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Preliminary report on violations of international human rights and humanitarian law in Southern Kordofan from 5 to 30 June 2011



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Introduction

1. On 5 June 2011, violence broke out in Southern Kordofan between the Sudanese Armed Forces (SAF) and the Sudan People's Liberation Army (SPLA). In the ensuing days, the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the Human Rights Component of the United Nations Mission to Sudan (UNMIS Human Rights) received reports of serious violations of international human rights and international humanitarian law, including extrajudicial killings, arbitrary arrests and illegal detention, enforced disappearances, attacks against civilians, looting of civilian homes and destruction of property.
2. In light of these reports, UNMIS Human Rights Officers conducted preliminary investigations into a number of serious incidents in South Kordofan. UNMIS Human Rights Officers conducted on-site visits to some affected areas and met with a wide range of actors, including 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.
3. This report is a summary of the preliminary findings of UNMIS Human Rights of the events in Southern Kordofan covering the period 5 to 30 June 2011. The mandate of UNMIS ended on 9 July 2011 and UNMIS personnel, including human rights staff have since withdrawn from South Kordofan. The collection and verification of information on alleged human rights abuses in this report was conducted during a period of active conflict and subject to restrictions including movement of staff to areas under the control of SAF, Sudan People's Liberation Army – North (SPLA-N), and militia elements. UNMIS Human Rights officers also exercised caution in obtaining interviews from victims and witnesses due to concerns over witness protection and a fear of reprisals.

Background

4. Southern Kordofan is inhabited by approximately 2,500,000 people (2000)¹ with over 100 ethnic communities; the majority population is represented by nomadic Misseriya and Hawazma Arabs and agriculturalist African Nuba.² In the Kadugli area and surrounding Nuba Mountains, the population is predominantly Nuba. Marginalization of the Nuba ethnic communities by the Government of Sudan led some of them to take up arms along with the Sudan People's Liberation Army (SPLA), during the North-South war between 1983 and 2005. Nuban communities faced a brutal counter-insurgency campaign until a ceasefire in 2003.³
5. The security arrangements agreed upon under the Comprehensive Peace Agreement, signed in 2005 between the Government of Sudan (GoS) and the Sudan People's Liberation Movement (SPLM), provided for the formation of Joint Integrated Units (JIUs) consisting of equal numbers of SAF and SPLA personnel. JIUs were not only a symbol of sovereignty and national unity, but were also intended

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 See for instance African Rights, *Facing genocide: The Nuba of Sudan*, London, July 1995.

to provide for the security of the country during the interim period of the CPA. No major security incidents were reported in Southern Kordofan up until the electoral period, although both parties were accused of not fulfilling some of their commitments to the Ceasefire Agreement: the SPLA-N failed to withdraw its troops south of the 1.1.56 border, while the SAF refused to reduce its troop numbers to peacetime levels and dissolve the Popular Defence Forces (PDF) and other Misseriya and Hawazma militias.

6. Following a relatively uncontroversial electoral process deemed credible by international observers⁴ the counting of ballots by mid-May 2011 indicated a narrow victory in the gubernatorial elections by Ahmed Haroun, the incumbent Governor of the state.⁵ Even before the official announcement, the result was contested by the SPLM, citing irregularities, and alleging that the elections had been rigged and stating that it could not therefore accept its outcome. The SPLM subsequently announced its boycott of the legislature and that it could not recognize any of the elections' results. As a result, the rift between the parties intensified.

7. On 23 May, President Bashir ordered the Joint Defence Board established under the CPA to dismantle the JIU in Southern Kordofan and Blue Nile by the end of the month and informed SPLA-N forces in the two states that they had to either disarm or move south of the 1956 border.⁶ The dispute over the election results and the threat of forceful SPLA disarmament increased the tension and fear among members of SPLA-N over their safety and security.

8. In the early hours of Sunday, on 5 June, the SAF blocked the major roads into and out of Kadugli town. Fighting reportedly began between SPLA-N and SAF in the early morning hours 35 kilometres to the east of Kadugli in the area of the town of Um Durein. Later in the day, fighting broke out between SPLA-N and SAF in Kadugli. The SAF claimed that the SPLA-N instigated the fighting by taking over a police station the previous evening and seizing small arms. In turn, the SPLA-N claimed that the SAF had attempted to disarm the SPLA-JIUs by force.

9. The security situation deteriorated on 7 June, with shelling of Kadugli town by the SAF of densely civilian-inhabited areas. This led to the displacement of thousands of Internally Displaced Persons (IDPs) who had taken refuge in churches and hospitals and in the UNMIS compound, where they were sheltered in an area adjacent to the compound known as the 'protective perimeter' set up specifically to receive them and provide security and humanitarian assistance. The SAF took control of the Kadugli airport, including UN assets located at the airport, and closed the facility to all civilian air traffic. UNMIS Human Rights interviewed numerous witnesses who indicated that the SAF, together with militia elements of the PDF, were conducting house-to-house searches and subjecting residents to identity checks. It is alleged that these searches targeted individuals based on their ethnicity and political affiliation and that they

⁴ See, for instance, report of the Carter Center Observer Mission in South Kordofan, 18 May, 2011.

⁵ While relatively free of violence, tension during the campaign developed after a major security incident in the village of Al-Fayd on 17 April, when PDF militias attacked an SPLM convoy of supporters and burnt huts in the village of origin of Abdel-Aziz al Hilu, the SPLM gubernatorial candidate.

⁶ <http://www.sudantribune.com/SAF-gives-Sudan-s-SPLA-ultimatum,39052>

subsequently resulted in arrests and, in some cases, summary executions in many pro-SPLM areas of Kadugli town.

10. UNMIS Human Rights received reports from multiple independent sources of looting of civilian homes, UN agencies/offices and humanitarian warehouses, and destruction of property by militia elements of the Popular Defence Force (PDF) as they fought alongside the SAF. On 7 June, UN Security began the relocation of staff from UN Agencies, Funds and Programmes and international NGOs to the UNMIS compound. By 8 June, the protective perimeter at UNMIS compound had received an influx of 6,000-7,000 IDPs seeking refuge from the ongoing fighting; approximately another 1,000 civilians fled Kadugli to the north.

11. During the evening of 8 June, Kadugli town was largely void of civilians, as SAF checkpoints were established throughout the town. As the security situation further deteriorated, the IDPs that had sought refuge at the police hospital fled the hospital compound with some seeking refuge in the UNMIS protective perimeter.

12. After 14 June, aerial bombardments continued, although with less intensity and frequency. However, civilian casualties continued to be reported in Kadugli, Umm Durein, Um Serdeiba, Heiban, Kauda, Dilling, Salara areas, where many civilians were trapped due to the fighting. UNMIS Human Rights also received allegations of enforced disappearances, arrests, detentions and extrajudicial killing of civilians throughout the Kadugli region. By 30 June, UNMIS noted that aerial bombardments were still on-going, with continuing SAF and SPLA-N artillery exchange.

ALLEGED VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

13. This section reflects a summary of the factual information received on the incidents between 5 and 30 June 2011 concerning allegations of serious violations of international human rights and international humanitarian law. It should be noted however, that those violations should be understood to be indicative and not exhaustive of the range of violations that appear to have taken place in Southern Kordofan. Since the fighting erupted in Kadugli and spread to other parts of Southern Kordofan, UNMIS Human Rights received allegations of a series of extrajudicial killings targeted at people who were affiliated with the SPLA-N and SPLM, most of whom allegedly were from the Nuba communities.

14. On 6 June 2011, the second day of the conflict, according to sources at Kadugli Hospital, four civilians were killed in Kadugli and the Um Durein area - two from Um Durein and two from Talodi Locality. Medical personnel reported that military roadblocks in Kadugli prevented ambulances from reaching wounded persons in need of urgent medical assistance.

15. On the same day, UNMIS Human Rights received reports that 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; and on 7 June residents of

Kalimo discovered the bodies of two shop owners, brothers originally from Heiban Locality.

16. A former detainee at the SAF military facility in the Um Battah area of Kadugli reported that after his release that during his detention, he estimated that he saw over 150 dead human bodies 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 that a SAF soldier had told the detainees that they had all been shot dead.

17. On 8 June, an UNMIS individual 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. He was taken away from the vicinity of the compound and gunshots were heard. Later he was discovered dead by UNMIS personnel and IDPs. Several sources confirmed that the victim was an active SPLM member.

18. According to reports received from IDP sources, 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 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. Another report stated that earlier, two other persons had been shot and killed in front of the Police Hospital in a similar manner.

19. On 9 June, while en 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 family members 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 remained unknown. Other sources confirmed the incident and pleaded for humanitarian agencies to provide food assistance to IDPs in order to avoid recurrence of similar incidents.

20. Residents of Al Fayed village in Al Rashad locality reported that members of the Tagoi tribe of the Nuba ethnic group were targeted in attacks by the SAF and PDF elements on 14 June. An alleged 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 sources 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.

21. UNMIS Human Rights also received information that on 15 June 2011, eight civilians of Nuba descent were allegedly killed while attempting to retrieve some of their belongings from Al Gardut neighbourhood of Kadugli Town. Another source reported that four young males of the Nuba ethnic group were allegedly killed near the Kadugli airport after being arrested at a checkpoint attempting to leave the state.

22. On 22 June 2011, an eyewitness saw SAF elements fill a mass grave in Al Gardut neighbourhood in Tillo with dead bodies. The eyewitness reported that SAF elements transported the bodies to the site, dumped them in the grave and used a bulldozer to cover the grave.

23. On 10 June 2011, UNMIS Human Rights interviewed residents from Murta village, outside of Kadugli Town, who stated that they had seen fresh mass graves located in a valley southeast of the Murta bus station near the Kadugli police training centre.

24. Two men interviewed by UNMIS Human Rights while undergoing treatment at a clinic stationed near the UNMIS protective perimeter, said that they were beaten and stabbed by SAF personnel in Kalimo district around 10 June. They also reported that they were subsequently taken to the SAF 14th Division Headquarters for interrogation for suspected affiliation with the Sudan People's Liberation Movement/Army (SPLM/A) and, following their release from SAF custody, saw fresh mass graves between the SAF 14th Division Headquarters and Kadugli Market.

25. Both the SAF and the SPLA-N 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-N is reported to have laid land mines in areas around the deputy governor's residence. According to a 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.

Indiscriminate killings and use of prohibited weapons

26. On 22 June 2011, 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.

27. Since the eruption of the conflict, the SAF regularly conducted aerial bombardments in the Nuba Mountains and in several towns and villages populated by the Nuba. The aerial bombardments have resulted in significant loss of life, destruction of properties, and massive displacement. UNMIS Human Rights has received photographs allegedly documenting the results of aerial bombardment. The photographs include mangled and mutilated bodies of civilians, some cut into halves, including women and children. The authenticity of the photographs has not been verified.

28. Starting from 5 June, the SAF also regularly conducted aerial bombardments in Kadugli, Kauda, Dilling, Talodi, Um Durein and other parts of the State populated by Nuba including Heiban, Kauda Julud, Kudu and Kurchi. Following the SAF aerial bombardment of Shivi village, in Dilling locality on 8 June, UNMIS personnel from the Julud Team Site reported two civilians were killed, one male and one female. 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 for most planes and impeded humanitarian organizations from re-supplying their stocks from Kadugli town or relocating/rotating staff in these areas.

29. On 19 June 2011, UNMIS personnel from the Kauda Team Site confirmed that seven bombs were dropped in Kauda, hitting areas south and northwest of the Team

Site. On 25 June, an SAF air-strike dropped two bombs on Julud airstrip, just 350 metres from a school, and three kilometres from UNMIS Julud Team Site.

Enforced disappearances, arbitrary arrests and illegal detentions

30. UNMIS Human Rights received several reports of alleged abductions or disappearance of people, reportedly 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 8 June, UNMIS Human Rights witnessed the movement of four armed men (two armed men in civilian clothes and two Central Reserve Police) carrying weapons in and out of the IDP area situated outside the UNMIS protective perimeter, without any intervention from the UNMIS peacekeepers guarding the perimeter and deployed around it. 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.

31. UNMIS Human Rights received reports from multiple witnesses that 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.

32. 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 suspected of being supporters and affiliates of the SPLM/A. On 7 June 2011, a community leader 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 that their identities could be mistaken for those of SPLM/A supporters and affiliates.

33. According to several sources, 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.

34. A young woman of Nuba descent informed UNMIS Human Rights that she had been 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 their fists, sticks, rubber hoses and electric wires. UNMIS Human Rights noted bruises and scars on the woman's neck and back which were consistent with her statements.

35. On 20 June 2011, while IDPs were being directed and coerced by National Security Service (NSS) officials to return to their homes, a female from the Hajar Al Nar district of Kadugli interviewed by UNMIS Human Rights said that Central Reserve Police had arrested her 14 year old nephew and two other boys aged 15 and 17 and taken them to a SAF facility. In Dilling, a staff member working for an UN-funded project reported that NSS personnel had stormed their offices on 21 June, arresting two staff members and ransacking the offices.

36. On 26 June 2011, seven men in civilian clothes reportedly from the NSS Political Bureau arrested a Kadugli-based human rights activist of Nuba descent from his relative's home in Al Thawra district of Omdurman, in Khartoum State. The arrested man, originally from Talodi, is the Chairperson of a prominent human rights organization 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 Bahari district.

Forced displacement and coerced returns

The conflict in Southern Kordofan has led to massive displacement of civilians. 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 the 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 vicinity.

37. UNMIS Human Rights Officers were told by residents of Umber village in Al Fayed that militia had forced them to evacuate their homes, which were looted and systematically burnt, after being warned to leave the areas on 12 June. Many civilians from the village escaped to Abu Karsholla.

38. By the morning of 20 June 2011, about 11,000 IDPs had gathered in and around the vicinity of the UNMIS protective perimeter, most of whom had come from Kadugli. In an attempt to force these IDPs to return to their homes, it is believed that National Security agents verbally intimidated the IDPs. The Government provided transport to the IDPs to return to their places of origin.

39. At the time this report was drafted, there were no more IDPs in the UNMIS protective perimeter. While upon their return no basic services were provided by the state government, humanitarian agencies were eventually given limited access to provide humanitarian assistance to the returnees in Kadugli.

Restrictions on humanitarian access

40. Following the outbreak of violence on 5 June, humanitarian access has been severely restricted by both parties and humanitarian agencies could often not reach areas where civilians were trapped. Despite ongoing access restrictions, humanitarian partners have responded with limited distributions of food and non-food items in a few locations when permitted.

Freedom of expression, assembly and association

41. A number of journalists from the pro-SPLM daily Ajrass Al Hurriya informed UNMIS Human Rights that newspapers were confiscated from their printing house on 6, 10 and 21 June 2011. According to the sources, the content of the editions was apparently deemed unacceptable by the NSS, namely articles on violations committed in the context of the ongoing conflict in Southern Kordofan.

42. On 19 June 2011, sixteen civilians were arrested outside of the UNMIS headquarters in Khartoum while attempting to deliver a petition on the 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 reportedly arrested by plain-clothed NSS personnel at 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 the disturbance of public peace and public nuisance under Articles 69 and 77 respectively of the Criminal Act of 1991.

Attacks on churches

43. Churches and their members, many of whom are Nuba, have allegedly been subject of targeted attacks by the SAF and Government of Sudan police since the violence erupted in Southern Kordofan. On 6 June 2011, the Anglican Church and the offices of the Sudan Clerics Association in Kadugli were looted and vandalized. Members of a church in Kadugli reported to UNMIS Human Rights that on 7 June the SAF and Government of Sudan police had attacked a church containing more than 100 civilians seeking refuge. The church was looted by the SAF and police and sustained substantial damage from gunfire, although no civilian injuries were reported. The majority of the civilians that had sheltered at the church subsequently sought refuge in the UNMIS protective perimeter.

OTHER VIOLATIONS

Attacks against UNMIS, its staff and assets

44. Throughout the conflict in Southern Kordofan, the SAF, PDF and the Central Reserve Police Forces have treated UNMIS with disregard of its status as a UN body with the privileges and immunities 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 party.

45. On 7 June 2011, 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 by SAF personnel. An UNMIS staff member who attempted to intervene was threatened at gunpoint by one of the soldiers. UN personnel drove off with the seven remaining IDPs, while the fate of the three IDPs remains unknown.

46. Also 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 in detention at the time this report was drafted.

47. Also on 8 June, UNMIS Human Rights conducted interviews with witnesses in Julud who stated that SPLA-N forces had attempted earlier in the day to arrest

three UNMIS staff members on suspicion of being members of the National Congress Party as they were of Arab descent. They did not pursue the arrest after intervention by UNMIS.

48. An UNMIS staff member of Nuba 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 Um Battah military base with rifle butts and sticks, without being questioned or charged with any crime.
49. On 11 June, SPLM and/or SPLA-N elements in Kauda also threatened three UNMIS national staff, prevented from boarding a UN flight, and accused them of working for SAF military intelligence.
50. On 16 June, four United Nations Military Observers (UNMOs) on patrol were intercepted by SAF personnel near the SAF 14th Division Headquarters and detained, interrogated, and subjected to cruel and degrading treatment for two hours. 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. The team was released and told not to return to Kadugli town.
51. Bombs have also been dropped very close to UNMIS Team Sites. On 19 June 2011, UNMIS Kauda Team Site confirmed that seven bombs dropped in Kauda hitting areas south and northwest of the Team Site.
52. Twenty UNMIS personnel from various backgrounds including Nuban, Arab Baggara and Arab Hawamza were interviewed by UNMIS Human Rights in Kadugli on 20 June following their return 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 had sustained damage from artillery and aerial attacks. Some reported that houses in the mountains surrounding Kadugli had been burned. A number of the interviewees reported that family members were unaccounted for. Interviewees alleged that some houses belonging to SPLM/A members and supporters had been destroyed by bulldozers reportedly belonging to the SAF personnel.
53. On 22 June, six UNMIS national staff members of Nuba descent were arrested in the presence of the Deputy SRSR/RC/HC of UNMIS by SAF Military Intelligence while trying to board an UNMIS flight to Wau. The six staff members 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. The national staff member shot in the leg and transferred to a military hospital in Khartoum mentioned above brings the total of UNMIS staff arrested and detained by SAF in June to 8. As of 30 June, six had been released.

54. The SAF also imposed severe restrictions on UNMIS' use of the air space in South Kordofan, allowing limited humanitarian flights on an exceptional basis. This has greatly impeded the relocation of UN staff effectively trapped inside the UNMIS compound in Kadugli. Shortly after the outbreak of the hostilities, the SAF also seized fuel storage tanks near the Kadugli airport and effectively controlled the access UNMIS had to its own fuel, food, water and other assets and supplies.

LEGAL FRAMEWORK

55. Sudan is party to several international human rights treaties relevant to the Southern Kordofan context, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the International Convention on the Elimination of All Forms of Discrimination (ICERD). As stated by the International Court of Justice, international human rights law applies both in peace and during armed conflict.⁷
56. Sudan is a party to the four *Geneva Conventions of 1949*. Article 3 common to the four *Geneva Conventions of 1949* establishes minimum standards that parties, including State and non-State actors shall respect in non-international armed conflict. Sudan is also party to *Additional Protocol II to the Geneva Conventions* which complements the protections provided by common article 3 in non-international armed conflicts.
57. In accordance with international criminal law, serious violations of human rights and international humanitarian law, such as those described in this report including killings and enforced disappearances, if substantiated could amount to crimes against humanity, or war crimes for which individual criminal responsibility may be sought.
58. The violations described in this report, allegedly perpetrated by the SAF, PDF, Central Reserve Police Forces and the Government Police in Southern Kordofan, and SPLA-N, if substantiated, 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.

RECOMMENDATIONS

In view of the above, the Office of the High Commissioner for Human Rights strongly recommends that:

- The parties to the conflict should respect relevant provisions of national law, and international human rights and international humanitarian law, in particular with regard to the protection of civilians;

⁷ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, p. 178, paras. 105-106.

- Access be granted to human rights monitors to conduct investigations into allegations of continuing violations of international human rights and humanitarian law;
- The parties to the conflict immediately grant unhindered access for humanitarian actors to reach affected populations.
- IDPs be provided with accurate information and conditions to allow them to make a voluntary and informed choice as to whether to return to their homes or seek other options;
- An independent, thorough, and objective inquiry be conducted into alleged violations of international human rights and humanitarian law that occurred during the hostilities in Southern Kordofan with a view to holding perpetrators to account. Immunities of members of the military and security forces, alleged to have been involved in violations of international human rights and international humanitarian law, be lifted to allow for prosecutions and trials in compliance with due process and fair trial standards.
- The Government should immediately release all individuals detained illegally including UN staff.