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**Statement by Mr. Gerhart Baum
Special Rapporteur of the Commission on Human Rights
on the situation of human rights in the Sudan**

Item 9: Question of the violation of human rights and fundamental freedoms
in any part of the world

Madam Chair,
Excellencies,
Distinguished members of the Commission,
ladies and gentlemen,

I have the honour for the third time to address this august body to present my report, which is mainly based on visits to the Sudan, Kenya and Egypt in October 2002 and February-March 2003, as well as in Washington and New York in November 2002.

I wish to hereby thank the Government of the Sudan, the Office of the United Nations High Commissioner for Human Rights as well as UNHCR in Cairo, and OCHA in Nairobi for contributing to a successful visit.

Madam Chair,

The main focus of my last visit has been the inextricable link between peace, democracy and human rights, within the context of the on-going peace process. I hope that the IGAD-brokered negotiations will succeed in achieving a sustainable peace agreement, in spite of the fact that many issues remain to be tackled in a satisfactory way and new challenges will be coming up during the implementation phase. I wish to hereby acknowledge the pivotal role of the IGAD negotiator, Gen. Lazarus Sumbeiywo as well as the support provided by the countries observing the negotiations. Peace will be a chance to improve the human rights situation. Unfortunately, in spite of some new commitments, so far human rights abuses have not decreased neither in the north nor in southern Sudan and the overall human rights situation has not improved significantly. The Government and the SPLM/A should take advantage of the current momentum to create a conducive environment for confidence-building. Fundamental principles of human rights should be respected, in a country whose future – according to the will of both parties – will be based on free



and fair elections. The 1999 Constitution was indeed a step forward. Decisive, however, is the concrete impact on the people, who have been affected by an insufficient implementation of the Bill of Rights so far.

Human rights and democratization must be central to the peace process, for a sustainable, long-lasting and just peace. While the Machakos Agreement reflects the Parties' desire to resolve "the Sudan conflict in a just and sustainable manner by addressing the root causes of the conflict and by establishing a framework for governance through which power and wealth should be equitably shared and human rights guaranteed", more specific provisions should be integrated into the agreement. In my report, I suggested a number of concrete benchmarks which, in my view, should be reflected in the peace agreement. First and foremost, concrete mechanisms to strengthen human rights monitoring and protection should be part and parcel of the peace process.

Equally important is the need for the peace process to be more inclusive, and incorporate all segments of civil society, including ethnic groups as well as the political opposition, which are currently left out. Decentralised structures will help the country build up democracy.

The strengthening of the civil society is key to the sustainability of the peace process. I have repeatedly acknowledged the good work done by the Office of the High Commissioner for Human Rights in this field. In my view this is a beginning. Once again, I wish to call upon donors to make this field one of their priorities. Assistance should be provided to both northern and southern Sudan, with a strong focus on capacity-building. By capacity-building, I mean for instance: education, the fight against illiteracy, the establishment of structures of administration at all levels, strengthening the rule of law, administration of justice and law enforcement. Development strategies should be modelled on the principles enshrined in the Cotonou Agreement between the European Community (EC) and the Group of African, Caribbean and Pacific States (ACP), and the core principles underlying the development and implementation of poverty reduction strategies as defined in the Poverty Reduction Strategy Papers (PRSPs), whereby PRSPs should be country-driven, comprehensive in scope, partnership-oriented, and participatory. According to agreed international principles on developmental aid, assistance should be linked to a tangible improvement of the human rights situation in the country, democratisation and good governance. Hence, human rights issues in the Sudan have not lost importance: on the contrary, they remain key and, particularly in such a decisive phase as the peace process is ongoing, should remain under scrutiny. Both sides of the conflict must be aware that aid is linked to a considerable progress in the field of human rights. Commitments and declarations of intents, while welcome, are not enough.

It is against this background that I look very much forward to the forthcoming donor meeting in The Hague, following up on the Oslo (Donors Working Group) Meeting on assistance to Sudan, which was held on 9-10 January, 2003. In my view, the United Nations has a major role to play in coordinating assistance in the post-conflict scenario and the meeting in The Hague provides an opportunity in the right direction, for setting priorities for the next 6 months, agreeing on principles, and thus a basis, for a planning framework to define clearly how to respond in a coordinated and effective manner to the challenges ahead. The High Commissioner for Human Rights assured me of his intention to accompany the peace process. The Secretary-General, whom I met in New York in November, appeared to consider favourably a stronger involvement of the United Nations in the Sudan pending the outcome of the peace talks. I can only be encouraged by such level of support.

The situation in Western Upper Nile

During my last visit I learnt that, in spite of the on-going negotiations, the human rights situation on the ground remains of grave concern. Fighting is continuing in oil-rich Western Upper Nile. The civilian population, whose villages have been burnt to ashes by proxy militias to clear the areas for the oil industry, have not yet benefited from the agreed ceasefire. I share the view expressed by the International Crisis Group (ICG) in its latest report dated 10 February 2003, highlighting the "ongoing danger that the dynamic of oil development represents for the peace process, at least so long as the government and a number of foreign oil companies with which it is in partnership are prepared to pursue that development by whatever means necessary" Sudan's oilfields burn again: brinkmanship endangers the peace process, Africa Briefing, Nairobi/Brussels, 10 February 2003, ICG, page 1.

As the ICG reports, "(t)he offensive from late December until the beginning of February was an extension of the government's long-time strategy of depopulating oil-rich areas through indiscriminate attacks on civilians in order to clear the way for further development of infrastructure. Eyewitness accounts confirm that the tactics included the abduction of women and children, gang rapes, ground assaults supported by helicopter gunships, destruction of humanitarian relief sites and burning of villages" ibidem. New garrisons were established in the process.

In addition, I received reports on the forced recruitment by Government-allied militias of children and adolescents into the armed factions in Unity State which point to the appalling figure of 667 school pupils – sometimes as young as 9 years old - who have been forced into recruitment, representing 22.2% of the total pupil population enrolled in primary schools in Unity State.

As a follow up to U.S. Senator Danforth's initiative, a US-led Civilian Protection Monitoring Team (CPMT), comprised of both civilian and military staff, has been established and sent to the ground, both in SPLM/A- and Government-controlled areas to investigate some of the human rights violations occurring in Western Upper Nile. Since its operationalization, the CPMT reported on a number of breaches of the agreed ceasefire and confirmed the occurrence of deliberate attacks against non-combatant civilians and civilian facilities in a number of locations proximate to planned Government oil fields all weather access roads in the east of Western Upper Nile. Those attacks were conducted by Government allied militias in the past two-three months. The team concluded that many thousands of civilians have been forcibly displaced from their villages by direct military attack in Western Upper Nile. As a result, most villages have been emptied or destroyed altogether. The team clearly stated that eyewitness accounts of military attacks and subsequent actions by soldiers and militia violate the letter and spirit of the Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement to protect non-combatant civilians and civilian facilities from military attack. I should add that the team pointed to the fact that the practice of burning villages is common to both SPLM/A and Government-backed militias. I strongly condemn any violations of the existing agreements.

I am concerned to see that such elements have not been discussed within the peace process, allegedly for fear of derailing it. I also wish to express concern at the structure of such verification teams and their extremely restrictive interpretation of their mandate and hereby wish to reiterate the fact that human rights monitoring should not fall under the overall management of military elements.

The conflict in Darfur

Another major issue of concern is the escalating conflict in Darfur, western Sudan. I have received information pointing to a serious deterioration of the situation, with a high potential of destabilizing the country. The conflict is escalating, thus aggravating the human rights situation. Different sources referred to the current inaccessibility of the Jebel Marra area, where military activities are reportedly taking place. As a result, food and medicines are reportedly lacking. The Government stated that the area was now under its control and was fully accessible as a "normal area". However, sources also reported attacks against civilians and targeting of local tribes, to the point that some accused the Government of implementing a clear policy of ethnic cleansing aimed at eliminating African tribes from Darfur. According to information received mass executions by armed forces and aerial bombardment in areas which are densely populated have continued to take place for the past few years. Most sources pointed to the Government's responsibility: for failing to protect local tribes against attacks, failing to provide any form of compensations for victims of abuses and failing to support traditional means of conflict resolution while playing divide and rule tactics, thus putting one tribe against the other. The Government's interpretation of the conflict as caused by armed groups engaged in robbery and its response to solve the Darfur issue by resorting to Special Courts, group trials, death sentences and cruel and inhumane punishment such as cross amputation, are totally inadequate and resulted in serious human rights abuses. I was informed by the Minister of Justice that Special Courts have now been abolished. However, while no more sentences were passed by Special Courts in the past few months, some cases are still pending at the High Court or Constitutional Court. The people of Darfur have been marginalised for too long. The Government has a legal and moral responsibility to protect them and give them an equal chance to develop. Traditional means of conflict resolution should be strengthened. I fully support Amnesty International's call for an independent Commission of Inquiry to look into the situation in Darfur. Such a Commission should also "identify mechanisms which are in accordance with human rights standards to protect effectively the population from attacks" Sudan: Urgent call for Commission of Inquiry in Darfur as situation deteriorates, Amnesty International Press release, ai-index AFR 54/004/2003 (Public) 21/02/2003.

Overall human rights situation

Regarding the overall human rights situation in the country, I have seen no fundamental change since my last visit, in spite of further commitments by the Government. I strongly urge the Government to follow up on them. The country remains under the iron-tight grip of the omnipresent security apparatus, which continues to enjoy virtual impunity. In the SPLM/A-controlled areas, military structures are still prevalent.

State of emergency, national legislation, international human rights standards

The state of emergency has not been lifted, nor have the amendments to the National Security Forces Act and Criminal Procedure Act. The Convention Against Torture has not been ratified yet, nor was the Convention on the Elimination of Discrimination Against Women acceded.

Arbitrary detentions and torture

While the number of political prisoners has decreased, some ten members of the Popular National Congress (PNC), including its leader Dr. Hassan al-Turabi, are still detained. Government officials conceded that, legally speaking, he should not be under arrest and that he is detained based on security grounds. Following the October incidents at the University of Khartoum, a number of students were reportedly arbitrarily arrested and tortured. I was informed of some 45 students who were subjected to torture in the past three months, 25% of whom were women. They had reportedly suffered beating, lashing and burns.

I was informed that the Minister of Interior started an investigation to look into cases of torture. The findings of the investigation reportedly confirm that there is abuse of power. However, the relevant report is not public.

Daily reporting to the security has continued to take place. The Minister of Justice conceded that, while it is legal for the security to call people, it is not legal to harass them. He also agreed that daily summoning, which often times implies that people spend their entire day at the security offices, without even being questioned, is indeed a disruption of people's lives and would qualify as harassment.

Freedom of opinion and expression

Press censorship has not decreased: journalists are still subject to pre- and post-censorship, instructed by young security officers on what to write and how to write it. Heavy fines are still imposed which threaten the mere survival of newspapers. I was informed of the case of al-Watan newspaper, which after some vicissitudes was forced to close by a decision taken under emergency law on 28 December 2002, which abolished both the paper and the company producing it. Equipment was confiscated, up to 65 people – the staff of the newspaper – are reportedly unemployed at the moment. I was also informed that the legal advisor of the paper was reportedly arrested by the security and threatened. The English-language daily paper Khartoum Monitor is often the object of harassment by the security. It was the case during my stay in Khartoum, and right after my departure, when on March 9, security forces confiscated 3500 copies of the newspaper. In addition, while I was drafting this statement, I was informed that Mr. Edward Ladu Terso, a journalist working with the Khartoum Monitor, was reportedly arrested by security forces on 11 March from the offices of the newspaper in Khartoum. Reportedly, no reason was given for the arrest. I was also informed that he was initially detained at an unknown location until he was transferred to Kober prison on 15 March. Allegedly, he was denied family visits. Edward Ladu Terso had been previously summoned to report to the security on 9 and 10 March with a colleague.

In this connection, I was informed that a new tripartite Committee has been established to look into violations of freedom of opinion and expression. The committee is comprised of the National Press Council, the Journalists Union and a representative of the Security. I was very surprised to learn that the member of the Security had been included so that the views of the security – on incidents involving primarily the security itself – could be taken into account.

Freedom of movement

While representatives of the Government informed me that all restrictions to travel had been lifted, I was again informed of the fact that political opponents are sometimes prevented from traveling. In one specific instance, a representative of an opposition party was not allowed to go to Mecca for the Hajj. Women reportedly continue to need a permission to be able to leave the country.

Freedom of assembly

I received information whereby the Sudanese Studies Center, run by Dr. Haider Ibrahim, a member of the world movement for democracy and African Democratic Forum, was reportedly denied permission to celebrate the International Day for Women. In addition, I learnt that on 8 February, a prominent human rights lawyer was arrested together with the director of a newspaper (Al-Houria), while in a meeting to discuss preparations for a memorial celebration to commemorate the death of Mahmoud Mohammed Taha, an intellectual, killed in 1985 under the Numeiri regime.

Freedom of religion

Discriminations have continued to take place. I was informed that on Christmas Eve the demolition of a shelter place in Mayo IDP Camp, South Khartoum, occurred to allow for the construction of a road passing by the camp. Quite obviously, a number of families of southerners were affected. Churches continued to complain about land issues, destruction of worship places (two cases were mentioned, one in Kadugli, Nuba Mountains, and the other in Western Darfur, where people working in the Church were reportedly asked at gunpoint to destroy their own Church). Reference was also made to a plan to phase out private schools, which, if implemented, would further decrease the exercise of freedom of religion.

Abductions of women and children

No new cases of abductions were reported since June last year. In a meeting with the Committee for the Eradication of Abductions of Women and Children (CEAWC), I was informed that some 350 cases have now been documented and 60 requests for reunifications were fulfilled. CEAWC reported a more positive attitude of the tribes and a greater political support from the Government, although still no public statements were made in support of CEAWC by the highest political levels. Lack of funding was also referred to as an issue of concern. On the other hand, other sources described CEAWC as massively dysfunctional, one of its problems being the fact that tribal committees are reportedly not representative of the local communities on the ground. I was also informed of an interesting pilot initiative aimed at empowering tribes in the retrieval process, with a view to moving to a more community-based approach.

Internally displaced persons (IDPs)

Sources reported that the situation remains unchanged. Southerners amount to 2/3 of the IDP population which in itself amounts to no less than 2 millions, in Khartoum only, most of whom are women and children. More specifically, I was informed that the percentage of households headed by displaced women is 65%. These women reportedly suffer from a number of restrictions and discriminations. They are often

arrested for selling alcohol or even tea, sometimes for violating the Islamic dress code. The arrest of women has a serious impact on children who are left without shelter, food, education. Limited food and medical supplies are available in the IDP camps. IDP students are faced with the problem of school fees.

I discussed the plight of IDPs with a representative of the Humanitarian Aid Commissioner who stated that since the United Nations was working on the issue through the Consolidated Appeal Process (CAP), the Government was no longer responsible to act upon it. When he was reminded that primary responsibility for the protection of IDPs rests with the Government, as referred to in the Guiding Principles on Internal Displacement drafted by the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng, from the Sudan, a Government representative replied that the Government had not signed such Principles and that therefore they were not binding.

I would note, however, that the Guiding Principles have gained wide support from governments and the international community and that representatives of the Government of Sudan have themselves acknowledged their utility and have received training from the United Nations in international humanitarian law, including in the Guiding Principles. It is also my understanding that the Government of Sudan convened a national workshop in September 2002 to begin developing a comprehensive national policy which openly recognizes Sudan's responsibility for the protection and assistance of IDPs and the need to find durable solutions to their displacement. I remain hopeful that such a policy will gain formal adoption soon.

The SPLM/A-controlled areas

The situation remains equally unchanged in areas administered by the SPLM/A. Military structures are still prevalent and have not yet been replaced by civilian ones. In order to strengthen the civil society in the south, it would be important to revive the judiciary and "release" the traditional chief-led structures from the grip of the military. This is not yet the case. I was informed that, in general, the military has focussed on sidelining the chiefs and the traditional structures and that, on issues which are of relevance for the military, the latter will invariably step in, regardless of existing tribal/traditional structures.

People need to be informed about the peace process. Currently they are not. Some of them expressed concern at the peace process and summarised their views by stating that a bad peace would be worse than war.

There is still no opposition, no newspaper, no easy access to means of information and communication such as Internet. There are no opposition parties. Elections, repeatedly referred to, have never taken place.

Human rights monitoring remain difficult. Humanitarian organisations working in the field are often caught in the dilemma whether to report abuses while knowing that by doing so they might lose access to areas in need, or also put their staff at risk, particularly when it is easy to identify sources of information.

While in Rumbek, southern Sudan, I met with the whole leadership of the SPLM/A, representatives of the judiciary, the Churches, women's organization, local NGOs. All of them highlighted an acute need for education aimed at capacity-building. Trained manpower, police, judges, prison officers, materials such as law books as well as means of transportation are lacking. Illiteracy has reached 85% in southern

Sudan. Capacity-building remains top priority in the south.

CONCLUSION

Madam Chair,

The situation in the Sudan has evolved in many ways in the past few months. We are now witnessing a peace process that is raising high expectations, in spite of its fragile nature. These expectations should not be disappointed. The Sudan has the chance and the potential for both peace and democracy. As I repeatedly mentioned, for peace to be sustainable, just and long-lasting, human rights must be at its heart. Vague commitments and declarations of intents are not enough. Concrete mechanisms to monitor implementation of the peace process, to ensure human rights promotion and protection should be envisaged. Such mechanisms should be fully integrated in the peace agreement.

The escalating conflict in Darfur, which affects about 25% of the population and territory of the whole Sudan, urgently needs the implementation of serious measures of conflict resolution and reconciliation.

The newly agreed ceasefire provisions should be implemented fully. Any breaches or violations of the agreement should be condemned in no uncertain terms. Both parties – including proxy militias - must be fully accountable for their actions, particularly at such a critical juncture.

More attention should be paid to initiatives aimed at reconciling the grass-roots level, particularly in the South. In my previous reports, I already referred to a number of initiatives brokered by the New Sudan Council of Churches. These initiatives are particularly important to create a conducive environment for peace, particularly in view of the foreseeable population movements within the country and involving refugees who have left the country and might envisage to return. In the same vein, I shared the view expressed by the ICG that southern militias allied with the Government are potentially great spoilers of the peace process, in view of the ease with which their anger and sense of exclusion can be manipulated. In this connection, I wish to hereby express my support to the New Sudan Council of Churches-brokered initiative, the South-South Dialogue on Reconciliation and Good Governance, which took place in Entebbe, Uganda, in December 2002

Key in the peace process remains the strengthening of the civil society. I reiterate my appeal to the donor community to shift from emergency assistance to longer-term capacity-building, in the north as well as in the south. In doing so, donors should make sure that people have a voice in determining priorities; monitoring benchmarks should be established; quick-impact, high-visibility projects should be replaced by a serious, long-term development strategy, which takes into account the actual absorption capacity on the ground. I very much look forward to the forthcoming meeting in The Hague for the setting of priorities to be clearly established.

Finally, the role of the United Nations in the peace process and the post-conflict scenario should be strengthened. Once again, I welcome the openness of the UN Secretary-General and the High Commissioner for Human Rights.

Thank you.

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