and members of the diplomatic community. The independent expert also participated in the third meeting of the Darfur Human Rights Forum, held in El Fasher on 9 February 2010. Both forums provide a platform for dialogue and follow-up on human rights issues between the Government, the United Nations and other stakeholders; donor countries participate as observers. During both meetings, the expert noted the Human Rights Council's recognition of the forums as a mechanism for the protection and promotion of human rights in the Sudan. Given their composition and terms of reference, as noted by the Council in paragraph 13 of resolution 11/10, the forums serve as a useful mechanism for the exchange of information and dialogue on human rights concerns. Put to maximum use, it has the potential to become a venue for continued engagement and coordination of initiatives between the Government of National Unity and all other stakeholders.

26. To enhance the participation of local authorities and to strengthen the linkage between central and local authorities, stakeholders in the Darfur Human Rights Forum agreed to establish subforums in the three Darfur States. To this end, the governors of West and North Darfur have established subforums in their respective States. The independent expert attended a meeting of the West Darfur subforum while visiting El Geneina on 7 February 2010. Plans are ongoing to establish a subforum for South Darfur State as well.

III. Northern Sudan

27. On 20 February 2010, following the signing of an agreement between the Government of National Unity and the Darfur rebel group, the Justice and Equality Movement (JEM), in Ndjamena, the President of the Sudan announced that he would commute the sentences of 106 men, who had been convicted by an anti-terrorism court for their involvement in the JEM attack of 10 May 2008 on Omdurman. Consistent with that announcement, on 24 February 2010, the Government released 57 people, 50 of whom had been sentenced to death. One of the men died in detention before the Government pledged to release them. Most of the men claimed that they had only been granted access to lawyers at the start of their trial, four months after being arrested. Furthermore, it was alleged that the confessions registered during pretrial detention, which formed a significant basis for their convictions, had been extracted under duress and torture. The courts did not order any investigations into these allegations. Eight minors also convicted and sentenced to death by the court for offences in connection with the same incident remain in jail, despite the assurances made by the Minister for Justice to the Special Representative Secretary-General for Children and Armed Conflict that they would not be executed.

28. On 14 January 2010, 6 men accused of killing 13 policemen during riots in a suburb of Khartoum in 2005 were executed in spite of concerns raised about lack of due process in the trial proceedings. The Government claimed that the appeals process had been exhausted and relatives of the accused failed to persuade the victims' families to accept *dia* ("blood money") as an alternative to the executions. According to information received, the six men had complained that they did not have access to counsel for five months following their arrest and detention, during which time confessions were obtained from them under torture. The executions went ahead in spite of urgent appeals and a request for a stay of execution from the Special Representative of the Secretary-General for the Sudan and three Special Rapporteurs.

29. In Khartoum, ongoing violations stemming from the uneven application of public order laws remain a major concern. At the core of the regime is article 152 of the Criminal Act of 1991, which criminalizes undefined "indecent and immoral acts" and recommends corporal punishment. The Public Order Police most frequently apply this provision to and carry out arrests of women, many of whom are not Muslims, regardless of the Comprehensive Peace Agreement and the prohibition by the Interim National Constitution

of the application of sharia laws to non-Muslims. On 3 July 2009, the Public Order Police arrested 13 Muslim and non-Muslim women from a privately-owned restaurant and charged them with “indecent dressing”. Some of the women were allegedly slapped and harassed. A judge in a Public Order Court found most of them guilty and sentenced them to lashing and the payment of fines or, in the alternative, imprisonment. On 18 November 2009, a 16 year old non-Muslim Sudanese girl was sentenced by a Public Order Court to 50 lashes for “indecent dressing” for having worn a skirt and blouse.

IV. Southern Sudan

30. The independent expert visited Juba, Wau and Aweil, respectively in Central Equatoria, Western Bahr el Gazal and Northern Barh el Ghazel States from 20 to 30 January 2010.

A. Inter-communal violence

31. In Southern Sudan, civilians continue to lose their lives in inter-tribal violence. The violence has been mostly fuelled by old unresolved conflicts, competition for grazing land and pasture, water resources and cattle rustling. In recent times, the motive for the attacks has been changing from traditional cattle rustling to organized cattle banditry and laundering. It is estimated that at least 2,500 people have lost their lives in these conflicts. On 20 September, Lou Nuer tribesmen encircled the Dinka village of Duk Padiet in Jonglei State and killed at least 70 of the villagers. Also killed in the same incident were 11 SPLM soldiers, 13 NISS personnel and 4 Southern Sudan Police Service (SSPS) personnel. On 16 and 17 November 2009, armed men from the Mundari tribe launched two concerted attacks on areas inhabited by the Aliab tribes of Awerial County, Lake State, killing at least 50 people. Between December 2009 and January 2010, a series of attacks allegedly carried out by Nuer tribesman led to the killing of 31 people and the wounding of 19 others in Tonj North and Gogrial East Counties, Warrap State. Fighting between Nuer and Dinka ethnic groups from 15 to 18 January in Fangak County also left 42 people dead and 25 wounded. In February 2010, 20 civilians, including a county court judge, were killed and 30 others injured in violence between security forces and armed civilians in Cuebiet, Lake State.

32. A very disturbing feature of the above conflicts is the targeting of women and children, in particular the abduction of children. More than 200 children have been abducted in Jonglei State since January 2009. In August 2009, the police, for the first time, arrested suspected child abductors in Jonglei and rescued 12 children from captivity.

33. The Government of South Sudan and State authorities, with the support of the United Nations, have actively promoted peace and reconciliation efforts between communities involved in inter-tribal conflicts. In Aweil State, authorities convened several peace conferences between the Dinka and Misseriyah tribes, which have in a way reduced incidents of violence. In spite of these efforts, however, there continues to be abundant availability of small conventional arms in the hands of the civilian population, which has helped fuel the violence. The attempt by the Government of South Sudan to disarm the civilian population has been met with fierce resistance from local communities, who claim that the Government does not have the adequate police and security apparatus to protect them in the event of attacks.

34. While the SPLA and the SSPS have been responsible for security in South Sudan since the signing of the Comprehensive Peace Agreement, the Government of South Sudan has not put in place an effective mechanism that fully guarantees the protection and security of the population. Critical in this regard is the need to establish and strengthen justice and

accountability mechanisms. The security forces have been slow to respond effectively to reports of threats of imminent violence and to put an end to the inter-tribal suspicions that underlie the violence. The capacity of the SSPS as a law enforcement authority is weak, composed of 28,000 police officers, many of whom are illiterate or have no formal education. The force is also ill-equipped and has a physical presence in about only 110 police stations; many communities in Southern Sudan therefore do not benefit from any security protection. This, together with the lack of police investigation skills and knowledge of criminal procedures, has resulted in cases being poorly investigated and suspects detained for long periods without being charged with an offence.

B. Abuses by the Sudan People's Liberation Army

35. The limited capacity of the SSPS has led to the usurpation of police powers by the SPLA. These interventions very often result in serious human rights abuses by SPLA soldiers. During the elections, the SPLA harassed, threatened and, in some cases, arbitrarily arrested and detained opposition political party members as well as National Election Commission officials. Four members of the SPLM-DC, a rival political party, were arrested in September 2009, and are still detained in SPLA barracks with no charges brought against them. The SPLA is also known to have interfered in law enforcement, such as in the execution of arrest warrants and the Government's civilian disarmament exercises. On 9 December, authorities in Upper Nile State confirmed that civilians had been mistreated and tortured by SPLA men during a disarmament exercise in Akoka County from 4 to 6 December 2009. A local chief and a young girl had their arms broken and women and children were reportedly immersed in water to extract confessions. On 2 October 2009, an argument between soldiers escalated into a gun fight between two SPLA units in which heavy machine guns and vehicles with mounted artillery were used. At least 20 people, including 6 civilians, were killed. Ten other civilians were wounded.

C. Attacks by the Lord's Resistance Army

36. Attacks by the Lord's Resistance Army (LRA) continued to be reported in South Sudan throughout 2009, most recently in Western Bahr el Ghazal, as LRA elements moved north from Eastern Equatoria State. On 15 December, a suspected LRA attack was reported in Bor Medina in Western Bahr el Ghazal State, in which 1 person was allegedly killed and 13 people abducted. A second attempted attack on 17 December in the same area was repelled by the SPLA. Another LRA attack on 12 August 2009 in Ezo, Western Equatoria, resulted in 17 people being abducted. On 24 March 2010, UNMIS interviewed three children in Yambio (two girls, aged 15 and 13 years, and a 13 year old boy), who escaped from LRA captivity. The girls reported being taken as "wives" and repeatedly raped during their captivity. In spite of these attacks, it is thought that the LRA is now a weakened force in South Sudan.

D. Southern Sudan Human Rights Commission

37. On 27 January 2010, the independent expert met in Juba with the Chairperson and members of the Southern Sudan Human Rights Commission, a relatively new institution established in 2009. At 31 December 2009, it was present in all but 2 of the 10 States of Southern Sudan. The main focus of its activities has been human rights awareness campaigns, which have targeted local community leaders. The Commission has also published and disseminated educational materials on human rights for the general public. The challenges faced by the Commission include institutional capacity-building, financial

resource mobilization and the necessity to reach out to and work with civil society organizations.

E. Administration of justice

38. The administration of justice in Southern Sudan is still weak. This is understandable given the long years of armed conflict and the fact that the new Government has just commenced institutional-building efforts. The judiciary is only present in the State capitals, with little or no presence in the counties. Courts are ill-equipped, poorly staffed and under-resourced in all of Southern Sudan. The introduction of mobile courts in States such as Lake and Northern Bahr el Ghazal has helped to increase access to justice, and needs to be replicated in other States.

39. The majority of the population of Southern Sudan rely on traditional courts, which dispense justice through customary norms and practices. However, the handling of serious criminal offences by the traditional courts often leads to human rights violations. Defendants appearing before the traditional courts do not have legal representation and there is no appeal process in place. Furthermore, the courts are presided over by people with no legal background and skills to understand the constituent elements of serious crimes. In addition, the traditional courts do not always respect women's rights. The catalogue of human rights violations that occur in these courts include the imprisonment of women for refusing forced marriages arranged by parents.

F. Legal aid

40. The vast majority of prisoners, including those on death row, do not have access to legal representation or aid. In Juba Central Prison, none of the 45 prisoners currently on death row had been informed of their right to free legal assistance. Only 5 out of 45 benefited from legal assistance during their trial. Twenty of them were able to appeal their sentences, mostly through the assistance of prison officers. In spite of these gaps in the legal system which infringe on the right of defendants to a fair trial, the courts have continued to impose the death penalty and executions have continued unabated. Five executions were carried out in Wau and another two in Juba in November 2009. Currently, more than 100 prisoners in Juba, Wau and Malakal are awaiting execution. Few of them benefited from legal assistance during their trial, and most were not able to appeal their sentences for the same reasons. The Ministry of Legal Affairs and Constitutional Development has a legal aid department present in all 10 States, but its services are more theoretical than real.

G. Prisons and the treatment of prisoners

41. The independent expert visited prisons in Juba, Aweil and Wau. In all cases, the facilities were overcrowded. In Juba Central Prison, more than 957 inmates were being held in a facility intended for 500 inmates. It was noted that some pretrial detainees had been in custody for between one and two years awaiting trial and were being held in the same cells as convicted prisoners. There is no mental hospital in the whole of South Sudan. Instead, the mentally disturbed are incarcerated in prisons for their own security and for the safety of the communities. As at January 2010, a total of 73 mentally disturbed people were being held in various prisons in South Sudan.

H. Children associated with armed conflict

42. The situation of children associated with armed conflict remains precarious in certain areas and localities. From a socio-economic point of view, children find it more attractive to be associated with the military than to face unemployment, marginalization or exclusion, particularly in urban areas. In Southern Sudan, a substantial number of demobilized children often returned of their own accord to the army barracks. The integration of children into society as an aspect of the demobilization and integration exercise has not been fully successful because incentives are rarely provided in the programmes to entice children away from the military.

I. Economic, social and cultural rights

43. The impoverishment of Southern Sudan as a direct consequence of years of armed conflict continues to have an impact on the enjoyment of human rights. Well-resourced government institutions responsible for delivering basic social services such as health care, basic education and housing are either not operational or non-existent. Food and water shortages continue to affect whole communities on a daily basis, and many people have no access to basic health and sanitation facilities. Years of prolonged fighting have created a whole generation of youths with little or no education; for example, only one in every five school-age child attends school in Warrap State. In Northern Bahr el Ghazal, some schools are located in temporary buildings, and classes sometimes are conducted under trees. Many teachers are untrained, and some have not even completed basic education. Girls are often prevented from attending school because of domestic responsibilities.

V. Transitional areas: Abyei

44. The independent expert visited Abyei from 30 January to 1 February 2010. The enactment of the Abyei Area Referendum Act is expected to pave the way for the residents of Abyei to determine their future administrative status by voting either (a) to maintain their status as a special administrative district in Northern Sudan; or (b) to be part of Bahr el Ghazal in Southern Sudan. In spite of provisions made in the Constitution, there is no formal judiciary in Abyei. Justice continues to be dispensed by traditional courts, which often operate without supervision from a higher judiciary authority. The traditional courts have also tried serious cases, including murder and rape, which are not within their jurisdiction.

45. The traditional courts unchallenged application of traditional beliefs, as opposed to an established penal code, affects women more than any other group. The decisions of the courts are plagued in many instances by blatant discrimination against women. For example, on 9 November 2009, a traditional court in Abyei sentenced a woman to eight months' imprisonment or a 400 Sudanese pound fine for "showing disrespect to her husband in public". In another case, a court in Agok ordered the arrest of a woman and her husband of 10 years on adultery charges. Although the woman's previous husband had died many years earlier, his brother managed to open a police case against her, arguing that she belonged to him by inheritance under Dinka custom. The case was only dismissed following the intervention of UNMIS human rights monitors. Despite the inherent usefulness of traditional courts in terms of access to justice to a large segment of the population, urgent reform should be seriously considered by the Governments of National Unity and of Southern Sudan, including the possibility of an appeal process and other procedures aimed at ensuring the guarantees of fair trial and due process.

VI. Darfur

A. Security and political developments

46. The conflict and political dynamics in Darfur have changed considerably in the past few years, even as the violence associated with the insurgency and counter-insurgency, which peaked in 2004, has abated considerably. Today, the fighting between the Government of the Sudan and its allied militia groups against armed opposition movements is not the only source of insecurity in Darfur. The conflict is characterized by several distinct patterns of violence, including armed hostilities, acts of banditry and criminality, direct and indiscriminate attacks against civilians by all parties and intertribal fighting. After more than seven years of conflict, armed men on all sides are benefiting from the near total collapse of law and order in certain areas of Darfur and a lack of response by local governance structures, to directly and indiscriminately attack civilians, loot the livestock of vulnerable people and prey on humanitarian personnel and their assets.

47. Notwithstanding the decrease in violence, nearly 2 million internally displaced persons continue to live in camps spread across the three States of Darfur. These camps have become crowded and volatile, with many uncontrolled small arms, which present a danger even for those attempting to provide humanitarian services. The camp residents also face intolerable security conditions, poor living conditions with inadequate supplies of food and potable water, coupled with a lack of basic social rights, such as the right to education and shelter. In some camps, Government police are no longer allowed entry, and there is no institution entrusted with guaranteeing security and administering justice.

B. Peace process

48. Since early 2009, the joint African Union-United Nations chief mediator for Darfur has been convening talks in Doha, between the Government of the Sudan and Darfur rebel groups in an effort to reach a political settlement for the Darfur conflict. Some of the rebel movements, including the Abdul Wahid (AW) faction of the Sudan Liberation Army (SLA) have refused to participate in the peace process, and the African Union-United Nations mediation team has been making substantive efforts to unify a number of splintered rebel factions in preparation for new negotiations. As a result of the lack of readiness of the armed movements to engage fully in the process and their lack of capacity to represent the interests of all Darfurians, the mediation has also focused on enhancing civil society participation in the process. In November 2009, the mediation organized a series of meetings in Doha between the armed movements and Darfurian civil society in an effort to better represent the voices of all Darfurians in the peace process.

49. In spite of the challenges, the mediation has managed to broker two key agreements between the Government and two rebel groups. On 20 February 2010, the Government and the JEM signed a 12-point framework agreement, in which the parties agreed to a ceasefire, the release of prisoners and the opening of a new round of formal negotiations. On 18 March 2010, the Government signed another framework and ceasefire agreement with the Liberation and Justice Movement, a new umbrella group made up of several SLA factions, unified by the efforts of the United States of America and the Libyan Arab Jamahiriya.

C. Cross-border tension

50. The level of cross-border tension between Chad and the Sudan has decreased considerably when compared to previous years. On 15 January 2010, the Sudan and Chad

signed an accord in N'Djamena to secure their joint border and remove the threat posed to one another by cross-border rebel proxies operating on Sudanese and Chadian territory. The agreement, if fully implemented, could help improve the security situation in Darfur. In spite of these encouraging developments, the presence of Chadian armed opposition groups in North and West Darfur continued to threaten the local civilian population. There have been several reports of harassment, looting and destruction of property by these groups, which reportedly resulted in the displacement of civilians.

D. Returns of internally displaced persons

51. Since June 2009, there has been an increase in the number of internally displaced persons, who have returned to their localities or to their lands in comparison to 2008. While some of the returns have been seasonal for cultivation purposes, several factors may have contributed to the returns, namely an improvement in security in some areas and a reduction in food rations by the World Food Programme. While the Government has been actively promoting an agenda of permanent return, it is obvious that the ongoing conflict, general lawlessness, insecurity and lack of humanitarian access in many areas will make it difficult for the displaced to return voluntarily. Some displaced persons have complained about being subjected to undue pressure from various armed factions and government officials to return to insecure areas. Some also reported that their lands have been occupied by mostly Arab nomads and militia groups, which enjoy Government support and protection. In June 2009, UNAMID personnel visited two villages in South Darfur, Donki Dreisa and Muhajiharia, where it was reported that some 1,500 residents had returned to their homes. In both locations, the team met traditional leaders and returnees and discussed how to facilitate a secure environment for the return of internally displaced persons. During his mission to Darfur, the independent expert visited two model villages for returnees, in North and in West Darfur.

E. Violations of international humanitarian law

52. In spite of the improvement in the security situation in Darfur, military activities by the parties to the conflict continued throughout the reporting period. The security situation in certain areas of Darfur was marked by intermittent military operations between the Sudanese Armed Forces (SAF) and armed movements. Occasional sporadic fighting among the rebel movements was also reported. These clashes continue to result in civilian casualties, the destruction of civilian properties and displacements owing to the continued failure of the warring factions to distinguish between combatants and civilians during armed confrontations.

53. In September 2009, UNAMID received reports of fighting between the Government and Sudan Liberation Movement/Abdul Wahid (SLA/AW) forces in Korma, North Darfur. Following intermittent clashes, including heavy fighting on 6 September, the SLA/AW withdrew from Korma. Information gathered by UNAMID during its mission there on 29 September indicated that 13 civilians were killed in the clashes and approximately 31,000 displaced to nearby villages. UNAMID also observed extensive looting of Korma town and surrounding villages and received reports of sexual violence and other human rights violations.

54. In Yarra, South Darfur, fighting between two Government paramilitary forces, the Popular Defence Forces (PDF) and the Border Intelligence Guards (BIG), resulted in the forced displacement of a number of civilians and serious human rights violations, including reported killings. The fighting broke out on 15 September 2009 following the arrest of a PDF member by BIG soldiers. In Mawu, North Darfur, reports were received of alleged

airstrikes and ground attacks by the SAF supported by armed militia groups on 29 September. A UNAMID assessment mission to the area reported that Government planes dropped bombs on the western part of the village, destroying more than 30 dwellings. The bombings appeared to be indiscriminate as they failed to distinguish between military and civilian targets.

55. On 25 November 2009, the Government Central Reserve Police Force and the SAF carried out an attack on two villages near Malha, North Darfur, in apparent retaliation for a previous attack carried out by an unknown armed group on a Government convoy. Eyewitnesses reported looting of shops and the destruction of a water pump. In Western Darfur, there were reports of clashes between the JEM and Government forces from 2 to 8 January 2010 near Silea. No casualties were reported.

56. Tribal clashes stemming from resource-related disputes, particularly in North and South Darfur, continue to affect the civilian population. In Shangil Tobayi, North Darfur, ongoing fighting between members of the Birgid and Zaghawa tribes from September to October 2009 resulted in more than 20 civilian deaths, among them women and children. The Zaghawas were reportedly supported by members of the Sudan Liberation Army/Minni Minnawi (SLA/MM), while the Birgid received some support from the SLA Free Will and Government forces. In the Kass locality of South Darfur, dozens of people were killed when fighting broke out on 20 and 25 March 2010 between the Rezeigat Abala and the Misseriya Baggarat Arab tribes. The two groups have had long-running feuds over rights to natural resources, including water and land. At least 13 people were killed and many civilians were displaced. In Al Ban Jadid, north of Nyala, South Darfur, more than 50 civilians were killed and dozens wounded in renewed clashes between the Rezeigat and al-Saada tribes. The clashes over cattle rustling broke out on 20 April 2010 and reportedly involved the use of heavy weapons. Both sides reportedly suffered heavy casualties.

57. During the reporting period, persistent attacks were conducted against humanitarian workers and UNAMID staff, including abductions of international aid workers and armed ambushes against peacekeepers. A total of 111 United Nations vehicles were carjacked in 2009. These incidents underscore the extremely difficult and volatile condition in which UNAMID and other actors on the ground are implementing their respective mandates. They also reflect the continued pattern of lawlessness and the corresponding failure of the State to provide security in the region. In Kutum, North Darfur, two female staff members of international non-governmental organizations were kidnapped by unidentified gunmen in July 2009 and released in mid-October. In August 2009, two UNAMID international civilian staff members were abducted from their residence in Zalingei, West Darfur, by unidentified gunmen. The two were held in captivity for more than 100 days until their release in December 2009. An international employee of the International Committee of the Red Cross was released on 18 March 2010 after being abducted in El Geneina and held in captivity for a total of 147 days. On 15 April 2010, four peacekeepers were forcefully taken outside their team site in Nyala, South Darfur, by unidentified armed men. The four were released unharmed on 26 April.

58. UNAMID personnel were also targeted by direct attacks on five occasions during the reporting period, resulting in the death of six peacekeepers. On 29 June 2009, a group of unidentified armed men attacked a UNAMID police convoy in El Geneina, firing several shots at the convoy and injuring the commander of the unit. On 26 August, a UNAMID patrol team of three vehicles and one armoured personnel carrier was attacked approximately 3 kilometres away from the Fataborno camp for internally displaced persons in North Darfur. On 28 September, one peacekeeper died and two others were seriously injured in an ambush by unknown armed men on a UNAMID convoy carrying civilian, police and military staff members in El Geneina. On 4 and 5 December 2009, five UNAMID peacekeepers were killed and four seriously injured in two separate ambushes in

North Darfur by unidentified armed men. In the first incident, a military convoy protecting a water tank was attacked in Saraf Omra resulting in the death of three peacekeepers. The next day, while distributing water to internally displaced persons in Shangil Tobayi, UNAMID peacekeepers were fired on by armed men dressed in civilian clothes, resulting in the death of two more peacekeepers. On 5 March 2010, unidentified armed men robbed a UNAMID assessment team of equipment and personal belongings in east Jebel Marra, West Darfur. A peacekeeper was shot in the head but only suffered a minor injury.

F. Sexual and gender-based violence

59. Acts of sexual violence, particularly against female internally displaced persons, is still of concern in Darfur. Women and girls continued to be attacked as they leave the confines of the camps in pursuit of income-generating activities, such as the collection of grass and firewood. Incidents of sexual violence were particularly frequent during the cultivation season between June and November, when there was increased movement of women and girls from the camps for internally displaced persons to farming areas. In most instances, the perpetrators were identified as individuals or groups of armed men often dressed in military uniforms. In recent times, women living in close proximity to military camps have also become vulnerable to sexual attacks from soldiers. In West Darfur, more than half of incidents of sexual and gender-based violence documented in three areas (Mornei, Abu Suruj and Sisi) were reportedly committed by SAF soldiers. The military authorities deny the rape allegations, claiming that the soldiers were engaged in consensual relations with the women.

60. In spite of the lack of reliable data on sexual violence in Darfur, it is generally acknowledged that reported cases have decreased. In 2009, 101 reported cases of sexual violence were recorded by UNAMID (49 in North Darfur, 25 in South Darfur and 27 in West Darfur). The decrease in reported incidents of rape is not necessarily an indication of a decrease in the commission of the crime, but might simply be the result of under-reporting, as explained by some stakeholders. This may be due to a number of factors, including victims' lack of trust in the police; the fear of stigma associated with rape and sexual violence; mutual settlement between the families of the victims and perpetrators; the lack of police presence in many remote areas in Darfur; reporting fatigue among victims, who rarely benefit from any remedial action from the authorities; and the overall inability of the justice system to hold perpetrators accountable. In cases where incidents are reported, they are frequently not investigated effectively by the police owing to their lack of capacity or their unwillingness to take appropriate, effective action.

61. In spite of the above-mentioned drawbacks, there were some positive developments in combating gender-based violence, including an increasing awareness among some judicial officers of the seriousness of sexual violence crimes and their effect on the victims. In December 2009, a judge in Zalingei sentenced two military police officers to 10 years of imprisonment each and 100 lashes for the gang rape of a 50 year old woman. The judge stated that he was applying the maximum sentence as a deterrent to other policemen. In Kabkabiya, North Darfur, two soldiers accused of raping two 16 year old girls, in May 2009, were swiftly arrested by the police and placed in military custody pending the arrival of a judge to try the case.

62. The Government pledged to combat sexual violence in Darfur through the launching, in 2005, of a national plan of action on combating violence against women, and the establishment of a governmental unit at the national level to oversee the implementation of the plan. These steps were followed by the creation of State committees for the elimination of violence against women and children in the three Darfur States, which continue to be operational today. In addition, family and child protection units have been

established within the Sudanese police force to deal with specific matters relating to women and children, including juvenile justice. These units have played a critical role in bringing violence and abuse against women and children into focus; it is imperative that their reach be extended from urban centres to remote areas of Darfur.

63. As part of efforts to address gender-based violence in Darfur, UNAMID conducted six training workshops on gender-based violence during the period under review. Training of trainers' workshops on gender and human rights were also held for women leaders in camps for internally displaced persons in North Darfur. In South Darfur, the State Committee, in collaboration with UNAMID, is erecting 60 billboards in 11 localities to disseminate key messages on violence against women.

G. Children associated with Darfur armed movements

64. In assessment of six armed movements conducted in 2009, the Northern Sudan Disarmament, Demobilization and Reintegration Commission concluded that an estimated 2,000 children still had to be disarmed, demobilized and reintegrated into society. In July and August 2009, the Commission, with the support of UNAMID, disarmed and demobilized 115 children. UNAMID also reported the release of more than 500 children associated with various armed groups, including the JEM Peace Wing, the SLA/Peace Wing and the Popular Forces for Rights and Democracy Movement. The armed groups have expressed their concern that released children may be re-recruited by rival factions, and have appealed for more support for rehabilitation and reintegration programmes of former child soldiers.

H. Rule of law and administration of justice

65. The challenges facing justice and its administration have remained unchanged over the past two years. Access to justice is hampered by a weak presence of law enforcement and rule of law institutions, particularly outside the main urban centres of Darfur. The lack of capacity, including acute shortages of police personnel, judges and prosecutors, coupled with the lack of material resources and training within the justice sector institutions, put the formal justice sector beyond the reach of a vast number of people. In several highly populated localities, neither judges nor prosecutors are present or, if present, are often not able to carry out their functions effectively owing to insecurity. In West Darfur, prosecutors and judges are present in only two of the seven localities; the remaining five are without prosecutors and judges, even though they are highly populated. In North Darfur, the authorities have committed to establishing mobile courts to fill the gap created by the absence of the judiciary in several localities, including in areas like Malha, Saraf Omra, Tawila and Kabkabiya. However, to date, nothing concrete has been done, resulting in the transfer of most cases to El Fasher, the regional capital. In most rural areas, justice is administered by rural courts. Rural court judges apply statutory law even though they have no legal training.

66. Most defendants in Darfur in general have no access to lawyers to assist them in their defence. The number of well-trained lawyers available to provide free legal aid to victims of human rights violations is insufficient. Two prominent legal aid providers in Darfur were among the 13 non-governmental organizations closed down by the Government in March 2009. During a visit to a prison facility in North Darfur on 4 February 2010, the independent expert met and interviewed 54 convicted detainees on death row; 13 of them claimed they had not had access to counsel during their trial. UNAMID Human Rights, in conjunction with the Sudan Prison Services, has been organizing training on legal aid for paralegals in all three Darfur States. In South Darfur,

the independent expert participated in the launching of a legal aid desk at Nyala Central Prison, marking the first time such a desk had been established in a prison in Darfur.

I. Arbitrary arrest, detention and ill-treatment of civilians

67. Cases of arbitrary detentions and ill-treatment of civilians documented by UNAMID during the reporting period have shown that the NISS and Sudanese Military Intelligence are the governmental authorities most responsible for the violations in Darfur. Detainees are very often held without being informed of the reason for their arrest, and sometimes detained for prolonged periods without being charged. In some instances, detainees are held incommunicado and subjected to torture and other forms of ill-treatment.

68. From January 2009 to January 2010, UNAMID documented 68 cases involving 120 civilians arbitrarily or illegally detained in Nyala, South Darfur. In Malha, North Darfur, Military Intelligence arrested a 35 year old student on 10 January 2010 and detained him for five days for allegedly collecting signatures in support of the registration of a candidate in the election. The man was chained to a wall, beaten repeatedly and released without being charged. On 5 January 2010, in Ardamata, West Darfur, the NISS arrested and detained a staff member of an international non-governmental organization for 10 days. He was never charged nor informed of the reason for his arrest. He was questioned repeatedly about his affiliation with JEM. In Medina, West Darfur, UNAMID interviewed three people arrested in August 2009 by the police for murder. They were subjected to severe beatings and hanged from the ceiling of the cell with their hands and legs tied behind their backs. Their faces were covered with bags full of pepper, which asphyxiated them, and the beatings continued until they fell unconscious. Human rights monitors observed the three men chained together during court proceedings.

69. In the lead-up to the elections, there was a marked increase in the arrest of political activists. In August 2009, more than 27 SPLM members were arrested and detained in Nyala. Two other SPLM members, including a teacher and a policeman, were arrested on 15 December 2009 by the NISS in Nyala. None of the detainees was informed of the reasons for arrest. Concerns remain regarding the application of the 1997 Emergency and Public Safety Protection Act in Darfur. The law grants the State governors wide discretionary powers of arrest and detention without any effective judicial review. In North Darfur, 18 people suspected of involvement in the murder of a local community leader from the Abou Shok camp for internally displaced persons, were detained for more than five months under the Emergency Act without access to lawyers and without being brought before a judicial authority. Six of the detainees remain in detention and have not been charged with an offence, more than eight months after their arrest.

70. UNAMID Human Rights continues to be denied unfettered access to detention centres and prisons, including the NISS, Military Intelligence and police detention centres. Access to detainees, particularly those detained under the Emergency Act, has been extremely difficult. In 2009, access to Shalla prison, the largest prison facility in Darfur, was only granted once. In West Darfur, UNAMID has been granted access on an ad hoc basis to some facilities upon authorization from the Minister for the Interior. In South Darfur, human rights monitors have been denied systematic unfettered access to detention facilities in spite of numerous requests to the authorities. In some instances, limited access has been granted on a case-by-case basis, depending on the rapport between monitors and prison officials. In a positive development, on 21 February 2010, UNAMID signed a memorandum of understanding with the Sudanese prison authorities that is expected to pave the way for unrestricted access for UNAMID to all prisons in Darfur.

J. Justice and accountability for Darfur crimes

71. The conflict in Darfur has been marked by widespread impunity for acts of violence against civilians. Perpetrators of gross human rights violations, including killings, torture, rape, abduction, arbitrary detention and ill-treatment of civilians have very often not been held accountable for their actions. The judicial response to serious human rights abuses has remained weak. To date, the Government has failed to bring to justice those responsible for various attacks on the civilian population, including the law enforcement operation in Kalma, South Darfur, in August 2008, which resulted in the death of 33 internally displaced persons. Once again, no one has been charged for the numerous carjackings and attacks on humanitarian workers that have occurred in Darfur. In South Darfur, where inter-tribal fighting accounted for most of the civilian deaths in 2009, no criminal investigation is known to have been initiated for the killing of civilians and other human rights violation committed in the context of those events.

72. Various accountability mechanisms put in place by the Government to address impunity in Darfur, including the special criminal courts for Darfur, have proven to be inadequate and ineffective in bringing alleged perpetrators to justice. During a meeting with the independent expert, on 26 January 2010, the Special Prosecutor appointed by the Government to investigate crimes committed in Darfur since 2003 reported that he had proceeded with his investigation as mandated by law, including interviewing over 100 witnesses, but is yet to file criminal charges against any suspect as a result of these investigations.

73. In February 2009, the African Union Peace and Security Council established a high-level panel to examine the situation in Darfur and to submit recommendations on peace, justice and reconciliation. In its final report, submitted in October 2009, the panel concluded that the criminal justice response in Darfur was ineffective and had failed to secure the confidence of Darfurians and victims. It recommended the establishment of a "hybrid criminal court" to exercise original and appellate jurisdiction over individuals who appeared to bear particular responsibility for the gravest crimes committed during the conflict. The court would comprise judges of Sudanese and other nationalities. The panel also recommended the setting up of a truth, justice and reconciliation commission. The recommendations of the panel have been endorsed by the African Union and the Security Council. However, the Government appears to have rejected some of the proposals on the grounds that they constituted an infringement on its sovereignty and the Interim National Constitution.

VII. Conclusions and recommendations

A. Conclusions

74. **The independent expert acknowledges that there have been significant advances made by the Government of National Unity and the Government of Southern Sudan in addressing human rights and related issues. Among these are legal reform, the setting up of human rights forums, institutional development, policy formulation and programme development, exemplified by the 2005 plan of action to combat violence against women, the deployment of women police and various training and capacity-building efforts. However, the unresolved and serious human rights concerns overshadow the positive gains realized.**

75. **The delay in the appointment of the commissioners to the National Human Rights Commission leaves a major gap in human rights promotion and protection and**

remains a source of frustration for many stakeholders. To date, a definitive set up and functioning of one of the key institutions envisaged under the Comprehensive Peace Agreement and the law has not been implemented.

76. The application of the death penalty to minors and in cases where trial proceedings fail to conform to guarantees of due process set out by international law remains a cause for concern in the Sudan. Executions have been carried out in spite of claims by defendants that they were forced to confess to their guilt under duress.

77. Concerns have also been raised about the violations of political and civil rights in the context of the electoral process. With the referendum on South Sudan yet to be conducted, it is essential that the Government provide an environment conducive to the exercise of political rights, with firm guarantees of the fundamental freedoms of expression and assembly in accordance with the Comprehensive Peace Agreement and the Interim National Constitution.

78. Alarms continue to be raised about allegations of arbitrary arrest, detention, torture and ill-treatment of individuals by the military, security and intelligence forces. In Darfur and Southern Sudan, the lack of accountability for serious human rights violations remains a matter of utmost preoccupation, as it must. To date, very few perpetrators have been brought to trial for crimes committed during the conflict in Darfur.

79. One primary concern of the independent expert is the increasing incidence of tribal violence in South Sudan and the attendant loss of life, especially among women and children. The Government of South Sudan has the primary responsibility for ensuring the protection of civilians; it therefore needs to take effective measures to address the serious institutional gaps in the justice and security sectors in a coordinated manner to promote respect for the rule of law and the protection of human rights.

80. Given the complexity, diversity and multiplicity of the outstanding, serious human rights concerns in the Sudan, it is imperative that both the Government of National Unity and the Government of Southern Sudan act or be seen to act with resolve to address human rights. The independent expert encourages the Government of National Unity, the Government of Southern Sudan and all relevant authorities to engage fully with the United Nations system, the African Union, international and national organizations, including civil society, as trusted partners in the promotion and protection of human rights in the Sudan.

B. Recommendations

81. The independent expert reiterates all previously unimplemented human rights recommendations contained in previous reports of the Special Rapporteur on the situation of human rights in the Sudan, as well as those made by the United Nations High Commissioner for Human Rights and the Group of Experts on Darfur.

82. In particular, the independent expert recommends that the Government of National Unity:

(a) Refrain from applying the death penalty against minors and also ensure that, in all other cases, the death penalty is applied in a very strictly defined set of circumstances, including guarantees that the minimum fair trial standards demanded by article 14 of the Covenant on Civil and Political Rights have been respected; and that it institute a moratorium on the imposition of the death penalty, as called for by the General Assembly in its resolution 62/149;

(b) Continue the process of review of national laws to conform with the Comprehensive Peace Agreement, the Interim National Constitution and international human rights standards; priority should be given to withdrawing enforcement powers, including of arrest and detention for the National Intelligence and Security Services in line with the information-gathering and advisory role envisioned for the service in the Comprehensive Peace Agreement and the Interim National Constitution;

(c) Establish the National Human Rights Commission by undertaking a transparent and inclusive process for the selection of commissioners, and provide the Commission with adequate resources and staff;

(d) Ensure that all allegations of violation of human rights and international humanitarian law are duly investigated and the perpetrators are brought to justice promptly, in particular those with command responsibility;

(e) Take concrete measures to reform the current legal framework, which infringes on the exercise of political and civil rights and freedoms, and ensure that legitimate grievances and disputes arising out of the recent elections are addressed impartially and effectively;

(f) Provide United Nations human rights monitors full and unimpeded access to places of detention, including National Intelligence and Security Services and Military Intelligence facilities, and not obstruct their freedom of movement to discharge their mandate, in accordance with the relevant status of forces agreement;

(g) Intensify efforts to deploy police with logistical capacity to rural areas of Darfur, and increase the capacity and access of prosecutors and judges to remote areas;

(h) Ratify the remaining international instruments for the protection of human rights, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(i) Ensure that human rights defenders, humanitarian workers, members of the opposition, journalists and other civil society members are not intimidated, arbitrarily arrested and detained, ill-treated or tortured by State agents on account of their work, opinions or peaceful assembly.

83. The independent expert recommends that the Government of South Sudan:

(a) Address the increasing levels of conflict, which are resulting in massive loss of life and livelihoods, through the preventive deployment of SPLA and police forces;

(b) Address impunity and ensure that all allegations of violation of human rights are duly investigated, including any alleged abuse of power by the SPLA and SSPS; the findings of inquiries should be made public, perpetrators promptly brought to justice and reparations provided to victims;

(c) Ensure that adequate means and resources are provided to institutions responsible for the administration of justice and rule of law, including the provision of legal aid services; support should be given to the Southern Sudan Human Rights Commission to enable it to implement its mandate and open offices at the State level;

(d) Ensure that the State budget is adequately distributed among key sectors, such as education, health, social services, law enforcement and rule of law institutions, as well as offices working on human rights issues;

(e) Prevent interference by the Sudan Peoples Liberation Army in the administration of justice, especially in the work of the police and judiciary, and provide appropriate training to former SPLA members integrated into institutions of Government.

84. With regard to armed groups and other non-State actors, the independent expert recommends that:

(a) They, including the Lord Resistance Army, respect obligations under international human rights law and international humanitarian law, in particular with regard to the protection of civilians, and end all attacks on civilians, including abductions of women and children and threats against humanitarian workers;

(b) The non-signatories to the Darfur Peace Agreement cease hostilities and enter into dialogue with the Government on a peaceful and just resolution to the conflict.

85. With regard to the international community, the independent expert recommends that it:

(a) Continue to provide technical and financial support to the Government of National Unity and the Government of South Sudan on a basis of needs assessment, to fully implement the Comprehensive Peace Agreement and build democratic national institutions for the protection of human rights;

(b) Continue to provide support and participate in the human rights forums to facilitate a strong partnership between the Government, the United Nations and civil society in addressing human rights concerns.

86. The Human Rights Council should remain engaged in the Sudan until significant progress is made in the implementation of all recommendations made by the Special Rapporteur on the situation of human rights in the Sudan and the Group of Experts on Darfur, and is assured of concrete and material improvement in the human rights situation on the ground.

87. The independent expert recommends that the institutions of the United Nations:

(a) Urge UNAMID and UNMIS, in accordance with their mandates and without prejudice to the primary responsibility of State authorities, to take necessary measures to protect civilians, proactively deter attacks on civilians and prevent violations of international human rights law;

(b) Continue to provide support and technical assistance to the Government of National Unity and the Government of Southern Sudan, in accordance with assessed needs, and in particular to provide human rights training and support to judicial institutions, traditional and customary courts across the Sudan.