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Final report of the Experts Group on the
situation of human rights in Darfur¹

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- Ms Sima Samar, Special Rapporteur on the situation of human rights in the Sudan;
- Mr Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions;
- Ms Radhika Coomaraswamy, Special Representative of the Secretary-General for children and armed conflict;
- Ms Yakin Erturk, Special Rapporteur on violence against women;
- Ms Hina Jilani, Special Representative on the situation of human rights defenders;
- Mr Walter Kalin, Representative on the human rights of internally displaced persons;
- Mr Manfred Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;

Mandate

The Experts Group was initially convened on 30 March 2007² to work with the Government of Sudan, the appropriate human rights mechanisms of the African Union, and to closely consult with the Chairman of the Darfur-Darfur Dialogue and Consultation to ensure the effective follow-up and to foster the implementation of resolutions and recommendations on Darfur, as well as to promote the implementation of relevant recommendations of the other United Nations human rights mechanism, taking into account the needs of the Sudan. The Experts Group was asked to include recommendations adopted by the Human Rights Council (the Council), the Commission on Human Rights and other United Nations human rights institutions, and to safeguard the consistency of these recommendations. Finally, it was expected that the Experts Group would contribute to monitoring the human rights situation on the ground.

¹ Summary prepared by Christopher Brown, Intern, ISHR, edited by Michael Ineichen, Geneva Program, ISHR.

² Human Rights Council *Resolution 4/8* on the follow up to decision S-4/101.

Final Report³

Scope

The report contains a review of the efforts of the Government of the Sudan to implement the recommendations the Experts Group has compiled. This assessment is made on the basis of information received from the Government in written and oral form and from other sources, mainly UN and African Union agencies active in Darfur. Using the indicators put forward in the annex to its first report to the Council,⁴ the report provides an assessment of the Government's activities to implement recommendations over the short term and the subsequent impact on the ground in Darfur. The Experts Group also takes note of any progress the Government has made with regard to midterm recommendations. Accordingly, the report focuses on developments in Darfur between the adoption of Council *Resolution OM/1/3* on 20 June 2007 and mid-November 2007.

Activities (Since the interim report)

- Mr Kälin held consultations with the African Union Commission for Political Affairs and the African Union Commissioner for Peace and Security.
- The Experts Group gathered information from the United Nations Mission in the Sudan (UNMIS), and met with representatives of UN agencies and non-governmental organisations concerned with the situation in Darfur. The Experts Group sought to ensure that the extensive information received from these sources was based on their first-hand observations, careful verification, and inter-agency corroboration.
- On 9 October 2007 the Experts Group sent a set of specific questions to assist the Government of the Sudan to respond as fully as possible on the current status of its implementation.
- On 15 November 2007 the Experts Group met for the 3rd time with a high-level inter-ministerial delegation of the Government of the Sudan to discuss implementation and clarify outstanding issues.

Summary and key conclusions

- In procedural terms, the process of cooperative engagement with the Government of the Sudan has worked increasingly well. However, UNMIS, United Nations agencies and other relevant sources, with few exceptions, report that activities undertaken by the Government have had no tangible impact on the ground in Darfur.
- Substantive findings are summarised below, organised by theme.

Civilian Population:

- The Sudanese Armed Forces bill of 2007 prohibits attacks on civilians, protects humanitarian aid workers, and requires conduct to conform to principles of humanitarian law.
- However, the Experts Group indicates that Government attempts to regulate the action of armed forces have had little or no impact on the ground. Government forces continue to attack civilians and no progress has been made on disarming pro-government militias. The civilian population of Darfur remains largely unprotected against attacks.
- Although responsible for security of camps for internally displaced persons, the Government provided no information on where and how security force patrols were carried out or whether they have had a positive impact on the number of attacks in designated areas.

³ A/HRC/6/19, 28 November 2007.

⁴ Submitted to the 5th session of the Council. See ISHR's *Daily Update* of 13 June 2007, available at www.ishr.ch.

Protection of Women:

- The existing State committees to combat violence against women play a potentially important role in providing better protection of women. A joint task force for evaluating the work of the committees conducted a mission to the three Darfur states from 3 to 6 September 2007.
- On 18 August 2007, the Ministry of Justice issued a declaration on the measures for the elimination of violence against women in Darfur. It provided statistics on complaints and related verdicts. However, UN agencies and programmes in Darfur claim that violence against women in Darfur persists.
- The Experts Group was informed about various difficulties faced by women when reporting rape cases to the police. The Government indicated that laws to prevent this are in place.⁵

Children and Armed Conflict:

- Following the creation of a number of disarmament, demobilisation and reintegration agreements regarding child soldiers, UN bodies operational in Darfur reported fewer cases of child recruitment between June and October 2007 than had previously been identified over a comparable time period.
- Although the Government reported several laws protecting children, there is no information regarding systematic investigation and prosecution of violations against children to address the prevailing sense of impunity.

Summary Executions, Arbitrary Detention, Disappearances and Torture:

- The Experts Group notes that steps have been taken to implement recommendations regarding summary execution, arbitrary detention, disappearances and torture. However, reports from UN agencies with operational competence in
- Darfur indicate that, in each of the Darfur states, civilians had been arbitrarily arrested, subjected to torture, denied access to counsel, held without charge, and detained for extended periods before trial.

Protection of Victims and Witnesses:

- Although the Government stressed that no witnesses who spoke with UNMIS were intimidated or harmed, the Experts Group received no information about the application of norms and programmes to protect witnesses.
- United Nations agencies operational in Darfur did not observe any effective action by Government authorities to lift restrictions on the press.

Humanitarian Access:

- The Government informed the Experts Group of a fast-track policy aimed at facilitating the granting of visas (to aid workers) and the importation of humanitarian goods and material. The UN reported in November 2007 that progress had been made in this regard, but also noted that the Government had expelled a number of NGO aid groups.
- Also in November 2007, the UN reported that the rights and privileges of its staff members operating in Darfur were being increasingly disregarded. While the number of attacks against humanitarian aid workers from June to October 2007 has dropped compared with the year before, the attacks were more severe.
- The number of civilians in need and not reached by the World Food Programme rose from 60'000 in July to 122'000 in September. This was due to increased insecurity in general and, in several cases, governmental intervention.

Accountability and Justice:

- In response to concerns about widespread impunity for acts of violence against the civilian population in Darfur, the Experts Group received draft versions of the Armed Forces Bill and the Police Forces

⁵ In particular, in response to recommendation 1.2.9, the Government insisted that article 145 of the Criminal Act of 1991 excludes the possibility of a rape victim being punished for adultery.

bill (both of 2007). Neither bill was in force at the time of reporting, since they are pending before Parliament.

- The Government informed the Experts Group about investigations in response to incidents reported publicly by the Office of the High Commissioner for Human Rights (OHCHR). In some of the cases, investigations had led to prosecutions.
- However, legal immunities have not been abolished. The Armed Forces bill of 2007 provides far-reaching immunity in cases where human rights violations have been committed as part of carrying out an order by a competent authority.
- The Experts Group received lists of security force personnel convicted of crimes. No cases of convictions for command responsibility were reported. During the reporting period, the Special Criminal Court for Events in Darfur reportedly did not hear any cases.
- The Government reiterated its unequivocal refusal to accept the competence of the International Criminal Court to investigate cases in the Sudan.

Monitoring Implementation of Recommendations:

- By stressing the duties of monitors in an unbalanced way and by not instructing the General Department for Legal Affairs to inform police personnel about the privileges and immunities of monitors, the Government's policy with regard to monitoring is not conducive to facilitating the monitors' work.
- In October 2007, the Government submitted a letter inviting United Nations human rights officers to visit all detention facilities in Darfur. However, the Experts Group was informed (UN agencies with operational competence in Darfur) that the letter had not generally improved access to detainees.
- The Government indicated that it would not issue a standing invitation the Council's special procedures mandate holders, though it indicated a willingness to allow them access on an ad-hoc basis.

Key Recommendations

- The Experts Group provides an updated assessment of the status of implementation⁶ by placing each recommendation in a category, according to the level of its implementation. (Full,⁷ Significant,⁸ Some,⁹ Initial,¹⁰ No Implementation).¹¹
- While acknowledging activities undertaken by the Government, the Experts Group recognises that efforts have not led to improvement of the situation on the ground in Darfur and therefore urges the Government to implement fully the prioritised recommendations without delay.
- The Experts Group recommends that the Human Rights Council continue the process of review and expresses its readiness to continue the task entrusted to it.
- The Experts Group reiterates all previous recommendations to the Human Rights Council regarding the situation in Darfur.

⁶ For the full text of recommendations and assessment of implementation see A/HRC/6/19, Annex 1.

⁷ All recommendations have been carried out and the situation on the ground has improved accordingly.

⁸ Significant activities have been undertaken and a tangible impact has been reported.

⁹ Activities have been undertaken but little or no impact has been reported.

¹⁰ Initial steps towards implementation have been undertaken.

¹¹ There has been no implementation at all.

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The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at www.ishr.ch/hrm/council

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