

UNMIS REPORT
ON
THE HUMAN RIGHTS SITUATION
DURING THE
VIOLENCE IN SOUTHERN KORDOFAN
SUDAN

Human Rights Section
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EXECUTIVE SUMMARY

This report highlights the violations of human rights and international humanitarian laws committed during the conflict in Southern Kordofan since 5 June 2011 when fighting broke out in the state between the SAF and the SPLA supported by the Nubans. The Nuban people have long been aligned with the Southerners in their fight against the Khartoum-based Government due to perceived injustices, discriminatory practices and marginalization. The CPA had intended to address these grievances through Popular Consultations, but these did not take place in Southern Kordofan.

Although both parties to the conflict have engaged in acts against civilians throughout the course of the recent conflict in Southern Kordofan that breach relevant national and international laws, including violation of their obligations under the Comprehensive Peace Agreement (CPA) of 2005, **it is the conduct of the SAF has been especially egregious. Instead of distinguishing between civilians and combatants and accordingly directing their military operations only against military targets, the SAF and allied paramilitary forces have targeted members and supporters of the SPLM/A, most of whom are Nubans and other dark skinned people.**

Reported human rights violations include: aerial bombardments resulting in destruction of property, forced displacement, significant loss of civilian lives, including of women, children and the elderly; abductions; house-to-house searches; arbitrary arrests and detentions; targeted killings; summary executions; reports of mass graves; systematic destruction of dwellings and attacks on churches.

Monitoring has also revealed that the SAF, paramilitary forces and Government security apparatus have engaged in violent and unlawful acts against UNMIS, in violation of International Conventions and the Status of Forces Agreement (SOFA) including: verified incidents of shelling in close proximity to UN property, resulting in damage; summary execution of a UN national staff member; assaults on physical integrity of UN staff; arbitrary arrest and detention of UN Staff and associated human rights violations including ill treatment amounting to torture; harassment, intimidation, and obstruction of freedom of movement; and intrusion on UN premises including the UNMIS Protective Perimeter established to protect civilians internally displaced as a result of the conflict. The international community must hold the Government of Sudan accountable for this conduct and insist that those responsible be arrested and brought to justice.

The reports calls for corrective action to mitigate harm, hold accountable those responsible for human rights violations, address the plight of victims, and embark on a negotiated political settlement between the Government of Sudan and the Nuban people. The report further recommends that an independent and comprehensive investigation be conducted, into violations of human rights and international humanitarian laws in Southern Kordofan with the view to bringing those who bear the greatest responsibility to justice, including referral as appropriate to the Prosecutor of the International Criminal Court (ICC).

BACKGROUND

1. Southern Kordofan is inhabited by approximately 1,100,000 people (2000)¹ with over 100 ethnic communities. The majority population is represented by nomadic Misseriya and Hawazma Arabs and agriculturalist African Nuban communities.² In the Kadugli area and surrounding Nuban Mountains, the population is predominantly Nuban. Historically, the Nuban ethnic communities appear to have been marginalized by the Government of Sudan which led some of them to ally with the Sudan Peoples Liberation Army (SPLA) when the latter fought a war with the North between 1983 and 2005.

2. The security arrangements agreed upon under the Comprehensive Peace Agreement (CPA) signed in 2005 between the Government of Sudan (GoS) and the SPLM, provided for the formation of Joint Integrated Units (JIUs) consisting of equal numbers of Sudanese Armed Forces (SAF) and SPLA personnel, not only a symbol of sovereignty and national unity, but also to provide for the security of the country during the interim period of the CPA. For Southern Kordofan/Nuba Mountains, the size of the force was limited to 6,000. Although deployed, the JIU never functioned as an integrated unit and hence could not act as symbol of national unity. Information collected on the ground from UN military staff and respective national monitors from both forces reveals that the SAF presently dominates Kadugli, Talodi, Leri West/East and Northern part of Kauda containing Abu Gebiha, Rashad and Khordeleb. The SPLA currently dominates Umm Dorein, Delabaya, Angarto, Mandi and the southern part of Kauda (Heiban, Kauda and Timbera) which mostly comprise residual SPLA elements from the JIUs.

Tensions leading up to the fighting in Kadugli

3. The CPA provided for popular consultations to ascertain the views of the people of Southern Kordofan/Nuba Mountains and the Blue Nile states on the CPA reached by the Government of Sudan and the SPLM. However, the CPA was vague on the objectives of popular consultations. The popular consultations were to be preceded by elections. After several postponements, the gubernatorial elections in Southern Kordofan were finally held in May 2011 in an environment of mistrust between the two main political parties- the National Congress Party (NCP) and the SPLM. On 27 April, during an NCP election rally in Southern Kordofan President Al Bashir was quoted as warning of “going all out for war should SPLM win the elections.”³ When results were announced that the NCP had won, the SPLM refused to accept the results and announced its disengagement from the state government. This created a vacuum

1 Sudan Ministry of Cabinet Affairs 22 July 2008 <http://www.sudan.gov.sd/en/index.php>

2 Minority populations consist of those with origins from West Africa, numbers of Shanabla and Ma’alia Arabs, and Southern Nilotic Dinka and Shilluk groups

3 <http://allafrica.com/stories/201105040356.html>

in the South Kordofan State Legislative Assembly that put in jeopardy the popular consultations. On 28 May, soon after the occupation of Abyei by the SAF, the Government of Sudan issued an ultimatum that by 1 June, all SPLA forces in Southern Kordofan and Blue Nile states must leave and head south beyond the 1956 border.⁴

4. Prior to the outbreak of war in Kadugli, SAF had an estimated 20,000 troops in Southern Kordofan. Beginning in March, there were allegations that SAF and SPLA had begun building up their respective forces in Kadugli. UN Military Observers (UNMOs) reported of the arrival of SAF assets to El Obeid, the capital of Northern Kordofan State, and the movement of heavy equipment, tanks, materiel, and artillery into Southern Kordofan through Dilling and Kadugli. Also in March, satellite imagery recorded by the US-based watchdog organization⁵ Satellite Sentinel Project confirmed the reinforcement of SAF troops, construction or reinforcement of bases, and new accumulation of arms and artillery in Southern Kordofan, with a notable addition of assets in El Obeid diverted to both Abyei and later Kadugli.

5. Rumours persisted in the run up to the elections that SPLA was reinforcing its troops in the 9th Division headquarters of White Lake. UNMOs conducted verification missions to the SPLA headquarters in White Lake on 4-6 April and did not confirm any build up of force. Instead, it was observed that the number of earlier verified troops had reduced by about 2,000 men. SAF claimed that the SPLA had abandoned its headquarters and spread out into other parts of the Southern Kordofan. UNMOs attempted on several occasions to re-verify the number of troops but were not given clearance by the SPLA.

Outbreak of fighting in Kadugli

6. In the early hours of Sunday, 5 June, the SAF blocked all the major roads into and out of Kadugli town. Later in the day, fighting broke out between SPLM and SAF in Kadugli. The SAF claimed that the SPLA instigated the fighting by taking over a police station and raiding small arms on the previous evening. In turn, the SPLA claimed that the SAF had attempted to disarm the SPLA-JIUs by force. Both SAF and SPLA took positions throughout the town as the SPLA took a fortified stance in front of the residence of Southern Kordofan Deputy Governor Abdel Aziz Al-Hilu. Later in the night, fighting intensified as SAF bombarded areas where there were SPLA detachments in the Talodi locality.

7. One day after the fighting started, in an interview with the state-run radio service SUNA, the Governor of Southern Kordofan Ahmed Haroun of the NCP, accused his deputy Abdel Aziz Al-Hilu of the SPLM of leading “a rebellion against the state” saying that Al-Hilu along with Secretary-General of the SPLM-North, Yasir Arman, bore responsibility for the violent events in the state and that Al-Hilu would be “severely punished” for his actions.

4 <http://www.sudantribune.com/SAF-gives-Sudan-s-SPLA-ultimatum,39052>

5 <http://www.satsentinel.org/report/move-evidence-civilian-displacement-and-saf-control-kadugli>

8. On 6 June, SAF commenced aerial bombardments and intensified ground assaults on civilian populated areas in Um Dorein and Talodi localities. Many civilians fled the towns taking up refuge in the Nuba Mountains. Civilians wounded by the bombardments flocked to hospitals in Kadugli. Civilian movement was curtailed further east in Heiban and Kauda localities, as SAF and SPLA roadblocks from the north and south prevented residents from leaving the town. In Kadugli town, residents in the largely SPLM-inhabited Kalimo area were warned by both the SAF and the SPLA to evacuate the area. In the late afternoon, SAF heavily bombarded the west of town in Al Messanie which continued until the early morning of the 7 June. Residents in the Kalimo neighbourhood reported that the SAF was indiscriminately shelling homes where it suspected SPLA elements were hiding. There were also reports that the SAF was conducting house to house searches and systematically burning houses of suspected SPLM/A supporters.

9. With the reinforcement of SAF, Central Reserve Police and militia elements, the security situation deteriorated on 7 June, with indiscriminate shelling of Kadugli town apparently targeting densely civilian-inhabited areas. This led to the secondary displacement of thousands of IDPs who had taken refuge in churches and hospitals to the UNMIS compound where they were sheltered in an area adjacent to the compound that was set up specifically to receive IDPs and provide them security and humanitarian assistance (Protective Perimeter). The SAF took control of the Kadugli airport, including UN assets located at the airport, and closed all civilian air traffic. UNMIS Human Rights received confirmation that SAF, together with militia elements of the Popular Defence Forces (PDF), a paramilitary force established in 1989 to assist SAF in “defending the nation”, began going from house to house subjecting residents to identity checks. It is alleged that these searches targeted individuals based on their ethnicity and political affiliation and that they subsequently resulted in arrests and, in some cases, summary executions throughout pro-SPLM areas of Kadugli town.

10. Eyewitnesses reported to UNMIS Human Rights looting of civilian homes, UN agencies/offices, and humanitarian warehouses, and destruction of property by PDF elements as they fought alongside the SAF. Meanwhile UN Security began the relocation of staff from UN Agencies, Funds and Programmes and INGOs to the UNMIS compound. By the evening Kadugli town, including hospitals, was emptied, as SAF checkpoints were established throughout the town.

11. By 8 June, the Protective Perimeter at UNMIS compound had received an influx of 6,000-7,000 IDPs seeking refuge from the on-going fighting, as approximately another 1,000 civilians fled Kadugli and moved north. According to aggregated calculations between UNMIS, UNHCR and OCHA, by 20 June, when IDPs started leaving the Protective Perimeter, an estimated 11,000 IDPs had sheltered there.

12. The security situation continued to deteriorate from 9 June onwards with further reinforcements of the SAF and the SPLA that spread the fighting to other localities. The fighting led to the withdrawal from Kadugli of the SPLA component of the JIU. Meanwhile the SAF persisted with daily aerial bombardments and attacks in Kadugli, Dilling, Rashad, Heiban, Kauda, Talodi and Um Dorein localities deep in the Nuba Mountains where civilian populations had sought refuge. Aerial bombardments

reduced after 14 June but continued although with less intensity and frequency. However, civilian casualties continued to be reported in Kadugli, Umm Dorein, Um Serdeiba, Heiban, Kauda, Dilling, Salara areas, where many civilians were trapped due to the fighting. UNMIS Human Rights also received reports of abductions, arrests, detentions and executions of civilians throughout the Kadugli region. By 30 June, when this report was being finalized, UNMIS noted that aerial bombardments were still on-going, with continuing SAF and SPLA artillery exchange, as well as SAF and militia shelling, house to house searches for Nubans and pro-SPLM supporters and continued human rights violations.

OBJECTIVES

13. This report is prepared in compliance with a request by some members of the Security Council for UNMIS to submit a Human Rights Report on the situation in Southern Kordofan. The report is also consistent with the Security Council Resolution 1590 (2005) establishing UNMIS with a mandate that includes the requirement to monitor, investigate and report on the rights and freedoms set forth in the CPA, the Interim National Constitution of 2005 (INC) and other international conventions/instruments that Sudan has ratified.

14. The reports is also intended to shed light on the human rights violations committed during the conflict in Southern Kordofan with the view to enabling the Security Council and international partners to take corrective action to mitigate harm, hold accountable those responsible for violations, and provide redress to victims. Additionally, the report calls for further scrutiny and recommends the establishment of an independent investigation including, where appropriate, the referral to the Prosecutor of the ICC to conduct a more comprehensive investigation into violations of human rights and international humanitarian laws that may have taken place in Southern Kordofan.

METHODOLOGY

15. The report is based on the monitoring findings by UNMIS Human Rights obtained through its human rights officers in the Kadugli field office in the course of conducting field missions, investigations of incidents, interviews with victims and witnesses, state and local authorities, security personnel, political, religious and community leaders. Interviews were also conducted with IDPs in Southern Kordofan, El Obeid and Khartoum, UN personnel, NGOs and media sources, including regular contacts with a network of contacts in remote areas inaccessible to UNMIS Human Rights.

16. In endeavouring to obtain and verify information related to alleged human rights abuses during the fighting, UNMIS Human Rights faced a number of constraints such as limited access, due to security reasons, to areas under the control of SAF, SPLA, and militia elements. There were also restraints on staff imposed by UNDSS meaning that Human Rights Officers could not easily go out of the UNMIS compound to verify allegations and observe first hand. There was also difficulty obtaining interviews from victims and witnesses who feared reprisals. In light of the above constraints, UNMIS Human Rights dispatched Human Rights Officers to El

Obeid, to which many IDPs had fled, in order to conduct as many interviews as possible with witnesses and victims. Notwithstanding these limitations, UNMIS Human Rights was able to obtain information, testimonies and confirmation on violations, abuses, attacks and bombardments from a network of sources. Information was also obtained from other UNMIS civilian, military and police components, including the Sector Head of Office, Gender Unit, Civil Affairs, Child Protection and UN Agencies.

17. The violations and abuses described in this report should be understood to be indicative and not exhaustive of the range of violations that appear to have taken place in Southern Kordofan. UNMIS Human Rights, at the time of this report, has confirmed thirty-seven individual incidents of extrajudicial killings or death resulting from attacks on civilians. However, there were numerous reports of further loss of life which could not be verified due to restrictions and forementioned constraints.

LEGAL FRAMEWORK

National framework

18. The Armed Forces Act of 2007 which regulates the SAF characterizes certain line of conduct by combatants against civilians during military operations as war crimes. These include: attacks against persons enjoying special protection; attacks against civilians; and threatening and displacement of the civilian populations operations.⁶ Combatants are therefore obliged to observe these provisions or risk being subjected to criminal sanctions. However, the Act grants members of the armed forces granted substantive and procedural immunity for acts, including human rights violations committed in the course of their duties.⁷ They can only be subjected to a full investigation and prosecution if the head of the respective forces explicitly lifts their immunity. In practice, this is tantamount to immunity in that the military commands rarely lift the immunity of their soldiers.

19. Where the immunity shield is lifted, combatants suspected of committing war crimes against civilians may be subject to Article 188 of the Sudan Criminal Act 1991 (as amended in 2009) which criminalizes certain acts in the context of an international or non-international armed conflict as war crimes against persons,⁸ including crimes

6 Articles 153, 154, 155, and 162, Armed Forces Act of 2007

7 Id. under Articles 34 & Article 42(2)

8 The offence carries 'capital punishment, life imprisonment or any lesser punishment against 'whoever knowingly commits. Sudan Criminal Act of 1991, amended 2009.

against properties,⁹ against humanitarian operations,¹⁰ and some prohibited methods of warfare¹¹, including the use of prohibited weapons¹².

20. The Criminal Act also provides for crimes against including slavery and unlawful detention, and methodical, direct, and widespread attack directed against civilians. The Act also provides for cases of enforced disappearances, such as kidnapping¹³, unlawful confinement¹⁴ and unlawful detention¹⁵.

21. In addition to the general applicability of the Universal Declaration of Human Rights, Sudan is also party to several international human rights treaties relevant to the Southern Kordofan context, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on the Rights of the Child (CRC), the International Convention on the Elimination of All Forms of Discrimination (ICERD), and Convention on the Prevention and Punishment of the Crime of Genocide.

International humanitarian law

22. Sudan is bound by customary rules of international humanitarian law, in particular the minimum protections provided by Common Article 3 to the four Geneva Conventions, which set forth special obligations to non-combatants and those wounded or sick, with prohibitions of murder, violence to the person, cruel treatment, taking of hostage, humiliating and degrading treatment, and sentence or executions without judicial safeguards.

23. Sudan is also a signatory to Additional Protocol II to the Geneva Convention¹⁶. Protocol II covers armed-conflict that takes places in the territory of the signatory nation-party between its armed forces and dissident forces or other organized armed group, and demand that all parties to the conflict shall at all times distinguish between civilians and combatants and accordingly shall only direct their military operations against military targets. The Additional Protocols go further than Common Article 3 to prohibit acts or threats of violence for the sole purpose of terrorizing a population and indiscriminate acts of attacks or reprisals¹⁷, and establishes special obligations for the

9 Id. and other rights in article 189;

10 Id. in article 190

11 Id. in article 191

12 Id. in article 192

13 Id. article 162)

14 Id. article 164)

15 Id. article 165

16 GoS acceded in 2006 both additional Protocols (I & II), respectively relating to the Protection of Victims of International Armed Conflicts and Victims of Non-International Armed Conflicts.

17 Article 51 of Protocol II

protection of civilians against acts of threat of violence¹⁸, starvation¹⁹, forced movement from a population's territory²⁰, and extra protections for children, medical, and religious personnel.

VIOLATIONS OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

Right to life, physical integrity and attacks against civilians

24. Since the fighting erupted in Kadugli and spread to other parts of Southern Kordofan, UNMIS Human Rights has received credible reports of a series of extrajudicial killings targeted at people in Southern Kordofan who are affiliated with the SPLA and SPLM, most of whom are of the African Nuban people.

25. On 6 June, the second day of the conflict, a physician at Kadugli Hospital confirmed that four civilians were killed in Kadugli and Um Durein Localities - two from Um Durein and two from Talodi Locality. Medical officers reported that military roadblocks in Kadugli prevented ambulances from reaching wounded persons in need of urgent medical assistance.

26. A trader of Arab descent was shot and killed by unknown forces on 6 June outside of his store in Kalimo, in Kadugli town. In Al Massani, west of Kadugli town, bodies of an elderly man and a young male were discovered by neighbours outside their homes after the initial SAF aerial bombardment on the evening of 6 June. On 7 June residents of Kalimo discovered the bodies of two shop owners, brothers originally from Heiban Locality.

27. On 7 June an UNMIS national staff member fleeing the conflict was shot in the legs by suspected PDF elements while en route to the UNMIS Kadugli Sector IV Team site compound. He was later taken to a military hospital in Omdurman where he remained at this time of writing.

28. An UNMIS staff member who was detained by SAF at their military facility in Umbattah Locality reported during his detention, that he saw over an estimated 150 dead bodies of persons of Nuban descent scattered on the grounds of the military compound. Some of the bodies appeared to have bullet wounds and he reported a large quantity of blood on the ground. He reported a SAF soldier told them that they had all been shot dead.

29. On 8 June, an UNMIS independent contractor (IC) was pulled out of a vehicle by SAF in front of the UNMIS Kadugli Sector IV Compound in the presence of several witnesses, while UN peacekeepers could not intervene. He was taken around the corner of the compound and gunshots were heard. Later he was discovered dead

18 Id. Article 13

19 Id. Article 14

20 Id. Article 17

by UNMIS personnel and IDPs. Several sources confirmed that the victim was an active SPLM member.

30. On 8 June, a man was shot several times and killed in full public view at the Kadugli Police Hospital. He had gone to the hospital in an attempt to try to find his three missing children whom he believed were inside the premises. The victim was an active SPLM member and sat on the SPLM elections committee. According to eye witnesses, two other persons were also shot and killed in front of the Police Hospital in a similar manner.

31. On 9 June, while on route from the UNMIS Protective Perimeter to their home in Hagar Al Nar district of Kadugli to retrieve food and belongings, a group of nine relatives were confronted by Central Reserve Police personnel who shot and killed two of them. One of the survivors informed UNMIS Human Rights that the fate of his remaining six relatives who fled from the scene remains unknown. Eyewitnesses confirmed the incident and pleaded for humanitarian agencies to provide food assistance to IDPs in order to avoid recurrence of similar incidents.

32. Residents of Al Fayed village in Al Rashad locality reported that members of the Tagoi tribe of the Nuban ethnic group were targeted in attacks by the SAF and PDF elements on 14 June. A victim reported that seven members of his family, all of the Tagoi tribe, were killed in the attack. Twelve of his relatives were reportedly arrested, including the traditional leader (*sheikh*) of the Tagoi tribe. The witnesses reported that a total of 24 houses were burnt down during the incursion. Although the family members were longstanding members of the Democratic Unionist Party (DUP), they had recently joined the SPLM prior to the May 2011 state-level elections.

33. UNMIS Human Rights received information that on 15 June, eight civilians of Nuban descent were killed while attempting to retrieve some of their belongings from Al Gardut Locality of Kadugli Town. An eye witness reported that another four young males of the Nuban ethnic group were killed near the Kadugli airport after being arrested at a checkpoint attempting to leave the state. This individual pleaded with UNMIS to assist in protection of civilians and provide the transport of church members to safety in Southern Sudan.

Allegations of mass graves

34. On 22 June, an UNMIS independent contractor reported witnessing SAF elements fill a mass grave in Al Gardut Locality in Tillo with dead bodies. She reported that SAF elements transported the bodies to the site, dumped them in the grave and using a bulldozer to cover the grave.

35. On 10 June, UNMIS Human Rights interviewed residents from Murta village, outside of Kadugli Town, who stated that they saw fresh mass graves located in a valley southeast of the Murta bus station near the Kadugli police training centre.

36. Two men interviewed by UNMIS Human Rights while undergoing treatment at the Sudan Red Crescent clinic stationed near the UNMIS Protective Perimeter, said that after they were beaten and stabbed by SAF personnel in Kalimo district around 10 June, they were subsequently taken to the SAF 14th Division Headquarters for interrogation for suspected affiliation with the SPLM/A. They reported that, following

their release from SAF custody, they saw fresh mass graves between the SAF 14th Division Headquarters and Kadugli Market. On 16 June, UN military observers, while on their way between the SAF 14th Division Headquarters and Kadugli Market in an attempt to verify the existence of these mass graves, were arrested, stripped of their clothes, and believed that they were about to be executed when a senior SAF officer intervened.

Allegations of use of chemical weapons and use of landmines

37. On 22 June, UNMIS Human Rights received unconfirmed reports on the use of chemical weapons by the SAF against civilians on 12 June in Julud, Shivi village and Salara areas, following aerial assaults on the town and mountains where civilians had reportedly been seeking refuge. An UNMO patrol in Julud reported people in the town to have experienced skin aberrations and abnormal physical and psychological changes. UNMIS Human Rights received information from two contacts in the area who informed that victims had been taken to Julud hospital for treatment. The UNMO Coordinator for Sector IV was unable to verify reports on the use of chemical weapon as the patrol team was not allowed access to the hospital due to insecurity.

38. Both the SAF and the SPLA are reported to have laid anti-personnel land mines in strategic areas of Kadugli town. In particular, the SAF is reported to have mined the Kalimo neighbourhood and the SPLA is reported to have laid land mines in areas around the deputy governor's residence. According to an UNDSS report, a vehicle driving in the Kalimo area within Kadugli hit a land mine instantly killing one of its passengers and destroying the vehicle.

Aerial bombardments

39. Since the eruption of the conflict, the SAF has carried out daily aerial bombardments into the Nuba Mountains and in several towns and villages populated by Nubans. The consequences of these bombardments on the Nuban people and in particular civilians, including women and children, are devastating. They have resulted in significant loss of life, destruction of properties, and massive displacement. UNMIS Human Rights has received photographs of mangled and mutilated bodies of civilians, some cut into halves, including women and children.

40. Starting from 5 June, the SAF has conducted daily aerial bombardments in Kadugli, Kauda, Dilling, Talodi, Um Dorein and other parts of the State populated by Nubans including Heiban, Kauda Julud, Kudu and Kurchi. These bombardments often start from early evening at about 18:00 and last until daybreak. The bombardments have also targeted civilian facilities such as airstrips. On 14 June UNMIS personnel from the Kauda Team Site reported that the SAF launched air strikes on the airstrip and areas close to the UNMIS compound causing damage to structures inside the Team Site. The bombing rendered the airstrip unusable and impeded humanitarian organizations from re-supplying their stocks from Kadugli town or relocating/rotating staff in these areas. On 25 June, SAF air-strike dropped two bombs on Julud airstrip, just 350 metres from a school, and three kilometres from UNMIS Julud Team Site. As of 27 June, according to UNMO reports from Kadugli and other Team Sites, the SAF was intensifying aerial bombardments in Southern Kordofan. On SPLA positions. Following the SAF aerial bombardment of Shivi village, in Dilling locality on 8 June, UNMIS Julud Team Site reported two civilians were killed, one male and one female. Bombs have also been dropped very close to UNMIS Team Sites. On 19 June,

UNMIS Kauda Team Site confirmed that seven bombs dropped in Kauda hitting areas south and northwest of the Team Site.

Abductions

41. UNMIS Human Rights has received several reports of the abductions or disappearance of people, mostly suspected supporters and affiliates of the SPLM/A. Precise figures are unknown. A church official in Kadugli said that by mid-June nearly 50 members of the church were unaccounted for. On the morning of 19 June, two armed Arab militiamen abducted a young girl from outside the vicinity of the UNMIS Protective Perimeter while she was fetching water with her mother. The girl has not been seen since. This incident was confirmed by eyewitness and UNMIS Human Rights Staff who went to the scene following the abduction.

42. On 8 June, UNMIS Human Rights witnessed the movement of four armed men (two armed civilians and two Central Reserve Police) carrying weapons in and out of the UNMIS Protective Perimeter without any intervention from the UNMIS peacekeepers guarding the premises. The armed men conducted identity checks on the IDPs. Eyewitnesses interviewed reported that the armed men abducted three IDPs from the vicinity of the UNMIS Protective Perimeter on suspicion that they were supporters of the SPLM. Similarly, UNMIS Human Rights interviewed contacts in Julud who confirmed that SPLA forces had attempted to arrest three UNMIS national staff members on suspicion of being members of the National Congress Party as they were of Arab descent but did not pursue the arrest after the intervention by UNMIS.

Arbitrary arrests, detentions and associated human rights violations

43. Through house to house searches and targeted actions at checkpoints and at the Kadugli Airport, the SAF is believed to have engaged in arbitrary arrests and detentions of persons affiliated with churches or suspected of being supporters and affiliates of the SPLM/A. Thus far most of those arrested are Nubans. On 7 June a Catholic priest reported that SAF and PDF militia were engaged in house-to-house searches mainly in the Banjadid Locality west of Kadugli town causing civilians to panic in fear that their identities could be mistaken. An UNMIS staff member of Nuban descent and his two brothers were arrested by the SAF on 8 June while fleeing from Kaiga village to the UNMIS Protective Perimeter. They were badly beaten by SAF soldiers at the “Umbattah Military Area” with rifle butts and sticks although not accused of a crime or interrogated.

45. Two Catholic nuns informed UNMIS Human Rights that a priest and two church members were detained for two days by SAF personnel at a checkpoint near Kadugli Airport on 9 June while they were trying to flee to El Obeid. The detention took place one day after the church had reportedly come under attack by SAF and Police personnel where the church was damaged and church records destroyed.

46. A young woman of Nuban descent informed UNMIS Human Rights that she was arrested in the vicinity of the Kadugli Police Headquarters on 20 June. During her detention she was interrogated about her work with an international NGO and accused of being a SPLM supporter while police beat her with fists, sticks, rubber hoses and electric wires. UNMIS Human Rights noted the bruises and scars on the woman’s neck and back consistent with her statements.

47. On 20 June, while IDPs were being convinced and coerced to return to their homes, a female from Hajar Al Nar district of Kadugli interviewed by UNMIS Human Rights said that Central Reserve Police arrested her 14 year old nephew and two other boys aged 15 and 17 and took them to a SAF facility. In Dilling, a staff member working for an UN-funded confidence building institution reported that NSS personnel stormed their offices on 21 June, arresting two staff members and ransacking the offices.

48. On 26 June, seven plain clothed men from the NSS Political Bureau arrested a Kadugli-based human rights activist of Nuban descent from his relative's home in Al Thawra district of Omdurman, in Khartoum State. A witness present at the time of the arrest reported that the NSS personnel stated "we need you to stay with us for two to three days, in relation to the events in Southern Kordofan". The arrested man, originally from Talodi, is the Chairperson of the Human Rights and Development Organization (HUDO), in Kadugli. He fled to Khartoum State after the fighting began and is believed to be presently detained at the NSS Political Bureau in Khartoum Bahri.

49. Interviews with witnesses and victims reveal that the SAF and security forces have a list of Nubans wanted for being sympathetic to the SPLM/A, which supports the allegation that people in Southern Kordofan were targeted based on ethnicity. Witnesses also mentioned that persons of Nuban descent and "other dark skinned people" were being targeted by SAF and Arab militias.

Forced displacement and coerced returns

50. The conflict in Southern Kordofan has led to massive displacement. According to figures from the Sudan Red Crescent Society (SRCS), the Humanitarian Aid Commission (HAC) and UN agencies in Kadugli, at least 73,000 people were initially displaced throughout central and eastern localities of Southern Kordofan as a result of fighting and the aerial bombardments. Some of these people have now returned to their homes. Most of those displaced sought refuge in church and hospital compounds as well as at the UNMIS Protective Perimeter and its immediate environs. By 7 June, it was reported that approximately 3,000 civilians were already displaced from the Kalimo area of Kadugli

51. UNMIS Human Rights confirmed with residents of Umber village in Al Fayed that Arab militia forced them to evacuate their homes, which were looted and systematically burnt, after being warned to leave the areas on 12 June. Many civilians escaped to Abu Karsholla. A Catholic priest further confirmed earlier reports of on-going looting of businesses carried out by PDF elements fighting alongside the SAF.

52. On 15 June, as the security restrictions hampered movement in Kadugli town, UNMIS Human Rights received an unconfirmed report from UNHCR that 35,000 people were on the move from Southern Kordofan to El Obeid. Furthermore, the Humanitarian Aid Commission estimated 6,000 displaced people were currently hosted by communities in El Obeid, with an additional 1,500-1,700 staying in the bus market area and Tabaldiya locality.

53. As of the morning of 20 June, there were about 11,000 IDPs in and around the vicinity of the UNMIS Protective Perimeter, most of whom had come from Kadugli

and its immediate environs. In an attempt to force these IDPs to return back to their homes, it is believed that National Security agents, donning Sudan Red Crescent vests, came to the UNMIS Protective Perimeter and requested all the IDPs to relocate to the Kadugli Stadium by 17:00 that same day where they would be addressed by state authorities on the security situation and where they would be provided basic services including shelter in schools. Human Rights verified this allegation through multiple interviews of IDPs within the UNMIS Protective Perimeter.

54. UNMIS Human Rights also observed a well known National Security agent wearing a Sudan Red Crescent reflective vest intimidating IDPs. When approached and questioned by UNMIS Human Rights the agent identified himself as a NSS agent and said he had received instructions from state-level authorities to move out IDPs from the UNMIS Protective Perimeter. IDPs interviewed said that they were informed by Sudan Red Crescent personnel that they must evacuate the Protective Perimeter by 16:00 and that they feared the Central Reserve Police would evacuate them forcibly if they did not leave the premises. UNMIS Human Rights confirmed that by 17:00, approximately 75 per cent of the 11,000 IDPs in the vicinity of the Protective Perimeter had vacated the area. The apparent conduct of the NSS is tantamount to deception and a violation of a key humanitarian principle that the return of IDPs must be voluntary. At the time of this report, there are no IDPs in the UNMIS Protective Perimeter, and no basic services had been provided by the state government upon the return of the IDPs to their homes. Meanwhile, those who had returned to town reported bodies strewn the streets, and witnessed family members or others being intercepted and taken away by SAF or security elements.

55. Twenty UNMIS personnel from various backgrounds including Nubans, Arab Baggara and Arab Hawamaza interviewed by UNMIS Human Rights in Kadugli on 20 June reported having returned to their homes in Kadugli town for the first time since violence erupted on 5 June. The majority of staff members reported that their houses sustained damage from artillery and aerial attacks. Houses in the mountains surrounding Kadugli were witnessed to have been destroyed in arson attacks. A number of the interviewees reported that family members were unaccounted for. Interviewees alleged that houses belonging to SPLM/A members and supporters were destroyed by bulldozers reportedly belonging to the SAF personnel.

Restrictions on humanitarian access

56. Throughout the conflict, humanitarian access was hampered as humanitarian agencies could not reach areas where civilians were trapped. Despite on going access restrictions, humanitarian partners responded with limited food and NFI distributions in few locations. UNMIS Human Rights worked with an *ad hoc* protection working group comprised of UNHCR Protection Unit, UNMIS Child Protection, Gender, Civil Affairs, and UNICEF to coordinate response for the protection needs of the IDPs sheltering within the UNMIS Protective Perimeter.

57. On 24 June the SAF facilitated the safe return to South Sudan of 135 stranded Southern returnees who were caught up in the fighting while they transited through Kadugli. On 2 July the SPLA transferred to the UNMIS Kauda Team Site twelve civilians from the North who were involved in the construction of a mosque in Tira Mande in Kauda locality. Since the outbreak of the fighting, the workers were under

the protection of the SPLA but as the SPLA could not guarantee their safety, they were handed over to the UN.

Freedom of expression

58. A number of journalists from the pro-SPLM daily *Ajrass Al Hurriya* informed UNMIS Human Rights that the newspaper was confiscated from the printing house on 6, 10 and 21 June. According to the sources, there were some articles in the editions that were apparently deemed unacceptable by the NSS, namely articles on violations in the context of the on going conflict in Southern Kordofan.

Freedom of assembly & association

59. On 19 June, sixteen activists were arrested outside of the UNMIS headquarters in Khartoum while attempting to deliver a petition on the on going violence in Southern Kordofan to the UNMIS SRSG and to the Deputy High Commissioner for Human Rights who was due to arrive in Khartoum on an official visit to Sudan. The activists were arrested by plain clothed NSS personnel directly outside the entrance to the UNMIS Compound and driven to Khartoum East Police Station, where they were detained for approximately six hours before being released on bail following the intervention of lawyers. One of the victims reported that some of the men who were arrested had been beaten up at the time of their arrest. All of the arrested activists were charged with disturbance of public peace and public nuisance under Articles 69 and 77 of the Criminal Act of 1991.

Violations against UNMIS, its staff and assets

60. Throughout the conflict in Southern Kordofan, the SAF, PDF and the Central Reserve Police Forces have treated UNMIS with gross contempt and a total disregard of its status as a UN body with the privileges and immunities set forth and contained in the Status of Forces Agreement (SOFA) with the Government of Sudan, as well as international conventions on the status of the UN, its staff, and assets, to which Sudan is a signatory. In addition to the killing of one UNMIS independent contractor, the SAF and PDF have intimidated UNMIS staff and subjected them to degrading and inhuman treatment, which has left as many as 45 staff held up in forced imprisonment in the UNMIS Kadugli Team Site, physically debilitated and psychologically traumatized.

61. On 7 June, an UNMIS truck was stopped at a checkpoint near the UNMIS Sector IV compound. Three of the ten IDPs who had been assisting UNMIS personnel with loading supplies for IDPs were pulled out of the truck and beaten up by SAF personnel. An UNMIS staff member who attempted to intervene was threatened at gunpoint by one of the soldiers who asked him “do you want to stay or leave”. The UN personnel drove off with the seven remaining IDPs. The fate of the three IDPs remains unknown.

62. On 16 June, four UNMIS military observers on patrol were detained, interrogated, and subjected to cruel and degrading treatment for two hours. They were intercepted by SAF personnel near the SAF 14th Division Headquarters while en route to Kadugli town to verify reports of mass graves. The military observers were taken to the SAF-JIU 5th Division Headquarters where they were subjected to lengthy

interrogation regarding the purpose of their monitoring mission, searched and forced to remove their shirts. A SAF Captain instructed the UNMOs to line up and be killed. He removed the safety of his AK-47, and just as he was about to point the weapon towards the UNMOs, a SAF Major entered the room and ordered him not to shoot. Immediately following the intervention the officer with the gun shouted “UNMIS leave Southern Kordofan, if not we will kill you if you come back here.” The team was released and told not to return back to Kadugli town.

63. On 22 June, six UNMIS national staff members (of Nuban and Southern Sudanese descent) were arrested in the presence of the Deputy SRS/RC/HC of UNMIS and taken by SAF Military Intelligence while trying to board an UNMIS flight to Wau. The six staff members taken were part of a group of 21 national staff who were being relocated to Wau as a result of the deteriorating security situation in Kadugli. On 27 June, another UNMIS national staff was arrested from Kadugli town bringing the total of UNMIS staff arrested and detained by SAF to seven. Thus far, five have been released while two still remain in detention.

64. The released staff members reported that they were subjected to interrogations that sometimes lasted as late as 3.00 AM on: whether UNMIS is harbouring or providing logistical support to the SPLM/A; whether UNMIS was collecting data from the Nuban population of Southern Kordofan about “ethnic cleansing” in an attempt to destroy the Government of Sudan’s image before the international community; and whether or not UNMIS is involved in relocating Nuban civilians to southern Sudan. They were also shown photographs of UN national staff and requested to confirm whether they were inside UNMIS compound.

65. On the evening of 22 June, SAF surrounded the UNMIS Team site compound in Kadugli with three heavy artillery gun-mounted vehicles pointed at the compound from three points, including the front gate. This occurred following the arrest and interrogation of six UNMIS national staff early in the day by SAF military intelligence at the Kadugli airport. These developments have left UN national staff, especially those of Nuban descent, in a state of fear, some psychologically traumatized.

66. In addition to these developments, the SAF has closed the air space to UNMIS, except for limited humanitarian flights, making it impossible to evacuate staff effectively trapped inside the UNMIS compound. The SAF also seized fuel storage tanks near the Kadugli airport and controlling the access UNMIS had to its own fuel supplies.

Attacks on churches

67. The Church and membership, many of whom are Nuban, have been subjects of targeted attacks by the SAF and Government of Sudan police since the violence erupted in Southern Kordofan. Personnel from a church in Kadugli reported to UNMIS Human Rights that on 7 June the SAF and Government of Sudan police attacked a church with more than 100 civilians seeking refuge inside. The church was looted, and it sustained substantial damage from gunfire but no known civilian injuries were reported. The majority of the civilians that were sheltered at the church sought refuge elsewhere in the UNMIS Protective Perimeter. On 6 June, the Anglican Church and the offices of the Sudan Clerics Association were looted and vandalized.

OBSERVATIONS

68. *When it was announced that the NCP had won the gubernatorial elections in Southern Kordofan, the SPLM refused to accept the results and announced its disengagement from the state government. UNMIS Human Rights did not receive any information that the SPLA had initiated military operations against the government and the state of Southern Kordofan, though there were unconfirmed reports of SPLA elements for the 9th Division having mobilized into the Nuba Mountains.*

69. *It appears that the ultimatum given by the Government of Sudan for the SPLA-JIUs and SPLA elements in Southern Kordofan and Blue Nile states to leave by 1 June, 2011 and head south beyond the 1956 border²¹ and the subsequent attempts by the Government of Sudan to forcefully disarm the SPLA elements of the JIUs may have triggered the fighting. Although affiliated with the SPLM/A, the Nubans are Northerners who are citizens of Southern Kordofan. Hence, an ultimatum for all SPLA-JIUs in Southern Kordofan and Blue Nile states to move to the South was tantamount to disenfranchising them of their citizenship.*

70. *The acts described in this report, allegedly perpetrated by the SAF, PDF, Central Reserve Police Forces and the Government Police in Southern Kordofan, of targeting members and supporters of the SPLA as well as the Nuban and dark skinned people of Southern Kordofan, including killings, arbitrary arrests and detentions, disappearances, abductions, attacks on churches and aerial bombardment, if proven, may constitute war crimes and crimes against humanity under the Armed Forces Act (2007) of Sudan and the Sudan Criminal Act of 1991, amended 2009.*

71. *The acts described in this report, if proven, may also amount to war crimes and crimes against humanity under international humanitarian laws, in particular the minimum protections provided by Common Article 3 to the four Geneva Conventions, and Additional Protocol I & II to the Geneva Convention to which Sudan acceded in 2006. Instead of distinguishing between civilians and combatants and accordingly directing their military operations only against military targets, the SAF and the paramilitary forces have deliberately targeted civilians and civilian objects including churches, and have engaged in acts or threats of violence for the sole purpose of terrorizing them through targeted killings, abductions, arbitrary arrests and detentions, and aerial bombardments resulting in forced movements of the people of Southern Kordofan out of their homes and out of the state.*

72. *Accounts of aerial bombardments with significant loss of civilian lives including women, children and the elderly, targeted killings, house-to house searches and reports of mass graves are some of the most grave human rights violations taking place in Southern Kordofan. The alleged use of chemical weapons has not been substantiated. The International Community cannot afford to remain silent in the face of such deliberate attacks by the Government of Sudan against its own people. If the*

21 <http://www.sudantribune.com/SAF-gives-Sudan-s-SPLA-ultimatum,39052>

current conduct of the SAF, especially the aerial bombardments, does not stop, it will dissipate the Nuban population in Southern Kordofan.

73. *The CPA had intended to address the past injustices and grievances by the Nubans, including years of perceived exclusion, marginalization and discriminatory practices, but some of the provisions related to Southern Kordofan including the popular consultations were not implemented. It was these past grievances that had led the Nubans, who despite being Northerners, to ally with the Southerners in their fight against the North. The key, therefore, to the resolution of the Southern Kordofan crisis lies in political negotiations between the Government of Sudan and the Nuban people and not through military action.*

74. *The attacks on UNMIS, its staff and assets are so egregious that condemnation is insufficient. The conduct of the SAF, the PDF, the Central Reserve Police Force, and the Government Police, singularly and collectively, has frustrated and weakened the capacity of the UNMIS to implement in Southern Kordofan a mandate given to it by the UN Security Council. The conduct has also resulted in loss of life and injury of UN staff. The international community must hold the Government of Sudan accountable for its conduct and insist that it arrests and bring to justice those responsible.*

RECOMMENDATIONS

75. In view of the above, the UNMIS Human Rights strongly recommends

75.1 That the UN Security Council mandates the establishment of a commission of inquiry or other appropriate investigative authority, including the Prosecutor of the International Criminal Court, to conduct a comprehensive investigation into the violence in Southern Kordofan and violations of human rights and humanitarian laws and to identify the perpetrators or those who bear the greatest responsibility, with the view to bringing them to justice.

75.2 That the international community facilitates dialogue between the Government of Sudan and the Nuban people including the SPLA-North with the view to address the grievances of the Nuban people, and the future status of SPLM as a political party in the North following the independence of Southern Sudan. The key to addressing the human rights situation in Southern Kordofan lies in a negotiated settlement between the Government of Sudan and the Nuban people and not by military confrontation.

75.3 That SAF immediately halts its aerial bombardments in Southern Kordofan, and that the SAF and the SPLA allow access to humanitarian agencies to assist affected populations, protect civilians under their respective control, and provide safe corridor for the safe passage of civilians.

75.4 That the parties respect international human rights and humanitarian law in the course of their operations, refrain from deliberate killings

and attacks on civilians and civilian objects, and provide corridors and protection for humanitarian assistance especially for vulnerable groups including children, sick, and the elderly.

- 75.5 That the Government of Sudan guarantees protection of all citizens of Southern Kordofan, provides equal treatment and opportunities without any form of discrimination; disarm all militias and provide skills training with corresponding packages for sustainable reintegration of demobilized soldiers; and integrate qualified SPLA in the Sudan Armed Forces.

-----End of Report-----