



General Assembly

Distr.: General
18 September 2013

Original: English

Human Rights Council

Twenty-fourth session

Agenda item 10

Technical assistance and capacity-building

Report of the Independent Expert on the situation of human rights in the Sudan, Mashood A. Baderin*

Summary

The present report is submitted pursuant to Human Rights Council resolution 21/27 in which the Council extended the mandate of the Independent Expert on the situation of human rights in the Sudan and requested him to submit a report to the Council for consideration at its twenty-fourth session. In this report, the Independent Expert provides an overview of the general human rights situation in the Sudan and outlines the major human rights challenges faced by the Government, describing the progress made in meeting these challenges. He also identifies technical assistance and capacity-building needs of the Government and provides a set of recommendations addressed to the Government, the international community, civil society organizations and the armed movements in the Sudan.

* Late submission.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 21/27 in which the Council renewed the mandate of the Independent Expert on the situation of human rights in the Sudan and requested him to continue his engagement with the Government of the Sudan with a view to implementing the projects that would further help the Sudan to fulfil its human rights obligations, and to report to the Council at its twenty-fourth session. The Council also urged the Government of the Sudan to grant the Independent Expert access to the entire country, in particular Darfur, South Kordofan and Blue Nile, in order to verify and assess the human rights situation therein and to determine technical assistance needs.

2. This report covers the period from October 2012 to July 2013 and contains recommendations addressed to the Government of the Sudan, the international community, civil society organizations and the armed movements in the Sudan.

3. In compliance with the code of conduct for special procedures mandate holders of the Human Rights Council, a draft of the report was shared with the Government of the Sudan to provide it with the opportunity to comment on the findings and observations of the Independent Expert.

4. The Independent Expert would like to thank the Government of the Sudan for its continued cooperation and support in the implementation of his mandate. During the reporting period, the Government granted access and facilitated the Independent Expert's visit to Darfur, North Kordofan and Blue Nile. The Government also facilitated access to all officials with whom the Independent Expert had expressed the wish to meet, and to all institutions and places necessary for the discharge of his mandate. However, for security reasons, the Independent Expert was unable to visit South Kordofan state.

5. The Independent Expert also expresses his gratitude to the African Union-United Nations Hybrid Operation in Darfur (UNAMID), United Nations agencies operating in the Sudan, members of the diplomatic community, civil society organizations and all other groups and individuals who provided assistance, information and shared experiences with him.

II. Methodology and approach

6. The Independent Expert undertook two missions to the Sudan during the reporting period and visited Khartoum, North and South Darfur, North Kordofan and Blue Nile states. During these visits, he focused on assessing the effectiveness of institutions responsible for promoting and protecting human rights and the rule of law, including the National Commission for Human Rights, the National Legislature, the judiciary, law enforcement agencies and civil society organizations, in order to determine their technical assistance needs in the field of human rights.

7. In Khartoum, the Independent Expert held wide-ranging discussions with senior Government officials, including the Minister of Justice, the Minister of the Interior and the Undersecretary of the Ministry of Foreign Affairs. He was apprised of the human rights situation in the country by the Rapporteur and members of the Advisory Council for Human Rights (ACHR) and was encouraged by their response to some of the issues he raised. He also had frank and fruitful discussions with the Director of the National Security Service (NSS) and the Deputy Director General of Police. He interacted with the Chief Justice and members of the Supreme Court, the Chairwoman and members of the National Commission for Human Rights, members of the National Press Council and the Unit for

Combating Violence against Women and Children. The Independent Expert also met with civil society organizations, human rights defenders and victims of human rights violations, some of whom shared their personal experiences with him. He met with members of the diplomatic community, representatives of opposition political parties and some staff members and students of the University of Khartoum, and received valuable information on the human rights situation in the country.

8. In Darfur, the Independent Expert met with the Governors of North and South Darfur, the Head of the Security Commission of the Darfur Regional Authority (DRA), the Head of the North Darfur judiciary, the Special Prosecutor for Darfur crimes, the North Darfur General Prosecutor, the State Minister for Social Affairs, the Family and Child Protection Unit of the Sudanese police, officials of UNAMID and United Nations agencies in North and South Darfur. He also had fruitful meetings with human rights defenders and representatives of civil society organizations in the two states, and visited two camps for internally displaced persons, namely, Abou Shouk IDP camp in North Darfur and Otash camp in South Darfur, where he witnessed the deplorable living conditions of the residents. He also visited the Centre for Peace Studies and Human Rights at Al-Fasher University in North Darfur and discussed the role of academic institutions in the promotion and protection of human rights in the Sudan.

9. In North Kordofan, the Independent Expert met with the deputy Governor and other state officials. He visited a temporary shelter for displaced persons and a religious centre that has been attacked by rebels in April 2013. In Blue Nile state, the Independent Expert held meetings with the Governor and other state officials, including the head of the Humanitarian Aid Commission (HAC). He also had fruitful discussions about the humanitarian situation with United Nations agencies working in the state.

10. The Independent Expert notes that the recommendations made during the 2011 universal periodic review (UPR) of the Sudan continue to serve as the main entry point for the implementation of his mandate. In his engagement with the Government and other stakeholders, the Independent Expert stressed his results-oriented approach to the implementation of the mandate, which entreats the Government to publish periodic reports on tangible results and progress made in the implementation of the UPR recommendations.

III. Background

11. A mixture of political, social and economic challenges has adversely affected the general human rights situation in the Sudan. The country has suffered from two long civil wars that have not fully ended to date. The Darfur conflict, which erupted in 2003, has been a major human rights tragedy for the country. Darfur continues to be characterized by widespread human rights violations and large-scale civilian displacements due to the persistence of fighting between the Sudanese Armed Forces and armed opposition groups in the region. Up to 1.9 million people are still displaced throughout the region, relying on humanitarian agencies to provide basic services. The Darfur Peace Agreement (DPA) signed in 2006 between the Government of the Sudan and a faction of the Sudan Liberation Army (SLA) did not succeed in ending the conflict. Political progress has however been made with the signing of the Doha Document for Peace in Darfur (DDPD) between the Government and some of the armed opposition groups. The DDPD remains the only viable roadmap for peace in Darfur, despite its very slow implementation.

12. The North-South Comprehensive Peace Agreement (CPA) of 2005 had also raised hopes for lasting peace in the country, and paved the way for the independence of South Sudan in 2011. Yet the Sudan continues to face a number of new challenges following the independence of South Sudan due to a number of thorny issues left unresolved under the

CPA. While some progress has been made in legislative and institutional reforms under the CPA, the overall democratic transformation of the country has remained precarious. Sudan has yet to adopt a new permanent constitution following the secession of South Sudan; public debate over the constitution is proceeding amid increasing polarization over issues such as the role of religion in the country, decentralization of power and wealth sharing between the different regions of the Sudan. This period provides an opportunity for the country to adopt a permanent democratic constitution that is inclusive and aimed at realizing a lasting democracy and political stability for the country. At the same time, parts of the legal framework, such as the National Security Act and the Criminal Act, infringe fundamental human rights and freedoms. Restrictions on civil and political rights and the curtailment of freedom of expression and the press have persisted. Increasing demands by political opposition groups, civil society organizations and students for democratic reforms have been met with a heavy hand by the authorities, including arrests and detention by the security forces, and impunity remains a recurring problem.

13. In the three Protocol Areas of Abyei, South Kordofan and Blue Nile, outbreaks of fighting have led to widespread human rights violations and large-scale displacements. The referendum on the final status of Abyei, and the popular consultation processes in South Kordofan and Blue Nile envisaged under the CPA, did not take place due to fighting in these areas.

14. Sudan has yet to ratify key international human rights treaties, such as the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment, and the Convention on the Elimination of All Forms of Discrimination against Women. The country underwent the universal periodic review (UPR) by the Human Rights Council in May 2011. In spite of the positive achievements noted by the Government, a number of concerns and issues were raised during the review, including with regard to continuing discriminatory laws against women and the prevalence of sexual and gender-based violence in Darfur.

15. In meetings with the Independent Expert, many Government officials repeatedly asserted that the general human rights situation in the Sudan should be understood in the context of the decades of armed conflicts which have afflicted the country. The Independent Expert notes that human rights and international humanitarian law must be fully respected even in times of armed conflict. All parties involved in the armed conflicts – Government forces and rebel groups alike – therefore, have a responsibility to respect human rights at all times.

IV. Assessment of progress made by the Government towards improving the human rights situation

16. While the general human rights situation in the Sudan has remained unstable, especially in conflict-affected areas like Darfur, South Kordofan and Blue Nile, the Government continues to make progress in legislative and institutional developments aimed at improving the situation of human rights in the country. In addition, human rights awareness has improved across the different government sectors and relative improvement can be seen among the general population. Nonetheless, effective implementation and practical realization of most of the Government's human rights policies on the ground remain generally slow.

17. In discussions with Government officials, the Independent Expert pointed out the need for the Government to move from merely initiating human rights policies to a results-oriented approach of ensuring the practical realization of adopted human rights policies across the relevant institutions in the country. The Independent Expert continued to stress

the importance of transparency and the need for the Government to disseminate its human rights strategies and results achieved to encourage public evaluation and more accountability for human rights violations.

A. Implementation of the recommendations of the Universal Periodic Review

18. The Government has continued to take the necessary steps towards implementing the recommendations of the 2011 Universal Periodic Review, including drawing up a detailed action plan for their implementation. In addition, it has conducted workshops across the country to assist authorities and Government institutions in the states to familiarize themselves with the recommendations and the time frame for implementation. Priority areas identified in the implementation plan for 2013 include administration of justice, law reform and ratification of some international human rights treaties. A committee of experts was set up to study the reform of laws such as the Criminal Procedure Act, the Criminal Act, the Evidence Act, the Personal Status Law and the Labour Act, and it has submitted its recommendations to the Government for consideration. The Government is also working on the amendment of the Press and Publication Act of 2009 to ensure more protection for journalists and newspaper publishers. The Independent Expert commends the Government for taking these positive steps towards implementing the UPR recommendations. The Independent Expert would like to recommend that the law reform process be extended to include the reform of the 2010 National Security Act, which continues to encroach on the enjoyment of fundamental human rights in the country. The Government should act expeditiously on the recommendations of the Committee in order to take the law reform process forward quickly and effectively.

19. The Independent Expert notes the strong cooperation between the Government and the United Nations Development Program (UNDP) with regard to the implementation of the UPR recommendations, which must be encouraged and sustained. The Government should aim for the full practical implementation of its action plan on the UPR recommendations and make a particular effort to realize tangible results in the areas of administration of justice, law reform and ratification of identified international human rights treaties, as priority areas specified in the action plan for 2013. In following the Independent Expert's results-oriented approach, the Government should evaluate and publish the results achieved in the implementation of these three specified areas at the end of 2013.

B. Legislative and institutional development

20. The Government has made progress in putting in place necessary legislation and institutional mechanisms for improving the situation of human rights in the country. The Bill of Rights provisions in the current interim national constitution serve as an important framework for the protection of human rights in the country. The Government has promised to retain these provisions in the new permanent constitution currently under discussion, which is a step in the right direction. The Government should, however, ensure that the full import of the Bill of Rights is realized by ensuring that operations of all State organs, particularly NSS, are in conformity with the constitution and international human rights standards.

21. The Independent Expert notes the important roles played by various bodies in the improvement of the human rights situation in the country. These include the Advisory Council on Human Rights (ACHR), the National Commission for Human Rights (NCHR), the Human Rights Committee of the National Assembly, the Unit for Combating Violence

Against Women and Children, the National Council for Child Welfare, the Commission for the Rights of Non-Muslims in Khartoum State, the Special Prosecutor for Darfur crimes, the judiciary and the police. The Independent Expert's assessment of the effectiveness of these bodies and their respective technical assistance needs is provided in chapter VI of this report.

C. Adoption of the 10-year National Action Plan for the Protection of Human Rights

22. Further to the Independent Expert's recommendations, the Government has adopted a 10-year national action plan for the protection of human rights in the Sudan, which was formally launched in June 2013. The action plan focuses on eight major objectives, including in the following areas: human rights education, law reform, awareness-raising and capacity-building for human rights and international humanitarian law and strengthening partnership between Government and civil society organizations. The plan is expected to be reviewed biannually to evaluate progress made in its implementation. However, details of the plan are yet to be fully sorted out. The plan marks a positive step and provides a clear strategy for the improvement of human rights in the country, and the Government should expedite its implementation. The Government should also establish a high-level body to oversee its implementation, and the ACHR and NCHR should be tasked with monitoring progress made in its implementation. In following the results-oriented approach, the Government should publish an annual report of the tangible results achieved under the national action plan for the protection of human rights to allow the public to evaluate the progress made in its implementation.

V. Main human rights challenges

23. In spite of progress made in policy, legislative and institutional development, as described above, Sudan continues to face enormous human rights challenges. The operations of Government security agencies, particularly NSS, have impeded the enjoyment of basic civil and political rights, and recurrent armed conflicts between Government forces and armed rebel groups as well as inter- and intra-tribal clashes continue to result in serious human rights violations and large-scale displacement of civilians in different parts of the country. The security situation in the conflict-affected regions of the country has remained precarious, and impunity for human rights violations remains a recurring problem. The absence, or sometimes weak presence, of formal State institutions in remote parts of the country accounts for the difficult human rights situation in those areas. The enjoyment of economic, social and cultural rights also needs to be improved to address the severe poverty affecting particularly women and children in rural areas.

24. The Independent Expert discussed these challenges in his meetings with Government representatives and he hopes that the Government will commit to addressing them urgently as part of its efforts towards improving the human rights situation in the country.

A. Curtailment of the activities of civil society organizations

25. In his last report, the Independent Expert highlighted the important role of civil society organizations and urged the Government to foster a more conducive environment for their operations in the Sudan. Regrettably, the Government continued to clamp down on the activities of these organizations during the reporting period. In December 2012, the Government shut down the operations of three organizations and one literary forum. NSS

subsequently prevented a group of organizations from submitting a complaint against the Government's decision to the NCHR. The action of NSS was a clear violation of the right of these organizations to protest as well as a hindrance to the statutory function of the NCHR to receive petitions from the public. The NCHR appropriately objected to the NSS action and issued a press release and a written complaint to the President of the Republic.

26. These actions by the security agencies stifle free speech and the effective operations of civil society organizations in the Sudan and are contrary to the obligation of the Sudan to respect and protect the right to freedom of assembly and expression as guaranteed under its interim constitution and the International Covenant on Civil and Political Rights to which the Sudan is a State party. Civil society organizations are the bedrock for the protection and promotion of human rights in a democratic society and the Government must ensure that they are able to operate freely and that their right to freedom of assembly and expression is fully respected.

B. Press censorship

27. Press censorship by government security agents continued unabated during the reporting period. Despite the Independent Expert's call for the Government to desist from this practice, the Government continues to arbitrarily close down newspapers and arrest journalists for publishing stories deemed critical of the Government. Although the Government announced in May 2013 that it had put an end to press censorship, NSS ordered up to four newspapers to cease operations in June 2013. Pre-publication censorship continues to be used against newspapers and some journalists were ordered to cease their newspaper columns. Security agencies continue to intimidate and instil fear of arrest in journalists, which consequently impedes press freedom, freedom of opinion and freedom of expression. The importance of press freedom and freedom of expression in a democratic society is paramount, and the Government should fully guarantee these rights. The Government is also encouraged to implement its plans to train law enforcement and security officers to respect the right to freedom of speech and amend the Press and Publication Act to give more protection to journalists and newspaper publishers.

C. Arbitrary arrests and detentions

28. In January 2013, some political opposition figures were arrested and detained without charge by NSS on allegations of holding illegal meetings outside the country. At the end of his mission to the Sudan in February 2013, the Independent Expert called on the Government to either release the detainees or promptly charge them with recognizable offences before a court of law. The Government eventually released the said political detainees in April 2013 without any charges. Similarly, at a meeting with the ACHR in June 2013, the Independent Expert raised concerns about 34 women from Kadugli in South Kordofan who had been arbitrarily detained without charge. The Government subsequently released the women in July 2013 without any charges.

29. In April 2013, the Government announced that all political prisoners would be released. While it has been reported that some political prisoners have since been released, it is not clear whether all have been released. The Government should fulfil its pledge by releasing all political prisoners still in detention and making this public.

30. Furthermore, in July 2013, 12 people were reported to have been arrested and detained without charge by government security agents in Abu Karinka locality (East Darfur) for participating in a protest in the area.

31. All of the above incidents of arbitrary arrest and detention are clear violations of the right to liberty and security as guaranteed under the interim constitution of the Sudan and article 9 of the International Covenant on Civil and Political Rights. The Government and its security agents should desist from arbitrary arrests and detention to ensure full respect for the right to liberty and security of individuals. All arrests and detentions by the Government must be carried out in accordance with due process and relevant human rights guarantees.

D. Freedom of religion

32. The Independent Expert received complaints from different quarters about discrimination against non-Muslims – particularly in Khartoum – and incidents of arrests of individuals, raiding of churches and seizure of Christian literature by security agents due to allegations of Christian proselytization in the country. The right to freedom of religion is enshrined in the interim constitution of the Sudan and article 18 of the International Covenant. The interim constitution also established the Commission for the Rights of Non-Muslims in Khartoum State to ensure that their rights are protected in accordance with the constitution. The Sudan has an obligation to ensure that these provisions on the right to freedom of religion are fully respected without discrimination.

E. 2010 National Security Act

33. The operations of the National Security Service (NSS) have had an adverse impact on the enjoyment of civil and political rights, particularly press freedom, freedom of expression, freedom of assembly, right to liberty, political participation and civil society activities. The activities of NSS also impinge on the role of the police as the legitimate law enforcement institution in a democratic society. This has been a source of concern in the human rights community both nationally and internationally. The Director of NSS noted in his meeting with the Independent Expert that NSS operates within its enabling law, namely the 2010 National Security Act. As a State organ, NSS has an obligation to fully respect human rights when carrying out its legitimate functions.

F. Women and children's rights

34. Women and children are among the most vulnerable groups in the Sudan, especially in regions affected by conflict. The protection of women and children's rights – particularly in conflict-affected areas –, therefore, is a matter of serious concern. Women are forced, by various circumstances, to engage in routine livelihood activities, such as fetching firewood, farming and animal grazing, to support their families. These activities often expose them to security risks, including sexual and gender-based violence. In Darfur, UNAMID provided technical assistance in the form of workshops on sexual and gender-based violence for a total of 140 government officials and community leaders between April and June 2013. The head of the North Darfur judiciary expressed particular concern about the impact of the conflict in Darfur on children and emphasized the need for improvement in juvenile justice. Girl children are also exposed to harmful cultural practices, such as female genital mutilation (FGM), that infringe their fundamental human rights.

35. The interim constitution guarantees the rights of women and children, but the Sudan has ratified only the Convention on the Rights of the Child; it has not yet ratified the Convention on the Elimination of Discrimination against Women, and this, in essence, denies women the broader human rights protection provided under international law.

G. Armed conflicts and protection of civilians

36. Armed conflicts and lack of security continue to be major sources of human rights violations in different parts of the Sudan. Darfur, South Kordofan and Blue Nile, specifically, continue to experience sporadic cycles of armed conflicts, violent attacks and banditry, which have had an effect on civilians during the reporting period.

Darfur

37. The dynamics of the conflicts in Darfur have evolved over the last 10 years. The armed attacks in the region have taken different forms, including tribal clashes, aerial strikes by the Sudanese Air Force (SAF) and clashes between pro-Government militia and armed rebels, all of which have led to civilian casualties, destruction of property and displacements. While there has been relative improvement over the years, as a result of the good work of UNAMID and other United Nations agencies working in the region, the security situation remains volatile and precarious.¹

38. In North Darfur, tribal clashes in Jebel Amir, Kutum, Abu Deleg, Saraf Omra and Kabkabiya have led to large civilian casualties and displacements. November 2012 to March 2013 witnessed an upsurge in fighting between the SAF and rebel groups, particularly in East and South Darfur, and violent clashes between different Arab tribes in North, South, West and Central Darfur, from January to August 2013, which resulted in continuing insecurity, human rights violations, destruction and looting of property as well as civilian displacements.

39. In July and August 2013, ongoing clashes between the Rezeigat and Maaliya tribes in East Darfur reportedly resulted in many civilians being killed. There were also reports of SAF aerial strikes on suspected armed rebel positions in East Jebel Mara locality in South Darfur, the Afara mountains and Tabit in North Darfur, and Um Gonya area in South Darfur. Civilians continue to bear the brunt of these armed attacks and clashes which result in serious violations of human rights and international humanitarian law, including arbitrary deprivation of life, injury to persons, destruction and looting of homes and businesses, destruction of livestock and mass displacements.

40. Over the last six months, the number of people displaced in Darfur increased considerably. The influx of new internally displaced persons (IDPs) in different camps in Darfur – such as Al Salam, Kalma, Otash, Dereige, Graidia and Katalya – has stretched the capacity of humanitarian actors to provide assistance in a timely manner. According to the Office for the Coordination of Humanitarian Affairs (OCHA), 235,000 people were newly displaced between January 2013 and April 2013.² In July 2013, the estimated number of displaced persons rose to 300,000, exceeding the combined total of displaced persons in Darfur within the past two years.³

41. The security and safety of IDPs in Darfur remain a matter of grave concern. While many IDPs have expressed the desire to return to their places of origin, the ongoing armed conflicts and violent clashes make it difficult for them to do so. During his visits to Darfur,

¹ See reports of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur (S/2013/22, S/2013/225 and S/2013/420).

² OCHA, Eastern Africa: Displaced Populations report (Issue 14, 30 September 2012 – 31 March 2013), p. 11, available from <http://reliefweb.int/sites/reliefweb.int/files/resources/Displaced%20Populations%20Report%20Sept%202012%20-%20March%202013.pdf>.

³ Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur, S/2013/420, para. 13.

the Independent Expert observed the difficult conditions faced by IDPs in Darfur, especially women and children. In Otash camp in South Darfur, the IDPs had resorted to using local materials to construct makeshift shelters in the camp, while others complained of insufficient food and water. The Independent Expert raised concern about the situation with the Governor of South Darfur and other state officials, urging them to take action to resolve the problems. The Independent Expert urges the Government of the Sudan and relevant United Nations agencies to assist in addressing the humanitarian needs in the IDP camps as a matter of urgency.

42. The situation in Darfur continues to be a challenge for the Government. The Government's duty to protect civilians and hold alleged offenders accountable has been demonstrably weak – a situation that has encouraged impunity in some places. The apparent lack of effective law enforcement is evident in areas such as Kutum locality in North Darfur, where security has not been restored since the 2012 attacks on Kassab and Fataborno IDP camps and Kutum town. Also in Tawilla, North Darfur, only the Sudanese Armed Forces and the Central Reserve Police have been exercising authority in the area since December 2012. All other law enforcement components, including the regular police, have been relocated to El Fasher, the state capital. Also, due to insecurity, judicial services in Kutum and Gereida in South Darfur have not been functional, thus limiting access to justice for most civilians in these localities.

43. In order to fight impunity and also fulfil the Sudan's obligations under the Doha Document for Peace in Darfur (DDPD), in January 2012, the Government appointed a new Special Prosecutor for Darfur crimes (the fifth Special Prosecutor to be appointed since 2003) to investigate and bring to justice those responsible for serious crimes and human rights violations related to the Darfur conflict. During his mission to the Sudan in February 2013, the Independent Expert raised concerns about the slow pace of prosecution of the Darfur conflict-related crimes. Furthermore, he noted that Darfur conflict-related cases were being tried in the ordinary courts instead of the Special Court created specifically for these crimes. The Special Prosecutor has, however, confirmed that prosecution of crimes in the Special Court has now commenced. The Independent Expert also noted that the Justice, Truth and Reconciliation Commission established under the DDPD has not been able to function owing to lack of funding. In a meeting with the Independent Expert in February 2013, the Darfur Regional Authority (DRA) indicated that the Government had approved the release of funds to support the operation of the Commission.

44. The Independent Expert emphasizes the importance of the full implementation of the DDPD and calls on the Government of the Sudan and the international community to fulfil their respective commitments under the agreement. Realizing peace and security in Darfur is necessary for ensuring improvement of the human rights situation in the region. The DDPD provides the only viable roadmap for peace in Darfur and must be supported by all stakeholders. The full implementation of the DDPD is therefore essential and all stakeholders must renew their commitment in that regard.

45. UNAMID has provided technical assistance to the Government in order to build its capacity to recognize, analyse and proactively address human rights issues in Darfur. Since August 2012, it has conducted up to 40 human rights training sessions and workshops for more than 1,200 people, including state legislators, local government authorities, judges, prosecutors, private-sector lawyers, teachers, native administrators and IDPs in Darfur.

South Kordofan

46. The human rights situation in South Kordofan state remains precarious, with civilians bearing the brunt of sporadic cycles of fighting between Government and rebel forces. For security reasons, the Independent Expert could not visit the state as originally planned. On 14 June 2013, when he arrived in the Sudan for his second visit to the country,

the airport of the state capital, Kadugli, was shelled by the Sudan People's Liberation Army-North (SPLA-N) resulting in the death of a United Nations peacekeeper and wounding two others.

47. Reported hostilities between Government forces and the SPLA-N continue to seriously impact the lives of civilians in South Kordofan. There have been widespread reports by local and international human rights monitors of indiscriminate aerial strikes by SAF in different parts of the state, which have resulted in civilian deaths, injuries, destruction of homes, farmlands and large displacements. Hundreds of thousands of civilians are reported to have fled into neighbouring South Sudan and Ethiopia, while those who remain face rapidly deteriorating humanitarian conditions. The United Nations High Commissioner for Refugees (UNHCR) reported that 240,000 people had fled into South Sudan and Ethiopia by the end of October 2012.

48. In April 2013, the fighting in South Kordofan spilled over into neighbouring North Kordofan state. Rebels from the Sudanese Revolutionary Front attacked the villages of Abu Kershola, Jamjaka, El-Feed, Umm Abdullah in South Kordofan, and Umm Rowaba, Allah Kareem, El-Sameh and El-Rahd in North Kordofan, which resulted in civilian deaths, injuries, destruction of civilian properties and massive displacements of the civilian population. The Independent Expert visited some of the displaced victims who were camped in a school compound in Al-Rahd, North Kordofan, and heard disturbing accounts of the ordeal they went through during the attacks. In July 2013, the same rebel group attacked a military post in the Sidreah area of North Kordofan, which led to civilians fleeing the area. While the Government of the Sudan bears primary responsibility for protecting the lives and properties of civilians, all parties to the conflict have a responsibility to respect the human rights of civilians at all times. Likewise, attacks on civilians by rebel groups should be condemned in the strongest terms.

Blue Nile

49. The intensity of fighting in Blue Nile State has diminished considerably compared to the early days of the conflict in 2011. Nevertheless, sporadic fighting between SAF and SPLA-N continues to result in waves of civilian displacements in the southern part of the state. There has, however, been some positive development, notably the opening of access for delivery of humanitarian assistance in Government-controlled areas in the state. Thus, the World Food Programme was able to provide food assistance to 84,000 people, and UNHCR delivered emergency shelter and non-food items to 5,000 people by late May 2013.

50. A significant number of civilians remain trapped in rebel-controlled areas as a result of continued fighting in the region. Indiscriminate aerial strikes by SAF are of particular concern. The Independent Expert could not visit these areas, but received reports indicating that the humanitarian situation there continues to deteriorate. Many displaced and vulnerable civilians have been forced to move further south without access to basic necessities like water and food. United Nations and humanitarian agencies are unable to make a humanitarian assessment or deliver assistance in SPLM-N-controlled areas. Talks between the Government of the Sudan and SPLM-N – under the auspices of the African Union in Addis Ababa in April 2013 – to open up humanitarian access proved futile. Reports about aerial strikes by SAF and the terrible situation in rebel-controlled areas of Blue Nile paint a very worrying picture.

51. The Independent Expert expressed concern about the precarious human rights situation in the state during his meeting with the Governor and other interlocutors. There was general recognition that the continuing armed conflicts in the region, accompanied by the lack of security, have contributed to the deteriorating human rights situation in the state. The Independent Expert stresses the obligation and responsibility of both the Government

and rebel forces to protect human rights, even during armed conflict, and the need to allow unhindered humanitarian access to civilians affected by such conflict.

H. Humanitarian aid and access to victims

52. The question of the Government granting timely and full access to humanitarian agencies so as to facilitate humanitarian assistance to victims of conflict in affected areas is a matter of grave concern. The Independent Expert discussed this with the Commissioner General of HAC who stressed that the humanitarian situation has improved over the years. The Commissioner General also indicated that the Government, in collaboration with United Nations agencies and relevant international aid organizations, was taking further steps towards improving the situation. In March 2013, HAC published new directives aimed at improving humanitarian access in the country.⁴ The Independent Expert considers that the implementation of the new directives should be effectively monitored in order to have the desired effect of addressing the recurring problem of humanitarian access, particularly in Darfur, South Kordofan and Blue Nile states.

I. Economic, social and cultural rights

53. The Independent Expert notes the important need to improve the realization of economic, social and cultural rights in the Sudan to effectively address poverty and other socioeconomic problems of the population, particularly in the rural parts of the country. Improving economic and social conditions will have a very positive impact on ending the persistent conflict that has afflicted the country. In this context, the Independent Expert notes that, among others, the underlying cause of the recent tribal clashes in Darfur was access to resources. In Jebel Amir and El Sireaf, tribal clashes between rival Arab tribes were over control of artisanal goldmines in the area, while control of the locality where gum arabic is produced appears to have triggered the fighting in Katalya and Ed El Fursan in South Darfur in early February 2013. Similarly, the clashes in Um Dukhum in Central Darfur and Rehad el Birdi in South Darfur in April started because of disputes between the local communities over control of grazing, land and water resources.

54. The Independent Expert notes that lack of access to basic social services such as clean water, education, health facilities and infrastructure has exacerbated the already impoverished situation in most rural parts of the Sudan. While the Government has initiated development projects, such as the Merowe Dam and Roseiris Heightening projects, to address these deficits, proper structural measures and mid- to long-term economic policy planning and implementation are necessary to ensure effective alleviation of poverty at the grassroots level. The international community is also encouraged to provide the country with the needed financial assistance for the realization of economic, social and cultural rights, as well as support for early recovery initiatives in conflict-affected areas.

VI. Assessment of technical assistance and capacity-building needs

55. In his discussions with the Government and other stakeholders, the Independent Expert ascertained the roles of different bodies in the Sudan engaged in the promotion and

⁴ Humanitarian Aid Commission, "Directives for Humanitarian Works, 2013".

protection of human rights, with a view to identifying their technical assistance and capacity-building needs.

Advisory Council on Human Rights

56. The Advisory Council on Human Rights (ACHR) continues to be the main coordinating body for the implementation of the UPR recommendations, inculcating a human rights culture across Government institutions and coordinating the Government's human rights engagement with partner agencies and the public. ACHR has played a significant role in creating human rights awareness, particularly within the government sector. ACHR should, however, operate in a more transparent manner by issuing regular reports of its activities to the public, listing the tangible results achieved in human rights promotion and protection. This would not only promote a results-oriented approach, but would also enable the public to evaluate its achievements.

57. The United Nations Development Programme (UNDP) has been a key partner in providing useful technical assistance and support to the Advisory Council towards implementation of the UPR recommendations. UNDP has provided assistance for projects that are already under way, including the organization of consultative workshops for Government institutions, furnishing and equipping the training hall of the Ministry of Justice to support its training activities, and training some 900 Government officers on human rights promotion and protection so as to facilitate the implementation of the UPR recommendations in the different states. These technical assistance and capacity-building projects can be sustained through funding from other sources to bridge current UNDP funding gaps. ACHR has compiled a consolidated document on its technical assistance and capacity-building needs, with estimated costs for each of the programmes outlined. A copy of the document can be obtained from the Office of the United Nations High Commissioner for Human Rights. The projects listed therein relate to many of the major human rights challenges identified in this report.

National Commission for Human Rights

58. The Independent Expert remains convinced of the important role of the National Commission for Human Rights (NCHR) in improving the human rights situation in the Sudan. During the reporting period, NCHR organized a number of training and awareness-raising workshops for Government representatives and civil society organizations in different parts of the country, including Khartoum, Port Sudan, Kadugli, Nyala and Gadarif. The Commission has also engaged in constructive dialogue with relevant Government organs and agencies, including the judiciary, the Ministry of Internal Affairs, the Constitutional Court and NSS, on different human rights concerns such as press censorship, political detentions and the effect of the application of the 2010 National Security Act on the enjoyment of human rights in the country. The Commission also visited Darfur, South Kordofan and Blue Nile states to gather information on human rights, and has received 38 human rights complaints, mostly in respect of the operations of state security organs, which it is currently investigating. The Commission has made some good operational progress, but needs to deliver on its substantive mandate of ensuring improvement in the human rights situation in the Sudan.

59. NCHR confirmed that the Government has approved its current budget and has disbursed funds for its operations. The Commission also received support from international partners including the Swiss and British Governments. Under a four-year agreement with UNDP, the Commission will receive support in different areas of its operations from 2012 to 2016. UNDP has also loaned the Commission two vehicles, and provided funding for the establishment of four regional offices to enable the Commission to extend its operations nationwide. NCHR has further initiated plans to sponsor its members

to attend training programmes and visit the national human rights commissions of South Africa, Rwanda and Morocco in order to benefit from their experiences and best practices. Plans are also under way to establish a human rights library for the Commission's headquarters in Khartoum and proposed branches in the different regions of the Sudan. These initiatives are necessary for enhancing the Commission's effectiveness. There is a need for continued support to the Commission, either through funding from UNDP or through direct bilateral assistance to the Commission from other donors to improve its effectiveness.

Human Rights Committee of the National Assembly

60. In its meeting with the Independent Expert, the Human Rights Committee of the National Assembly (HRCNA) emphasized its role as a standing committee in the legislature for promoting and protecting human rights. Through its legislative oversight functions, the Committee ensures that all laws passed by the Legislature are in conformity with the Constitution and the international human rights obligations of the Sudan. This role can ensure improvement of the human rights situation through the enactment of human rights-compliant laws. In following the Independent Expert's results-oriented approach, HRCNA should issue annual reports of its human rights interventions and inputs on legislation adopted by the National Assembly. To help improve its capacity to fulfil its role more effectively, HRCNA has requested technical assistance and training for its members, which the Independent Expert supports.

Unit for Combating Violence against Women and Children

61. The Independent Expert notes the important role played by the Unit for Combating Violence against Women and Children in promoting and protecting the rights of women and children in the Sudan. The Independent Expert commends the Unit for initiating a five-year (2012-2016) national strategic plan aimed at combating violence against women and children. Based on information gathered by the Independent Expert on the situation of women and children in places like Darfur and other conflict-affected areas, the Unit needs to ensure that its activities reach rural areas more effectively in order to ensure protection of women and children at the grassroots level of society. In following the Independent Expert's results-oriented approach, the Unit should publish an annual report on tangible results achieved in its five-year national strategic plan for public evaluation.

62. The Government should provide adequate funding for the Unit to enable it to fulfil its objectives effectively. International partners are also encouraged to provide the necessary technical assistance and capacity-building to help the Unit realize the objectives of its national strategic plan.

National Council for Child Welfare

63. The National Council for Child Welfare (NCCW) also has an important role to play in respect of ensuring children's rights and welfare in the Sudan. The Independent Expert commends the Council's role in promoting the Sudanese Child Act of 2010 and its ongoing awareness-raising and advocacy campaigns on child rights issues in the Sudan. The Council's national programme for the abolition of female genital mutilation (FGM) – a practice that is prevalent in the Sudan –, with a strategy aimed at eradicating the practice in the Sudan by 2018 is very laudable. The practice of FGM is a violation of the rights of children and contrary to the provisions of articles 19 and 24, paragraph 3, of the Convention on the Rights of the Child, and article 21 of the African Charter on the Rights and Welfare of the Child, both of which the Sudan is a State party. NCCW should extend its activities to the rural areas to ensure that the rights and welfare of children are effectively protected at the grassroots levels. The legislative council in South Darfur passed a law in 2013 making

FGM a crime in the state. Similar laws have been passed by the legislative councils of South Kordofan, El Gedarif and Red Sea states. The Independent Expert encourages other states to pass similar laws. NCCW should intensify its awareness-raising campaigns to ensure the eradication of FGM in the Sudan by 2018. It should follow a results-oriented approach and publish an annual report of tangible results achieved under the programme. The Independent Expert urges international partners to support NCCW by providing technical assistance and capacity-building training so as to enhance its effectiveness.

Judiciary

64. In his meeting with the Chief Justice and other senior members of the judiciary, the Independent Expert highlighted the important role of the Sudanese judiciary in promoting the rule of law and ensuring human rights are guaranteed in the country. To fulfil this role effectively, it is crucial for the judiciary to be independent of other arms of Government. The Chief Justice emphasized the independence of the Sudanese judiciary, noting that the separation of the judiciary from the Ministry of Justice represents an aspect of its independence from the executive arm of Government. However, there is a low level of confidence among the national civil society and human rights community about the ability of the Sudanese judiciary to guarantee the protection of human rights in the Sudan. The judiciary must ensure that it commands a high level of public confidence by fully upholding the constitution and rule of law in the Sudan.

65. While the higher echelon of the judiciary is aware of the need to uphold human rights standards in the administration of justice, the lower courts operating in rural areas would benefit from training in human rights. The operations of some rural courts in conflict-affected regions have not been fully functional because of intermittent armed attacks and lack of security. The Government should ensure that courts in these areas are fully functional in order to guarantee access to justice.

66. The Sudanese judiciary has benefitted from capacity-building projects with international partners through UNDP and UNAMID, which have helped it enhance its capacity to implement human rights and the rule of law, especially at senior levels. Since August 2012, UNAMID has delivered 23 training sessions and workshops on justice and corrections issues to 679 participants, including members of the judiciary and legal practitioners in Darfur. Regular capacity-building of judicial staff is essential to ensure the effective functioning of the judiciary. The Chief Justice and the senior members of the judiciary met in Darfur and highlighted the need for continued capacity-building and technical assistance to enable the judiciary to improve its effectiveness, particularly in the area of human rights and the rule of law.

Police

67. The police play an important role in the protection of human rights in the Sudan, especially in the areas of law enforcement, preventing and investigating crimes, ensuring safety and security as well as generally protecting society. In his meeting with the Independent Expert, the Deputy Director General of Police highlighted that the police were doing their best to fulfil that role in the Sudan, but noted that there were a number of challenges due to the ongoing conflicts in different parts of the country. The Police College and other police training institutions have incorporated human rights education into their training programmes, so that all members of the police force are made aware of their human rights responsibilities in the performance of their duties. However, there is evident lack of effective law enforcement by the police in some conflict-affected areas of the country.

68. The police force has received useful training in community policing and other capacity-building workshops from international partners and UNAMID, which have helped

to improve police and community relations in many localities. Between April and June 2013, UNAMID trained a total of 390 police personnel on human rights, community policing and gender-based violence in Darfur. It also trained 86 community policing volunteers and set up a total of 142 community safety committees in camps and villages. The Deputy Director General of Police, however, highlighted the need for further technical assistance and capacity-building to help the police service to continue to meet the human rights challenges confronting it in the discharge of its role.

Special Prosecutor for Darfur crimes

69. The Special Prosecutor for Darfur crimes recently commenced the prosecution of Darfur conflict-related crimes in the Darfur Special Court. The Office of the Special Prosecutor is currently dealing with some 54 cases, 8 of which have already been decided by the courts. In order to ensure transparency, and following the Independent Expert's results-oriented approach, the Special Prosecutor should publish periodic reports on tangible results achieved so that the public could evaluate its work. The Office of the Special Prosecutor for Darfur crimes has requested technical assistance and capacity-building from the international partners, including training for staff to build expertise to enable them to discharge their responsibilities effectively. In view of the Special Prosecutor's very important role of ensuring justice in Darfur, the Independent Expert urges international partners to provide the Office with the necessary technical assistance and capacity-building, including training for staff, especially prosecutors.

Civil society organizations

70. The Independent Expert met with representatives of civil society organizations in Khartoum, North Darfur, South Darfur and North Kordofan. In general, the representatives complained about censorship and intimidation by the Government. They also emphasized their need for technical assistance and capacity-building in order to enhance their human rights activities.

71. Various civil society organizations received relevant training and technical assistance through UNDP, UNAMID and NCHR, which has helped them to improve their competences in different aspects of human rights-related work. The Independent Expert urges the international community to continue to support civil society organizations in the Sudan by providing technical assistance and capacity-building, especially training in human rights advocacy, so as to enable them to operate more effectively, and paralegal training to enable them to provide legal assistance to victims of human rights violations.

Academic community

72. The academic community in the Sudan can play an important role in improving the human rights situation in the country, particularly in the areas of human rights education, promoting public awareness and providing technical assistance to the Government in the implementation of its 10-year national human rights action plan. Academic staff in the Law Faculty of the University of Khartoum and the Centre for Peace and Human Rights Studies at the El-Fasher University have the required expertise and have expressed their willingness to contribute to the enhancement of human rights education in the country.

73. The academic community in the Sudan should be continually engaged and involved in the strategy to improve the human rights situation in the Sudan through their objective academic inputs into human rights policies and strategies in the country. International partners have provided assistance to academic staff of the University of Khartoum to enhance their capabilities, which is commendable and should be sustained.

VII. Conclusions and recommendations

74. The Human Rights Council mandate on technical assistance and capacity-building to the Sudan in the field of human rights has provided an appropriate platform for the Independent Expert to engage with the Government of the Sudan on improving the human rights situation in the country, and to assist in identifying areas of assistance that would help the Sudan to fulfil its human rights obligations.

75. The Government of the Sudan has made some progress in developing policies and legislative and institutional mechanisms necessary for improving the human rights situation in the country. It now needs to concentrate on implementing these policies through the adoption of a results-oriented culture that promotes the tangible realization of the adopted human rights policies across the relevant institutions in the country.

76. It is important and necessary that the Independent Expert sustains this engagement with the Government of the Sudan in order to ensure sustainability of the progress made and further improve the human rights situation in the country.

77. Based on the above assessments and conclusions on the human rights situation in the Sudan, the Independent Expert makes the following recommendations:

A. Recommendations to the Government of the Sudan

78. The Government of the Sudan, with the support of the international community, should:

(a) Sustain the progress made so far in its effort to improve the human rights situation in the Sudan and continue with the implementation of the UPR recommendations, with particular focus on realizing practical human rights improvements in the country;

(b) Publish, at the end of 2013, a report on the practical results achieved from the implementation of the UPR recommendations in the three priority areas, namely, administration of justice, law reform and ratification of identified international human rights treaties;

(c) Establish a high-level committee to oversee the implementation of the recently adopted national action plan for the protection of human rights in the Sudan;

(d) Cease arbitrary curtailment of the activities of civil society organizations, press censorship and all arbitrary arrests and detentions;

(e) Pursue the constitutional and political process in a transparent and inclusive manner, and foster an atmosphere of fair and peaceful political participation in preparation for the next elections in the country;

(f) Ensure full respect for the right to freedom of religion without discrimination;

(g) Amend the 2010 National Security Act to ensure that the powers of the National Security Service to arrest and detain persons do not usurp the legitimate role of the police and are in conformity with the Sudan's international human rights obligations;

(h) Uphold the guarantee of the rights of women and children contained in the interim constitution and take the necessary steps to quickly ratify the Convention

on the Elimination of Discrimination against Women in conformity with its action plan on the implementation of the UPR recommendations;

(i) Adequately fund the Unit for Combating Violence against Women and Children to enable it to fulfil its objectives effectively;

(j) Urgently address the humanitarian needs of the internally displaced people in the Sudan;

(k) Rededicate its commitment to ensure the full implementation of the Doha Document for Peace in Darfur;

(l) Ensure that its forces comply fully with international human rights and humanitarian laws regarding the protection of civilians in their engagement with rebel forces;

(m) Grant timely and full access to accredited humanitarian agencies to assist victims in conflict-affected areas;

(n) Give adequate attention to the promotion and realization of economic, social and cultural rights in order to address poverty at the grassroots level of society;

(o) Ensure access to justice in the conflict-affected areas of the Sudan.

79. Government institutions, more specifically, the Advisory Council on Human Rights, the National Commission for Human Rights, the Human Rights Committee of the National Assembly, the Unit for Combating Violence Against Women and Children, the National Council for Child Welfare and the Special Prosecutor for Darfur crimes, should publish periodic reports on their respective tangible human rights achievements so that the public could evaluate their work.

80. The National Commission for Human Rights should quickly and effectively investigate all the human rights complaints it has received, and report on its findings publicly.

81. The National Council for Child Welfare should intensify its awareness-raising campaign with a view to eradicating female genital mutilation in the Sudan by 2018.

B. Recommendations to the international community

82. The international community should:

(a) Intensify efforts towards helping to bring an end to the armed conflicts in the Sudan, by encouraging both the Government of the Sudan and the rebel movements to lay down their arms and engage in peaceful negotiations;

(b) Fulfil their respective funding pledges under the Doha Document for Peace in Darfur to ensure its full implementation as the most viable road map for peace in Darfur;

(c) Provide the Government of the Sudan with technical assistance and capacity-building to facilitate improvement of the human rights situation in the Sudan, particularly through building the capacities of the following bodies:

(i) Advisory Council on Human Rights;

(ii) National Commission for Human Rights;

(iii) Human Rights Committee of the National Assembly;

(iv) Unit for Combating Violence against Women and Children;

- (v) National Council for Child Welfare;
- (vi) Judiciary;
- (vii) Police;
- (viii) Special Prosecutor for Darfur crimes;

(d) Assist civil society organizations with technical assistance and capacity-building to improve their human rights advocacy and rule of law capabilities, and to enable them to contribute more effectively to the improvement of human rights in the Sudan;

(e) Engage the academic community in the Sudan to contribute to the strategy to improve the human rights situation in the Sudan, and provide them with technical assistance and capacity-building to enhance their capabilities for that purpose.

83. Based on their relevant experience in handling development projects in the Sudan, UNDP in conjunction with UNAMID in Darfur should continue to be the main coordinating institutions for technical assistance and capacity-building arrangements between the Government of the Sudan and the international community, as well as between civil society organizations in the Sudan and the international community.

C. Recommendations to civil society organizations

84. Civil society organizations in the Sudan should:

- (a) Continue their good work in promoting human rights awareness in the Sudan and their constructive engagements with the Government;
- (b) Continue to improve their human rights advocacy skills to enhance their capabilities in promoting and protecting human rights in accordance with the rule of law;
- (c) Submit proposals for technical assistance and capacity-building to UNDP, UNAMID and other international partners to help improve their human rights advocacy and rule of law capabilities.

D. Recommendation to the armed movements in the Sudan

85. Armed movements in the Sudan should:

- (a) Respect human rights and humanitarian rules in their engagements and avoid indiscriminate attacks on the lives and properties of civilians and United Nations peacekeepers;
- (b) Cooperate fully with the international community to find a permanent peaceful solution to armed conflicts in the country.
- (c) Support the Doha Document for Peace in Darfur and cooperate with the Government of the Sudan and the international community to make its implementation successful. The Doha Document remains the only viable and human rights-friendly road map for peace in Darfur, and it must be supported by all stakeholders.