



**Fourth periodic report of the United Nations High Commissioner for
Human Rights on the situation of human rights in the Sudan**

**DEEPENING CRISIS IN DARFUR
TWO MONTHS AFTER THE DARFUR PEACE AGREEMENT:
AN ASSESSMENT**



Issued by the Office of the United Nations High Commissioner for Human Rights in cooperation with the United Nations Mission in the Sudan.

SUMMARY

This assessment two months after the signing of the Darfur Peace Agreement (DPA) shows that there has been no improvement in the situation of human rights in Darfur. The DPA calls on all parties to respect and promote human rights, however the agreement is meaningless if the parties by their actions continue to violate the very principles they are meant to promote.

While fighting between the Sudanese Armed Forces (SAF) and the Sudan Liberation Army (SLA) lessened following the 5 May signing of the DPA, civilian populations continued to be targeted by militia, the government and rebel movements in breach of the new ceasefire imposed by the DPA as well as the pre-existing Agreement on Humanitarian Ceasefire on the Conflict in Darfur of 8 April 2004. Parties to the conflict continued to violate principles of international humanitarian law, in particular the principle of military necessity and the principle of distinction.

Post-DPA violence resulted in numerous civilian deaths and aggravated the already severe humanitarian situation in Darfur. During May and June, at least 20 incidents were reported to have occurred; these mainly consisted of attacks on villages by armed militias (supported on at least one occasion by government forces), clashes between militias and the SLA and intra-SLA fighting. These attacks also resulted in the torture and killing of civilians and sexual abuse, including rape. The attacks resulted in further displacement of the population, on some occasions for a second or third time. Additionally, humanitarian assistance was severely hampered by the continuing fighting. By the end of June there were at least 250,000 people in need who could not be reached as the work of humanitarian organizations continued to be impeded by the high degree of insecurity.

Rebel groups, supported by large segments of the population, maintained their opposition to the DPA. Demonstrations by internally displaced persons (IDP) took place throughout Darfur in May and June. Many of these demonstrations turned violent, as a result of the indiscriminate and excessive use of force by government forces against the protesters or groups of people out of control. As a result, at least seven civilians were killed by government forces and numerous others were injured. The security apparatus has embarked on a campaign of intimidation targeting activists and community leaders suspected of organizing demonstrations against the DPA. This campaign consisted in a series of arrests, detentions and interrogations, often accompanied by torture and ill-treatment.

The present report concludes that without additional government support, the DPA is doomed to failure, with the population of Darfur continuing to suffer grave violations of human rights as violence among competing armed groups in Darfur persists. It also calls on the international community to urgently provide increased support to the African Union Mission in the Sudan so that it is able to fulfill its expanded role in monitoring and verifying compliance with disarmament provisions, monitoring the security in IDP camps, ensuring that women and children in camps are protected from all forms of violence, monitoring police investigation and government prosecution of crimes against IDPs, the establishment and enforcement of buffer zones and providing vital protection to civilians, humanitarian organizations and humanitarian supply routes until such time as a United Nations peacekeeping operation is deployed to Darfur.

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Introduction

1. The present report covers the period from May to June 2006 and is issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in cooperation with the United Nations Mission in the Sudan (UNMIS). It is the fourth report issued jointly by OHCHR and UNMIS and is an assessment of the human rights situation in Darfur two months after the signing of the Darfur Peace Agreement (DPA).

2. The factual information in the present report was gathered by UNMIS Human Rights Officers, who monitor, document and report on human rights violations and abuses. The report is primarily based on direct investigations and information collected from victims, witnesses, and government authorities. The human rights mandate of UNMIS is derived from two main sources. The Government of the Sudan and the United Nations signed a joint communiqué in July 2004 that committed the Government to allow the deployment of human rights monitors in Darfur. The second source of the mandate was set out in Security Council resolution 1590 (2005), which established UNMIS and called on it to ensure an adequate human rights presence, capacity and expertise to carry out human rights promotion, civilian protection, and monitoring activities.

I. POLITICAL CONTEXT

3. The Darfur Peace Agreement (DPA) was signed on 5 May 2006 by the Government of National Unity (GNU) and by Minni Minawi's faction of the Sudan Liberation Army (SLA) after months of negotiations held in Abuja¹. The other parties to the peace negotiations, Abdul Wahed's faction of the SLA (SLA/AW) and the Justice and Equality Movement (JEM), officially rejected the DPA and failed to meet several deadlines to sign the agreement. The opposing parties to the DPA argued that the Agreement did not provide sufficient individual compensation for people affected by the conflict, nor did it grant Darfurians enough political representation (as their demands for a Vice-President from Darfur and the creation of a region were not realized in the DPA), and it also failed to provide a comprehensive strategy for the disarmament of militia groups.

4. On 30 June, Darfur rebel leaders from the JEM, the Sudan Federal Democratic Alliance, and the SLA (including Abdul Wahed's former Deputy Chairman), founded the National Redemption Front (NRF) opposing the DPA. The NRF includes influential elements from the different tribes, including: Fur, Zaghawa and Massalit. However, Abdul Wahed did not take part in the NRF. On 3 July, elements of the NRF claimed full responsibility for an attack on Hamrat Al Sheikh, in northern Kordofan. On 8 June, another group of rebel leaders, including some formerly loyal to Abdul Wahed and members of JEM, signed a Declaration of Commitment to the DPA.

5. While Minni Minawi's SLA (SLA/MM) faction was considered stronger in terms of military capacity, Abdul Wahed's faction of the SLA appeared to enjoy more

¹ Even though the DPA was signed on 5 May 2006 and the ceasefire was to come into effect 72 hours after signing, the effective date of the agreement was subsequently moved forward to 16 May 2006.

popularity on the ground. This became evident by the negative reaction to the DPA exhibited by a number of displaced communities in Darfur, in particular those belonging to the Fur tribe, affiliated with the SLA/AW.

6. The signing and implementation of the DPA has the potential to create an environment for ending years of gross and widespread human rights violations. One of the agreement's fundamental principles is a commitment to respect and promote human rights in Darfur. Article 3 of the DPA sets forth a Bill of Rights for Darfur enumerating civil, political, social, economic and cultural rights. It charges the National Human Rights Commission with monitoring the application of the rights and freedoms provided for in article 3 and further provides that all existing laws must be revised in accordance with the Interim National Constitution (which also includes a Bill of Rights). Thus the mandate for human rights reform in Darfur is broad under the DPA, and if properly enforced the Agreement could serve as the foundation for broad legal reform of state legislation in conformity with international human rights principles.

7. There are also a number of references to human rights throughout the agreement, including the commitment, under article 1 paragraph 7, "to respect, protect and promote human rights and fundamental freedoms" and uphold the rule of law (para. 6). The principles of the separation of powers, independence of the judiciary and peaceful transfer of power based on free and fair elections (to be observed by "neutral, international observers" - para. 10) are reiterated (paras. 5, 6, 8). Reference is also made to the international human rights standards to which the Sudan is a party (e.g. para. 28 under art. 3 refers to both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights).

8. On transitional justice reference is made to the establishment of mobile courts and other mechanisms "to ensure prompt access to justice" (art. 20, para. 193) however the need for the proposed courts to be in keeping with international standards on the administration of justice has not been included. Specific reference was made to prosecution and punitive action against criminal elements, in connection with the Janjaweed and armed militias, under disengagement (art. 27). Efforts have been made to integrate a gender-based approach throughout the document (e.g. institutions, IDPs, demobilization/disengagement/redeployment). However, human rights language is weak in chapter 3 on Comprehensive ceasefire and final security arrangements.

9. Despite the flaws of the DPA, its positive aspects cannot be disregarded and the implementation of the DPA presents an opportunity to establish a comprehensive human rights protection framework for Darfurians.

II. ARMED CLASHES AND INDISCRIMINATE ATTACKS ON CIVILIANS

10. In the weeks leading up to the signing of the DPA, Darfur was the stage of intense fighting in a final attempt by the parties to gain further power and territory before the closing of peace negotiations. Clashes among the parties resulted in the killing and mass displacement of civilians, sometimes of previously displaced populations, amounting to violations of international human rights and humanitarian law. The situation was most severe in Southern Darfur, in the area of Gereida, where the Government conducted

several large-scale military offensives aimed at clearing the road between Nyala and Buram of the SLA presence. The attack on Joghana in particular featured a *modus operandi* reminiscent of the peak of the conflict in 2003 and 2004.²

11. Though fighting between the SLA and government forces lessened following the signing of the DPA, attacks by militias and rebel groups continued unabated, mainly localized in Southern and Northern Darfur. Intra-SLA fighting, a significant element of the conflict since mid-March also continued. In the beginning of May, clashes mainly took place between the parties who were signatories to the DPA (in a continuation of the clashes between the different parties at the end of April), or as random attacks by militia groups on villages. Towards the end of May and during June, many attacks seemed to target groups viewed as opposing the DPA and positions held by Abdul Wahed's SLA/AW. Intra-SLA fighting recommenced in Northern Darfur after Abdul Wahed's faction attempted to regain control over Korma in mid-June. The ongoing violence resulted in the death and injury of dozens of civilians and in the widespread destruction of civilian property.

12. Parties involved in the conflict in Darfur continued to violate principles of international humanitarian law, in particular the principle of military necessity and the principle of distinction. During attacks, the civilian population and civilian objects continued to be targeted and were not distinguished from military objectives and combatants. Furthermore, in many cases, people belonging to certain ethnic groups were specifically targeted by fighters in what appeared to be an attempt to retaliate against groups perceived as opposing the DPA. Fighters, particularly those belonging to rebel movements used the civilian population as cover, endangering and exposing the civilians to further offensives.

Attacks by Armed Militia and government forces

13. On the day the DPA was signed clashes between the parties were continuing in Darfur. On 5 May, an attack lasting more than four hours was carried out on Kalaka village (15 km north of Khor Abeche), in Shearia locality, by over 200 militiamen on horse- and camelback. At least five people were killed and one was injured; animals and personal property were looted. During the attack, the villagers launched an offensive against the attackers provoking the militia to call for reinforcements from Neitiga and Shearia. Later in the same day, the SLA/MM retaliated and shooting continued. The African Union reported sighting the arrival of reinforcements in pick-up trucks and land cruisers, dressed in military uniforms and believed to be SAF troops. Reportedly, Minni Minawi's brother was killed during the attack and the civilian population fled the village.

² On 24 April, Joghana was attacked by Government and militia forces by land and with air support from helicopters and an Antonov, which bombed the town. The attack resulted in the death at least 12 civilians. The bombing and the attack led inhabitants to believe that its objective was not only to defeat the small SLA contingent based in the town, but also to displace the civilian population. Joghana was looted and burned after the attack, and the GNU took over control of the town.

14. On 4 May, the SLA/MM shelled Abgarajil (28 km south of Nyala), forced their way into a Central Reserve Police camp and stole ammunition, rations and two land cruisers (which were later sighted in Gereida). Reportedly, nine police officers and one civilian were killed. On 5 May, SAF troops entered Abgarajil to collect the dead bodies, and started shooting indiscriminately upon entering the village; the town was burned and abandoned. On 6 May, in retaliation for Abgarajil, SAF troops in vehicles accompanied by men in green military uniforms, on camel and horseback, entered Karbaba, in Nyala locality. Reportedly, the troops started shooting indiscriminately at villagers, killing at least seven people. During the attack, people fled to the bushes. On 7 May, the same SAF troops accompanied by militia returned to Karbaba. Some villagers who had returned to gather possessions were killed. On 12 May, it was reported that Karbaba town was empty.

15. The largest attack reported to have occurred in Southern Darfur since the signing of the DPA was on the village of Labado (65 km east of Nyala), in Shearia locality. Labado was a stronghold of Minawi's faction of the SLA and the majority of its residents were Zaghawa. On 8 May, Labado was attacked by about 200 to 300 militiamen on camel- and horseback, suspected to be from Ariel; an area controlled by the Government and located 23 km west of Labado. The attackers entered the town without resistance, fired indiscriminately at civilians and looted civilian property, including livestock. While moving towards the southeastern side of the town, the attackers were confronted by over 100 SLA fighters in six vehicles. An exchange of fire between the two forces took place for about four hours, after which the militia left defeated. The majority of civilian casualties were reported to have been killed and injured prior to the arrival of SLA fighters in Labado to defend the town. Reportedly, during the fighting, at least 20 civilians were killed and up to 54 were wounded; about 15 SLA fighters were killed and 35 wounded. The SLA remained in control of the town.

16. In Northern Darfur, attacks on villages by militia groups occurred throughout May and June. Between 15 and 16 May, at least eight villages in close proximity to Kutum locality were attacked by militia. On 15 May, from 6 a.m. to 12 p.m., 150 armed militiamen attacked Korge, Kore, Fergidani, Gumut and Turtura villages, located 5 km south of Kutum. The attackers, who wore military uniforms, entered the villages on camel and horseback and opened fire indiscriminately against the population. Thirteen civilians were killed and seven were injured, two of whom died days later as a result of the injuries; all victims were members of Tunjur tribe. On 16 May, the same militia group attacked Kuri, Turtura, Fuduga and Mishri, also in Kutum locality. Reportedly, three civilians were killed; civilian property, including livestock, was looted. At the end of May, between 50 and 60 armed militiamen in green uniforms entered Jonjona (nearby Birka, 20 km northeast of Tawila) and opened fire indiscriminately at the population, causing the villagers to flee. The village was subsequently looted. At least another six villages in the area surrounding Birka were abandoned, reportedly as a result of ongoing attacks by militia groups. Civilians from the area gathered in Sneit Fellata (5 km from Birka). On 25 June, Sneit Fellata was attacked by approximately 60 armed militiamen. Four civilians were killed and two injured during the attack, during which the militia also raided the market, looted homes and stole livestock. Witnesses reported that the attackers

were armed with automatic weapons and that, while on the outskirts of the village, they shot a boy who they encountered herding his livestock; the boy later died as a result of his wounds. When inside the village, the attackers opened fire at a man who attempted to escape resulting in his death; killed another man who refused to leave a compound; and shot at a woman severely injuring her.

17. The first attack by militia against a SLA/AW position since the signing of the DPA took place on 20 May against Fuguli (168 km northwest of Nyala). The town was controlled by the Abdul Wahed faction of the SLA, with a majority of its inhabitants being from Fur tribe. On 20 May, Fuguli and Kankuli, a small village nearby, were attacked by about 150 militiamen on camel and horseback, some in military uniforms. The attackers entered the town from the south side at 6 a.m. and fired indiscriminately towards the village. Civilians were targeted and civilian property was looted. The SLA intervened in retaliation and gunfire was exchanged between the two forces. The SLA eventually withdrew after being overwhelmed by heavy shooting. Reportedly, the militia used two vehicles with mounted machine guns and other heavy and automatic weaponry. Thirteen civilians were confirmed dead and at least three SLA fighters were killed. Despite the presence of a government SAF position on the road leading to Fuguli, GNU troops were unable to intervene to protect villagers in the area from the attack. Civilians from the area believed they were attacked because most of them are seen to be opposing the DPA.

18. On 10 June, militia supported by SAF attacked Wisa village, located 12 km from Thur, a SLA/AW area of influence. The SLA had expected the attack following a build-up of militia forces in the area since 8 June. Reportedly, the attack followed an attempt by the SAF to capture a convoy of commercial trucks heading to the SLA checkpoint at Wisa. Militias in the vicinity joined the SAF when the SAF changed course to attack Wisa. No casualties were reported. However, in an attack on Gelol village (12 km from Thur), on 2 June, eight persons were killed, 10 were injured and two were reported missing. On 20 June, armed militia opened fire at the SLA/AW position in Gelol, but retreated soon after when an African Union Mission in the Sudan (AMIS) patrol entered the area.

Intra-SLA fighting

19. Intra-SLA fighting re-commenced in mid-June, mainly in Northern Darfur. On 12 June, intra-SLA fighting took place in Kulkul, an area located 60 km north of El Fasher and known as a SLA/MM base. Reportedly, three civilians were killed during the fighting. A witness reported that on the same day of the clashes, nine SLA/MM fighters assaulted and shot at him in an area near Kulkul after he was questioned on the possession of weapons. The fighters took the witness to their base and severely assaulted him again; he was eventually released after a civilian from Kulkul intervened on his behalf. On the following day, 13 June, the SLA/AW attacked Korma (70 km northwest of El Fasher) regaining partial control over the village. On 5 July, Korma village was again retaken by the SLA/MM.

20. In the beginning of July, the area of Tawila suffered from a series of intra-SLA clashes. On 5 July, inter-SLA fighting took place in Tina (12 km southwest of Tawila). On the same day, the SLA/MM attacked Dalim, Kathim and Birka villages all located east of Korma (40 km from El Fasher) and within Abdul Wahed's area of influence. Reports of casualties were not confirmed. On 6 July, AMIS reported that a community leader from Birka (20 km northeast of Tawila) was killed by Minawi's faction during clashes between the two SLA groups in the Korma area. On 7 July, Minawi's faction attacked another two villages under Abdul Wahed's influence, Al Aradib Ashara and Faiga villages. Reportedly, three civilians were killed and one was injured. At the time of writing, clashes between the rebel factions were ongoing, raising further doubts that the DPA will be able to achieve the threshold level of acceptance required for its success.

21. The rebel factions also resorted to detaining people who either supported or opposed the DPA. The SLA/MM detained Suliman Jamous and his colleagues from Group of 19 because of their alleged opposition to the DPA.

Other Attacks

22. Also of concern was the 3 July attack on Hamrat Al Sheikh in northern Kordofan (about 350 km west of Khartoum and 210 km northeast of El Fasher). The NRF was reportedly well equipped with about 10 to 20 land cruisers equipped with machine guns. It is important to note that the ceasefire provisions of the DPA do not terminate the obligations of parties to the previous ceasefire agreement (including the JEM and the SLA/AW) to abide by the terms of the ceasefire. Though the NRF is a "new" organization, it is closely linked to the JEM.

III. SEXUAL AND GENDER-BASED VIOLENCE

23. The signing of the DPA did not result in a decline of incidents of sexual and gender-based violence (SGBV). Northern Darfur has witnessed an increase in the number of SGBV cases, due to targeted violence against women perceived to be supporting opposing factions of the rebel movement and also because of the suspension of "firewood patrols" and withdrawal of AMIS following IDP demonstrations and attacks. Women and girls continued to make trips outside the confines of camps and villages without AMIS protection and at greater risk of attacks by armed groups. The firewood patrols had proved successful in providing some protection and had reduced the number of incidents of SGBV in areas where they operated.

24. In Western and Southern Darfur, there were numerous cases of SGBV targeting displaced women. On 24 May, a group of approximately 25 armed men in Central Reserve Police (CRP), police and green camouflage uniforms, threatened, beat and robbed six separate groups of women and girls in Hajar Jalanga (10 km north of Masteri, Western Darfur). A total of 27 women and girls were attacked. The armed men, in groups of four to six, systematically stopped women traveling to Masteri from Chad and looted their money, outer clothes and other belongings. Some women were beaten, most often when they had no money to offer. Some of the men threatened the victims with murder

and rape; however, in all cases reported, other members of the group restrained these men, and no incidents of rape took place. Two groups of women attempted to file a complaint with the police on the date of the incident but were told it was too late in the evening to do so; only one group returned the following day to report the incident. Most of the women did not choose to report because of their previous experience with police inaction. When questioned about the attacks, Masteri police had not attempted to investigate. Police stated that they could not investigate such cases properly because women always inform them “too late.”

25. Suspension of firewood patrols also adversely affected women living in camps in Nertiti (Western Darfur). On 10 May, two women went to fetch water outside North Camp. The women were approached by four soldiers in green camouflage who ordered them to accompany them to their base. Only one of the women went as the others successfully escaped. On the way to the base, one of the soldiers kicked the victim on her legs causing her to fall down and proceeded to rape her. The victim immediately went to the police and sought medical treatment. However, she has not returned to the police to pursue her complaint, as she does not believe authorities will take action.

26. Displaced women in and around El Geneina (Western Darfur) also continued to face attacks of SGBV. On 30 May, five Masslait IDP women were attacked by two men in uniform outside Krinding I camp. All the women were severely beaten. One woman who refused to cooperate was whipped and cut on the face with a knife. Two of the women were raped. The women reported the case to the African Union CivPol who reportedly took them without their consent to the Medina police. They were then put in a vehicle by the police, taken to the scene of the crime, brought back to the police station and finally issued a Form 8 and allowed to go to the hospital. The victims were forced to pay fees in order to be examined by a doctor. One of the rape victims reported that the doctor refused to examine her and accused her of lying. At least two victims of the attack returned the Form 8 to the police, however, neither woman was interviewed by the police nor was a case number assigned or an investigation conducted.

27. In Southern Darfur, cases of rape by militia and other armed groups continued to be reported from various regions. There were at least 12 verified cases of rape in May and June. In addition, women from Shearia, Mershing and Manawashi consistently report harassment by armed groups as soon as they step outside of their camps. In Duma camp, on 16 June, a woman who had been collecting grass was raped twice by an armed man on camelback. She was forced to travel with him for two hours before she escaped. The man also threatened to kill her infant child. While the perpetrator in this case was arrested, and a case opened against him, proceedings against him were at a standstill due to the absence of witnesses. On 25 June, two women were raped by two armed men riding camels outside Duma while collecting grass with seven other women. All the women were beaten, but only two of the younger women were raped. The victim interviewed did not want to report the incident to the police, as they were located far away and she did not believe they would do anything.

28. Renewed intra-SLA fighting led to increased cases of SGBV against women perceived to support rival factions who were targeted for rape based on their ethnicity. On 29 June, a woman in Tina was gang raped by four men who accused her of being the wife of a Zaghawa. Her friend was tied to a tree and beaten to the point of unconsciousness as the attackers questioned her about the whereabouts of her son. The attackers released the victims after they were asked to take oaths that they would not tell the story to anyone. The perpetrators took all their food, clothes, 5,000 SD and a donkey that belonged to the victims. In some cases, women who were fleeing their villages in order to escape military attacks, were assaulted and raped in transit to IDP camps. On 5 July, in two separate incidents, Fur women fleeing from Karta village were beaten and raped outside Tawila village by armed Zaghawa militiamen.

29. The response of the Government to sexual and gender-based violence continues to be inadequate in many ways. Not only are police failing to act with due diligence in their treatment of victims and in the investigation of cases, but the legal system also continues to fail those victims who manage to bring their claims to court. Despite all the attacks on IDP women in Southern Darfur, there has not been a single conviction on rape charges in cases involving an IDP victim.

30. In El Geneina (Western Darfur), the Government failed to ensure that its agents charged with rape appeared promptly for court proceedings against them. Two court hearings, on 28 June and 20 June, involving the rape of an IDP woman in Ardamata by two members of government armed forces (one SAF and one PDF) were adjourned – one for the fourth time, the other for the fifth time - due to non-appearance of the defendants. On 26 June, Geneina General Court finally convicted a member of SAF for rape committed on 28 November 2005. The hearings on the case had been adjourned on nine previous occasions due to non-appearance of the defendant. The lax attitude of the Government towards accused soldiers is one more way in which it propagates the culture of impunity for government actors.

31. Another obstacle to enforcing accountability for SGBV is the inappropriate reliance on informal systems of justice. In May, IDPs in Krenak expressed their distrust of the rural courts, and complained that rape cases were settled through compensations between IDP representatives and suspects, without consulting with the victims or their families. Reliance on informal systems of conflict resolution was especially concerning with respect to child victims who are unable to independently assert their legal rights. In June, a young IDP girl was attacked by armed men in Western Darfur. The attackers proceeded to rape and brutally assault the girl. A complaint was lodged at the local police station, pursuant to which two suspects were detained. Both suspects reportedly confessed while in custody; however, they were subsequently released. The families of the perpetrators and their tribal leaders contacted the victim's family and offered to pay compensation and a reconciliation meeting was held. However, the victim's family and community leaders rejected the proposal. The family has decided to pursue formal legal proceedings against the attackers although initially they did not do so out of fear of retaliation by the attackers' tribe.

32. The Government formally acknowledged the problem of SGBV in Darfur through the creation of three State Committees (one for each of the Darfur states) and the development of an Action Plan for the Elimination of Violence against Women in Darfur, however in practical terms; the situation for women in Darfur has not improved. The State Committees were not fulfilling their mandate to prevent violence against women, the Committees for Western and Northern Darfur were not functioning and the Southern Darfur Committee was functioning ineffectively. Meanwhile, the Action Plan was being implemented too slowly to have real impact.

IV. DEMONSTRATIONS AND GOVERNMENT RESPONSE

33. The signing of the DPA on 5 May by only one of the rebel movements in Darfur sparked numerous protests by IDP communities across Darfur who supported the JEM or the Abdul Wahed faction of the SLA. The extent of the demonstrations revealed the widespread disagreement acceptance of the DPA. There were two primary motivations driving IDP protests, the perceived failure of the DPA to address their primary grievances and a desire for greater international/United Nations intervention in Darfur, as AMIS was perceived to have failed in protecting IDPs from continuous attacks. In particular, IDPs believe the DPA does not adequately address their concerns regarding individual compensation, disarmament of militias, enforcing accountability for those responsible for war crimes and crimes against humanity and the reconstruction of areas devastated by the conflict. In some of the demonstrations, IDPs explicitly stated that adequate individual compensation was a prerequisite for voluntary return. Another major obstacle to acceptance appeared to be the failure of Abdul Wahed to sign the agreement. Many of the statements handed over by IDPs during the demonstrations explicitly stated that they would only support the DPA if Abdul Wahed concedes to it. AMIS was targeted during demonstrations by IDPs in camps in all three Darfur states (Kalma, Otash, Tawila, Hassa Hissa and Abu Shouk).

34. The dispersal of IDP demonstrations by government forces was often characterized by an indiscriminate use of firearms which violated international guidelines on the use of force by law enforcement officials. During demonstrations held in Darfur between 8 and 29 May, security forces opened fire against protesters, resulting in a death toll of at least seven civilians and in the serious injury of numerous others. The wide scope of the emergency laws combined with strong police immunities granted authorities the ability to claim that assemblies were unlawful, leaving demonstrators vulnerable to human rights violations for which the Government cannot deliver remedy.

35. In the face of strong opposition, the Government embarked on a campaign seeking to compel the population into acceptance of the DPA using intimidation tactics. There have been a series of “pre-emptive” detentions of civilians suspected of working with IDPs and helping to orchestrate demonstrations against the DPA.

36. In Southern Darfur, on 8 May, IDPs from Kalma camp in Nyala protested against the peace agreement during the visit of the Under-Secretary-General for Humanitarian Affairs, Jan Egeland. Following the demonstration, IDPs armed with axes and machetes

entered the AMIS compound, stabbed and stoned to death an AMIS language assistant, and injured eight AMIS CivPol officers. Government police intervened controlling the crowd and stopping it from destroying AMIS premises further. The attack prompted AMIS to suspend its activities in Kalma camp, including firewood patrols. A peaceful three-day demonstration was held in Kalma camp on 12-14 May with no major incidents reported to have occurred.

37. In Kass, on 13 May, Central Reserve Police opened fire without warning at a peaceful demonstration of about 1,000 IDPs from several IDP camps in the vicinity, killing a young man. The demonstrators reacted by lynching a Military Intelligence Officer who was identified amongst the protesters. Later in the day, PDF opened fire on Faniya IDP camp, resulting in the death of a second young man and wounding several others. IDPs allege that the Popular Defence Forces (PDF) sealed off the northern border of Faniya camp, and without provocation or warning, and in the presence of the Kass Commissioner, opened fire onto the camp where many of the demonstrators had returned. However, the Kass Judge and the Kass Director of Police both expressed their belief that the PDF were first fired upon by IDPs in Faniya camp.

38. On 29 May, IDPs from Otash camp held a demonstration denouncing the DPA. Some of the demonstrators approached the AMIS post to express their dissatisfaction with the DPA. Due to increasing crowd aggression, AMIS CivPol pulled out of the camp. Armed government police surrounded the camp. In an outbreak of violence one IDP was killed and two injured. Another demonstration was held within Nyala on 29 May. Reportedly, police began beating demonstrators in their attempt to contain the crowd.

39. In Northern Darfur, on 10 May, IDPs in Tawila demonstrated in front of the AMIS compound in the camp. During the demonstration, IDPs attempted to enter the compound. Three AMIS soldiers and one national staff member were seriously injured. On 13 May, a demonstration of 800 to 1,000 IDPs from Abu Shouk camp, El Fasher, resulted in an excessive use of force by military and police forces, which surrounded the camp in an attempt to control the protesters. Reportedly, government forces fired at the crowd, killing four civilians, two of them minors, and injuring at least five people. During the demonstration, the AMIS post in the camp was partially burned and one AMIS vehicle damaged. In response, AMIS ceased its activities in Abu Shouk. Additional peaceful demonstrations were subsequently held in Abu Shouk throughout May and June.

40. In Western Darfur, on 8 May, IDPs in Zalingei protesting the DPA encountered government forces on their way back to Khamsa Dagaig camp. Shots and tear gas were fired by security forces, though no one was injured by the shooting. On 9 May, security forces returned to Khamsa Dagaig camp and opened fire, aiming directly at houses and people; a 12-year-old girl and a pregnant woman were severely wounded. On 8 May, in Hassa Hissa camp, IDPs set alight the government police post and AMIS post, injuring four AMIS officers and destroying a number of vehicles. The African Union Force Protection evacuated AMIS CivPol from Hassa Hissa following the attacks. On the same day, IDPs from Hamadiya marched to AMIS to deliver a letter stating their position. While returning to the camp, some IDPs gathered near a shop to get water. At the shop, a

group of four to six men, most of who were in police uniforms, opened fire in the direction of the IDPs. A 14-year-old boy was shot in the chest. An older man who tried to assist the boy was wounded in the head by a sharp object.

41. Following the demonstrations, government security forces harassed community leaders and activists believed to be potential agitators among the IDP community. Human rights concerns with respect to National Security's detention and mistreatment of civilians suspected of involvement with IDP movements, mirror previous concerns over its targeting of civilians from tribes viewed as supporting the SLA rebels. During the period under review, there were numerous cases of detention and intimidation of those who were openly critical of the DPA. Detentions of IDPs involved in demonstrations were accompanied by human rights abuses (including assaults and prolonged detention periods without charge). Furthermore, National Security detained and mistreated ordinary citizens with no apparent evidence of their participation in the demonstrations.

42. On 14 May a Fur IDP man, who claimed no connection to the demonstrations, was arrested from Faniya camp by National Security and then transferred to Nyala. He was held incommunicado for eight days, tortured, and released after being made to pay a fine on charges he did not understand. On 15 May, the Director of the Nyala office of the Amel Centre for Rehabilitation of Victims of Torture, which provides legal aid, was arrested by National Security in Nyala and detained for seven days with no access to legal representation and visits from the outside world. As a condition of his release, the Amel Centre Director had to agree to a number of conditions, such as not to lobby among the IDPs against the DPA and not to get involved in politics.

43. On 15 and 16 May, National Security rounded up eight prominent members of the Kass community who were arrested from their homes and businesses, seven of whom were members of the SPLM. National Security accused them of mobilizing the IDPs to demonstrate, and at least one of them reported having been physically assaulted. On 19 May, also in Kass, an international non-governmental organization (INGO) national staff member was arrested and taken for questioning by National Security and Military Intelligence. Military Intelligence took him to the military police where he was threatened, beaten and interrogated about the planning of the Kass demonstration on 13 May (during which an MI officer was killed).

44. On 24 May, National Security in Zalingei arrested 10 persons, including a United Nations national staff member and members of the SPLM. These arrests were made amidst rumors of an impending demonstration, one day prior to the visit of the Governor of Western Darfur who was coming to Zalingei to provide clarification on the DPA. The detainees were questioned about their activities and views on the DPA. All were eventually released days afterwards.

45. In El Fasher, on 4 June, an UNMIS national staff member employed as a security guard was approached by National Security and questioned about his alleged role in organizing anti-DPA demonstrations in Abu Shouk IDP camp during May. On the same day, in two separate incidents, a community leader from Abu Shouk and a national staff

member from an INGO were also brought in to the National Security office and questioned on their alleged involvement in the demonstrations. The Director of National Security for Northern Darfur confirmed that a number of people had been called in for questioning. He stated that all involved were Sudanese nationals and therefore National Security had the authority to question them.

46. National Security also arrested civilians in Khartoum in the aftermath of the demonstrations. On 12 May, two students were arrested in Khartoum and severely beaten by government forces while detained in a military compound. The students were members of a small student association, which was part of the Coalition of Darfur Student Associations. Another student from Al Zaeem Al Azhari University was arrested on 21 May by National Security. He was interrogated about his political affiliation and severely beaten. He was released on the same day and warned not to return to his university for two weeks. A law student at Al Nilein University in Khartoum, who was the leader of a political group comprised of Darfurian students opposed to the DPA, reported multiple arrests and ill-treatment of students by National Security often in relation to anti-DPA demonstrations or other political activities.

47. The Humanitarian Aid Commission in the Sudan has also contributed to the atmosphere of repression. On 25 June, on instructions from HAC Khartoum, the HAC Commissioner for Western Darfur issued a certificate prohibiting the Sudan Social Development Organization (SUDO), a prominent national non-governmental organization (NGO), from working in the fields of peace building, protection and social work. The SUDO mandate was limited to health and nutrition, education in IDP camps, agriculture, and water in Dileij and Garsila camps. Though peace building efforts would seem desirable in the current atmosphere, the Government has exhibited suspicion of NGOs working too closely with IDPs.

V. AFRICAN UNION MISSION IN THE SUDAN

48. The African Union Mission in the Sudan (AMIS) first arrived in Darfur in June 2004, to monitor and report on a Humanitarian Ceasefire Agreement signed on 8 April 2004 by the Government, the SLA and the JEM. On October 2004, the number of personnel was increased and mandate expanded to include: contributing to a secure environment for the delivery of humanitarian relief and for the return of IDPs and refugees to their homes; and to contribute to improvement of the security situation throughout Darfur. More specifically, it was tasked with protecting civilians whom it encountered under imminent threat and in the immediate vicinity; providing visible military presence by patrolling and establishing temporary outposts to deter armed groups from committing hostile acts against civilians; and to monitor and report on the effective service delivery of the local police.

49. Under the DPA, AMIS is responsible for monitoring and verifying compliance with disarmament provisions, monitoring the security in IDP camps, ensuring that women and children in camps are protected from all forms of violence, monitoring police investigation and Government prosecution of crimes against IDPs, the establishment and

enforcement of buffer zones (which include the areas surrounding IDP camps and major humanitarian routes). Specifically, the DPA requires the “robust protection by AMIS of civilians, humanitarian organizations and humanitarian supply routes.” However there was no increase in AMIS resources and therefore AMIS was incapable of adequately assuming its original mandate of protection of civilians or the additional tasks mandated by the DPA.

50. As mentioned above, AMIS is largely viewed by IDPs as having failed to protect them from attacks. In at least four of the demonstrations which took place in Darfur AMIS were a direct target of IDP violence. As a result, AMIS suspended its activities, including firewood patrols, in camps in Southern, Northern and Western Darfur.

51. In Western Darfur, AMIS ceased night patrols in IDP camps in El Geneina after 12 May and significantly curtailed day patrols due to fears of being targeted by IDPs. On 8 June, IDPs demonstrated against AMIS in Krinding IDP camp, which led to their withdrawal from the camp. The demonstration followed a failed attempt by AMIS CivPol in Krinding to assist with the medical evacuation of a female IDP in critical condition. Due to a policy prohibiting travel further than 2 km from the police post, CivPol ceased the journey midway and returned to their base. The IDP woman died soon thereafter provoking the IDPs to protest. In both Zalingei and Nertiti, AMIS was confined to its headquarters and not conducting patrols or staffing AMIS posts in IDP camps following protests by IDPs in Zalingei in the beginning of May. AMIS patrols in Hamadiya IDP Camp (Zalingei) were also suspended. IDPs in Hamadiya objected to the presence of AMIS within their camps and accused AMIS of trying to pressure their political leader, Abdul Wahed, to sign the DPA. One community leader stated that AMIS CivPol would be welcomed if they carried out the AMIS mandate and did not try to implement the DPA, which was not in the IDP interests. AMIS patrols in Hassa Hissa IDP Camp (Zalingei) were also suspended. IDPs in Hassa Hissa threatened an African Union military patrol team on 11 June saying they would burn their vehicles if they saw them in the camp.

52. In Southern Darfur, AMIS withdrew from Kalma following the 8 May protests. AMIS stopped escorting Kalma IDPs on firewood patrols at the IDPs’ request who specifically objected to the presence of government police as part of the escort. The presence of AMIS is essential to ensure peace and security within Kalma camp as its population amounts to approximately 120,000 IDPs. The withdrawal of AMIS contributed to a rapid deterioration of the security situation in Kalma camp, as crime and intertribal tension between Fur (Wahed supporters) and Zaghawa (Minni supporters) increased. Security concerns also affected INGOs in the camp who are unable to sustain their work when conditions become too unsafe.

53. In Northern Darfur, AMIS suspended patrols in Abu Shouk, Zam Zam and El-Salaam camps. The IDPs complained that they no longer welcomed AMIS CivPol in the camp since they felt AMIS could not protect them from militia attacks. In the beginning of July, camp leaders from Abu Shouk and Zam Zam told the African Union not to resume operations, accusing AMIS of being biased towards the Government.

54. While AMIS patrols in some camps were slowly resuming starting in late June, tension between AMIS and the IDP community remained. IDPs were increasingly disappointed and AMIS retreat from many of the IDP camps further eroded any remaining IDP confidence in its abilities. A majority of the displaced population increasingly viewed AMIS as ineffectual in preventing attacks or following up on reports of violent incidents. For IDPs that oppose the DPA, AMIS' central role in promoting the DPA further decreased its credibility.

VI. CONCLUDING REMARKS

55. Delayed and improper implementation of the DPA has compounded problems on the ground. Under article 25 of the DPA (paras. 240–247), the Ceasefire Commission (CFC), under the Chairmanship of AMIS, is responsible for monitoring violations of the ceasefire agreement. The CFC was to be constituted within three days of signing of the agreement. It did not hold its first meeting until 13 June, about a month after the DPA came into force and after a series of attacks had already occurred. Since its first meeting, the CFC met infrequently and remained preoccupied with procedural matters rather than substantive investigations. Since mid-June not a single CFC investigations took place on the ground. The improper functioning of the CFC further undermined the credibility of the institution as well as the force of the ceasefire. An attempt to mount a CFC investigation in Tawila was blocked by Minni Minawi. In addition, it has demonstrated an unwillingness to receive complaints from the SLA/AW or the JEM simply because they are not signatories to the DPA.

56. After the CFC identifies violations, it is the responsibility of the Joint Commission (JC) to take decisive action in relation to ceasefire violations (art. 25, para. 250) such as publicizing the violation, recommending disciplinary action or punitive action. The JC met for first time on 22 June in Addis Ababa, however the first meeting did not discuss ceasefire violations, focusing instead on organizational matters. It was suspended after it became clear further clarification was required of certain political and legal aspects of the committee's functioning. Without a functioning JC, the ceasefire continues to be violated without any negative repercussions for the parties.

57. On 22 June, the Government was supposed to present a plan for the neutralization and disarmament of militia groups (art. 27, para. 314). The plan was to be submitted to the CFC so it could be reviewed and approved by it. The deadline for the submission of the plan to disarm the militias passed without notice. However, on the following day, on 23 June, in an action intended to demonstrate the willingness of the Government to comply with the peace agreement, about 150 militiamen handed over a total of 128 weapons to a government delegation in Southern Darfur, in the presence of AMIS and the United Nations. The disarmed men were granted amnesty as per Presidential Decree No. 114 issued on 11 June. The Presidential Decree granted amnesty to rebel movements who have signed the DPA and to tribal parties who participated in the government-endorsed tribal reconciliation processes held in the Darfur States and those who supported and committed themselves to the DPA.

58. This 23 June event raises several concerns. Firstly, even though the handing over of weapons is welcomed, these actions cannot replace the need for the formulation of a comprehensive plan that provides for the overall disarmament of militia groups in Darfur. Secondly, general amnesty for members of militia groups can be problematic as the decree under which amnesty is being granted does not detail an application procedure for an individual to receive amnesty nor does it include a list of crimes for which amnesty can be granted. The list of crimes for which individuals can receive amnesty must be specified and it should not include war crimes and crimes against humanity. The Government must not grant amnesty to senior tribal leaders known to have carried out large-scale attacks but who have subsequently participated in tribal reconciliation meetings in order to receive amnesty. Thirdly, the lack of accountability and the prevalence of a culture of impunity for human rights violations committed in Darfur need to be addressed without delay as set out in Security Council resolution 1591 (2005) which referred the situation in Darfur to the Prosecutor of the International Criminal Court (ICC). Sudanese structures specially set up to deal with crimes in Darfur, such as the Special Criminal Courts, have continually failed to deliver justice and to prosecute high-level commanders responsible for human rights offenses.

59. Ultimately, it is first and foremost the responsibility of the Government of the Sudan to protect its own civilian population. Without additional government support, the DPA is doomed to failure, and the population of Darfur will continue to suffer grave violations of human rights as violence among competing armed groups in Darfur continues. Without government commitment, civilians will continue to be unprotected, face an inefficient judicial system incapable of holding human rights offenders accountable, and be denied access to basic services and commodities necessary for their survival. While the DPA is in theory an important document in that it calls on the parties to respect and promote fundamental human rights, its declarations are meaningless if the parties by their actions continue to violate the very principles they are meant to promote. Ending the violence in Darfur will require amongst other efforts (i) addressing the underlying sources of conflict between competing groups in Darfur, (ii) concrete actions by the signatories to gain the support of parties opposing the peace agreement, and (iii) strong and meaningful intervention and assistance from the African Union and international community.

VII. RECOMMENDATIONS

To the Government, parties to the Darfur Peace Agreement and other armed groups

- The Government, parties to the DPA and other armed groups should immediately comply with the ceasefire provisions of the DPA, as well as the preexisting ceasefire agreement.
- The Government should disarm the militia and protect the physical security of all Darfurians by putting in place a credible, capable, and professional police force and judiciary.

- The Government, as well as other parties to the DPA, should comply fully with the terms of the agreement in a non-selective manner and ensure that non-signatories to the agreement and their supporters share the benefits of the agreement.
- The parties to the DPA should utilize the mechanisms provided for in the DPA, such as the Darfur-Darfur Dialogue and Consultation, and disseminate the terms of the agreement, in particular the provisions covering compensation and restitution and access to land rights, to garner more widespread approval of the DPA .³
- The Government should not grant amnesty to senior tribal leaders known to have carried out large-scale attacks but who have subsequently participated in tribal reconciliation meetings in order to receive amnesty. The list of crimes for which individuals can receive amnesty should be specified and it should not include war crimes and crimes against humanity.
- The lack of accountability and the prevalence of a culture of impunity for serious human rights violations committed in Darfur need to be addressed without delay. Those responsible for human rights abuses and violations of international humanitarian law should be held accountable. This should occur regardless of where the crimes took place, when they took place, and who committed them.
- Sudanese structures specifically set up to deal with crimes in Darfur, such as the Special Criminal Courts, have continually failed to deliver justice and to prosecute high-level commanders responsible for human rights offenses. As such, the judicial system should be urgently strengthened and the Government should cooperate fully with the International Criminal Court (ICC), mandated by the United Nations Security Council to investigate and prosecute international crimes committed in Darfur.
- The Government should continue its efforts to prevent and respond to SGBV through vigorous implementation of the Action Plan for the Elimination of Violence against Women in Darfur. The work of the State Committees on SGBV work should be evaluated to ensure that effective action is being taken to improve the situation, prevent incidents and ensure appropriate response from law enforcement agencies and the legal system.
- The Government should strengthen its efforts through concrete action to ensure that prompt, thorough and impartial investigations into all reports of sexual violence are made to identify those responsible and bring them to justice, whether the crime is perpetrated by government agents, armed groups or private individuals.
- The Government should review the current legal framework to address deficiencies and ensure its effectiveness in the prosecution of crimes of sexual violence.

³ The Darfur-Darfur Dialogue and Consultation (DDDC) focus on promoting reconciliation and broad support for the DPA. According to article 31, DDDC ‘shall be a conference in which representatives of all Darfurian stakeholders can meet to discuss the challenges of restoring peace to their land, overcoming the divisions between communities and resolving the existing problems to build a common future’. The DDDC will take place under African Union leadership. A preparatory Committee comprised of not more than 25 representatives was to be established within 30 days after the DPA coming into force; however this is yet to take place.

- The Government should refrain from engaging in targeted arrests and detentions based on ethnicity, occupation or political opinion.
- The Government should lift the state of emergency so civilians can fully enjoy the human rights guarantees provided for in the DPA.
- In compliance with the Comprehensive Peace Agreement and the Interim National Constitution, emergency laws that grant security agencies broad powers to arrest and to restrict freedoms of movement, assembly and expression should be repealed.

To the international community

- The international community should urgently provide increased support to AMIS so that it is able to fulfill its expanded role under the DPA in monitoring and verifying compliance with disarmament provisions, monitoring the security in IDP camps, ensuring that women and children in camps are protected from all forms of violence, monitoring police investigation and government prosecution of crimes against IDPs, the establishment and enforcement of buffer zones and providing vital protection to civilians, humanitarian organizations and humanitarian supply routes until such time as a United Nations peacekeeping operation is deployed to Darfur.