

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	180
Land:	Sudan
Kilde:	Human Rights Watch.
Titel:	The Way Forward - Ending Human Rights Abuses and Repression across Sudan.
Udgivet:	1. oktober 2009
Optaget på baggrundsmaterialet:	25. februar 2010



The Way Forward

**Ending Human Rights Abuses and Repression
across Sudan**

Copyright © 2009 Human Rights Watch
All rights reserved.
Printed in the United States of America
ISBN: 1-56432-548-2
Cover design by Rafael Jimenez

Human Rights Watch
350 Fifth Avenue, 34th floor
New York, NY 10118-3299 USA
Tel: +1 212 290 4700, Fax: +1 212 736 1300
hrwnyc@hrw.org

Poststraße 4-5
10178 Berlin, Germany
Tel: +49 30 2593 06-10, Fax: +49 30 2593 0629
berlin@hrw.org

Avenue des Gaulois, 7
1040 Brussels, Belgium
Tel: + 32 (2) 732 2009, Fax: + 32 (2) 732 0471
hrwbe@hrw.org

64-66 Rue de Lausanne
1202 Geneva, Switzerland
Tel: +41 22 738 0481, Fax: +41 22 738 1791
hrwgva@hrw.org

2-12 Pentonville Road, 2nd Floor
London N1 9HF, UK
Tel: +44 20 7713 1995, Fax: +44 20 7713 1800
hrwuk@hrw.org

27 Rue de Lisbonne
75008 Paris, France
Tel: +33 (1) 43 59 55 35, Fax: +33 (1) 43 59 55 22
paris@hrw.org

1630 Connecticut Avenue, N.W., Suite 500
Washington, DC 20009 USA
Tel: +1 202 612 4321, Fax: +1 202 612 4333
hrwdc@hrw.org

Web Site Address: <http://www.hrw.org>



OCTOBER 2009

1-56432-548-2

The Way Forward

Ending Human Rights Abuses and Repression across Sudan

I. Summary.....	1
II. Recommendations.....	4
To the Government of National Unity	4
To the Government of Southern Sudan	5
To UNAMID	5
To UNMIS	5
To the UN Security Council and Member States	6
To Concerned Governments, Special Envoys, and International Donors	6
III. Methodology.....	7
IV. Human Rights Violations in Khartoum and Northern States.....	8
Arbitrary Arrest and Detention	8
Restrictions on Freedom of Association and Expression.....	10
V. Conflict and Human Rights Abuses in Darfur	12
Continuing Conflict.....	12
No Peace or Justice in Darfur.....	15
UNAMID's Weak Protection of Civilians	16
Aid Operation under Attack	17
Suppression of Information	18
VI. Failure to Protect Civilians in Southern Sudan.....	20
Inter-ethnic Conflict	20
The LRA Menace	21
Potential for Violence near the North-South Border.....	22
Failure to Implement Security Provisions of the CPA	24

I. Summary

Sudan is entering yet another critical period in its political history, with human rights still under immense threat. In October, the Darfur peace talks are due to reopen in Qatar. In April, 2010, national elections, one of the milestones on the path of implementation of the 2005 Comprehensive Peace Agreement (CPA) that brought civil war to an end in the South, are scheduled to be held. In a mere 17 months, the interim period outlined in the CPA is scheduled to end with a referendum on self-determination for Southern Sudan.

Rather than building trust between interest groups inside Sudan in this critical period, the Sudanese government, led by the ruling National Congress Party (NCP), continues to repress political opposition, stifle the free flow of information, and commit human rights violations and indiscriminate attacks against civilians in Darfur, where 2.7 million people are living in IDP camps and where new displacement and killings continue.

In Southern Sudan over the past year civilians have borne the brunt of escalating inter-ethnic fighting between armed civilian groups, clashes between the NCP-led government's Sudanese Armed Forces (SAF) and the southern Sudan People's Liberation Army (SPLA), and attacks by Lord's Resistance Army (LRA) rebels. In other flashpoint areas, such as Abyei and along the North-South border, the continuing failure by the parties to the CPA to implement agreements on border delineation and troop withdrawal and downsizing threatens to expose civilians to further insecurity and abuse.

The diverse political and human rights problems across the country are a complex interlocking mosaic in which the common factor is the repressive practices of the NCP-led government. These include manipulation of local conflicts through supporting, arming, and commanding tribal militia that has further entrenched inter-ethnic tensions, making them ripe for exploitation. Addressing these repressive tactics, and restoring political freedoms and respect for human rights, is the pre-condition for a stable future for all parts of the country.

At this critical juncture, it is imperative that concerned governments and intergovernmental bodies recognize in practice that failure to act on one set of issues or on one geographical area contributes to further insecurity and human rights violations, potentially in other parts of the country. Those concerned about the civilian population should agree on a comprehensive approach to achieving respect for human rights, with coordinated, simultaneous actions on multiple fronts. Addressing human rights violations, protecting

civilians, and reducing the acute risk of further abuses in potential political flashpoints throughout the country are necessary for the success of initiatives aimed at bringing peace and security to Sudan and should be the cornerstone of international engagement.

This report, based on research by Human Rights Watch in eastern Chad and Southern Sudan in July and August 2009, documents the most pressing human rights and civilian protection challenges in Khartoum, Darfur, and Southern Sudan and recommends actions to address them. Should the Sudanese government and international stakeholders take these actions now they will be taking important steps towards creating conditions for free and fair elections and a peaceful referendum.

International attention has tended to focus on the abuses perpetrated in Darfur and the serious inadequacies of civilian protection in the former war zones of Southern Sudan. These are matters of pressing concern, with ongoing violence and displacement in Darfur a clear indication that the war in Darfur is not “over” as the outgoing military commander of The United Nations-African Union Mission in Darfur (UNAMID) claimed in August. International attention should now also focus on the significance of the stifling of political freedom and the free flow of information in the heartlands of northern Sudan and its impact on the whole of Sudan.

In Sudan’s northern states and in Khartoum, the NCP-led government is perpetuating an atmosphere of repression by using state security forces to arbitrarily arrest and detain civil society activists and suspected rebels, and by violating the rights to freedom of expression and assembly. The suspension of newspapers and the harassment of opposition parties, human rights activists, and journalists is stifling reporting on the war in Darfur and human rights violations and political expression in the countdown to the elections. This deprives much of the country of news of abuses committed in Darfur and elsewhere, and undermines the freedom of information and opinion needed for free and fair elections. In late September President Omar al Bashir announced that the government would no longer censor newspapers prior to publication. But authorities have made such promises before and reneged, and the legal basis of repression and censorship—National Security Forces Act—remains intact. Supporting genuine freedom of expression and assembly as the elections draw nearer should be an important element to international engagement.

In Darfur, the authorities continue to obstruct the full deployment of UNAMID and to prevent it from investigating the consequences for civilians of outbreaks of fighting. In September 2009, after a lull in fighting that coincided with the rainy season, the SAF and rebels from the Sudanese Liberation Army’s Abdel Wahid faction clashed in various locations around Jebel

Mara. The exact number of civilian deaths and the scale of displacement from these and other clashes is as yet unknown, as SAF has prevented UNAMID from investigating. Following the government's expulsion from Darfur of 13 major international aid agencies in March 2009, there is little information on the humanitarian needs of many of the 2.7 million internally displaced Darfuris. Joint government—UN needs assessments have not been independent or comprehensive or included human rights concerns. Reports suggest that the risk of violence, including sexual violence, by soldiers and allied militia, remains a serious threat in and around camps.

The human rights situation and security of civilians in Southern Sudan also remains precarious. The Government of Southern Sudan (GoSS) has so far not proven capable of protecting civilians from inter-ethnic fighting that has left over a thousand people dead, the vast majority of them civilians. Neither the NCP-led government in Khartoum nor the Sudan People's Liberation Movement (SPLM)-led GoSS in Juba have reintegrated former militia into their respective forces or disarmed and demobilized them, leaving them armed and dangerous to civilians. The United Nations Mission in Sudan (UNMIS), the international peacekeeping force in Southern Sudan, is not present in or has restricted access to many flashpoint areas, including remote locations where inter-ethnic fighting occurs and areas close to the North-South border, which compromises its ability to protect civilians and monitor ceasefire violations.

Human rights violations and insecurity across Sudan threaten to intensify in the context of mounting political pressures in the lead-up to national elections in April 2010 and the southern referendum on independence in 2011. The NCP-led government, as it navigates multiple political processes nationally and in Darfur, looming CPA deadlines, and divergent international approaches to addressing Sudan's crises, is once again at a crossroads. It can choose to make good on the many promises and commitments it has already made in the CPA and on Darfur, or it can allow the situation to deteriorate further through continuing repressive and human rights violating conduct. International actors concerned about the Sudanese people also have choices to make. They can put the protection of human rights at the heart of engagement with the authorities—in the North and South—and warring elements in Darfur, or risk watching piecemeal initiatives unravel and civilians in Sudan face even greater challenges than they do now.

II. Recommendations

To the Government of National Unity

- End all deliberate and indiscriminate attacks against civilians in Darfur and other violations of international humanitarian law, and hold those responsible to account.
- Fulfill obligations to cooperate with the International Criminal Court (ICC) including surrendering those subject to ICC arrest warrants to the court.
- Remove legal immunities for members of the security forces, and investigate and hold to account those responsible for abuses regardless of rank.
- Grant full access for humanitarian aid to all populations in need, and comply with existing agreements regarding the operation of aid agencies in Sudan, including the commitment to allow aid organizations to implement human rights and protection programs.
- Immediately charge or release people who have been arbitrarily arrested and detained, and end harassment, abuse, and arrest and detention of human rights activists and other individuals who speak out on human rights, justice, and other issues of public concern.
- End the practice of censorship, and allow full and open reporting on issues of public interest.
- Urgently enact genuine reforms to the National Security Forces Act in line with the Comprehensive Peace Agreement and Sudan's international obligations, ahead of elections
- Implement all outstanding obligations in the Comprehensive Peace Agreement regarding Abyei; demarcate the January 1, 1956 border; and fully implement security provisions such as pulling back and downsizing troops and ensure both armies absorb or re-integrate all "other armed groups."
- End the policy of assigning abusive former militia to serve in the Joint Integrated Units and replace them with soldiers who do not have a record of abuse; provide the full support promised to the Joint Integrated Units.

To the Government of Southern Sudan

- Take steps to improve security and protection of civilians by increasing visits by government officials to volatile areas, and increasing the presence of trained and equipped police. Ensure that any SPLA forces deployed to protect civilians are appropriately trained and resourced in civilian protection methods.
- Accelerate efforts to build a culture of accountability in volatile areas, ensuring police work with local authorities to investigate crimes and bring criminal suspects to justice.
- Ensure that authorities planning and conducting civilian disarmament campaigns adopt procedures that uphold human rights, including accountability for perpetrators of abuses, including extrajudicial killings.

To UNAMID

- Monitor all government obstruction and its consequences for the mission and communicate this to the tripartite mechanism in Khartoum, the UN and AU headquarters, and UN Security Council members.
- Make protection of civilians a priority and clarify how this mandate should be implemented, including through the development of mission specific protection strategies, standard operating procedures, and training of personnel in all sectors of the mission. This should include procedures for responding effectively to information on threats to civilians both through advocacy and other preventive measures, including appropriate physical intervention.
- Increase information-gathering and analysis, particularly in relation to protection of civilians, and ensure that this information is shared within the mission, with the UN and AU headquarters, and with Security Council member governments. Information on protection of civilians should be reported publicly in every secretary-general report on UNAMID.

To UNMIS

- Take all steps necessary to make operational the mission's civilian protection mandate. It should clearly define the protection policy setting out a range of possible interventions, and communicate this policy widely within the mission and to national and regional government counterparts and local communities.
- Press for full access to all areas within the ceasefire zone in accordance with the UNMIS mandate and the Status of Forces Agreement.

- Increase and improve monitoring and analysis of conflict dynamics and protection concerns, particularly in volatile areas. Use this analysis as a basis for using and deploying the mission's resources strategically to prevent conflict and protect civilians from human rights abuses.

To the UN Security Council and Member States

- In accordance with Security Council Resolution 1591 (2005), impose targeted sanctions on all individuals who impede the Darfur peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the arms embargo, or are responsible for offensive military over-flights in Darfur.
- Establish an independent monitoring mission to conduct and report publicly on a comprehensive assessment of current needs and programs in place, in all sectors, including human rights and protection programs and all areas, including areas not under government control. The assessment should include Sudanese authorities' cooperation with or obstruction of aid operations, and new or ongoing civilian protection concerns, including insecurity, conflict, and displacement.
- Task the UN Office for the Coordination of Humanitarian Affairs (OCHA), the UN High Commissioner for Refugees (UNHCR), and UNAMID to establish a regular system of information collection, analysis, and sharing to ensure regular public reporting on the current situation in Darfur, including humanitarian needs and civilian protection.

To Concerned Governments, Special Envoys, and International Donors

- Press the parties to the Comprehensive Peace Agreement (CPA) to implement key outstanding obligations regarding Abyei; demarcation of the January 1, 1956 border; and security provisions such as pulling back and downsizing troops, dissolution of "other armed groups," and support to the Joint Integrated Units.
- Provide technical assistance to the parties to achieve CPA goals—particularly in legal and institutional reforms and in technical aspects of border demarcation. Support to the elections should prioritize immediate deployment of international elections monitors and support for national elections observers and civil society involvement.
- Monitor the parties' progress in these processes through the CPA-created Assessment and Evaluation Commission. Concerned governments should consider forming an expanded contact group dedicated to CPA implementation while ensuring linkages to the Darfur peace process.

III. Methodology

Research for this report was conducted by Human Rights Watch in July and August 2009. Researchers interviewed over 40 Darfurian refugees and 25 UN staff members, aid workers, and Chadian government officials in eastern Chad, and conducted more than 50 interviews with a wide range of government officials, UN and international and Sudanese non-governmental organization staff in Juba, Bentiu, Abyei, Agok, Aweil, and Wau Southern Sudan. Researchers also conducted telephone interviews and email correspondence, and reviewed relevant materials published by the UN and Sudanese and international organizations.

IV. Human Rights Violations in Khartoum and Northern States

Arbitrary Arrest and Detention

Sudanese authorities continue to arbitrarily arrest and detain suspected Darfuri rebels, members of particular opposition parties, and human rights activists in Khartoum and other northern states. Most such arrests are carried out by the National Intelligence and Security Services (NISS), acting under broad powers of the 1999 National Security Forces Act (NSFA), which allows authorities to arrest and detain suspects for prolonged periods without judicial review.¹ The government's recently proposed amendments to this law reportedly retain powers of arrest and detention and do not go far enough to reform the NISS.²

In practice, security authorities detain people in undisclosed locations without access to family or lawyers. This occurs in Khartoum, throughout the northern states, and in Darfur. In June 2009 alone, UN human rights officers in Darfur documented 13 cases of arbitrary and illegal arrest and detention by government and security forces, in four of which detainees reported being subjected to cruel, inhuman, or degrading treatment or torture while in detention.³

The fate of up to 200 people who "disappeared" in the government crackdown after the May 2008 attack on Omdurman by Justice and Equality Movement (JEM) rebel forces remains unknown,⁴ while at least ten are still being held *incommunicado* without charge 15 months after their arrest.⁵ During the government crackdown, security officials arrested a prominent human rights lawyer who is a member of the Popular Congress Party and a Darfuri from the Zaghawa tribe following the JEM attacks in May 2008. Authorities detained him without charge for 11 months, six of which he reportedly served in solitary detention.⁶

¹ National Security Forces Act, 1999, art. 31.

² See "Time for Genuine Reform of Sudanese security laws," REDRESS and SORD press release, September 30, 2009, and accompanying report, "Security for All: Reforming Sudan's Security Law," September 2009, <http://www.pcirs.org/Resources/Security%20for%20all%20FinalENG.pdf> (accessed September 30, 2009).

³ UNSC, "Report of the Secretary-General on the deployment of the Africa Union-United Nations Hybrid Operation in Darfur," July 13, 2009, S/2009/352, para. 24, [http://reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/EGUA-7TZPH4-full_report.pdf/\\$File/full_report.pdf](http://reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/EGUA-7TZPH4-full_report.pdf/$File/full_report.pdf) (accessed September 21, 2009).

⁴ Human Rights Watch report, *Crackdown in Khartoum: Mass Arrests, Torture, and Disappearances since the May 10 Attack*, ISBN: 1-56432-344-7, June 2008, <http://www.hrw.org/en/reports/2008/06/16/crackdown-khartoum-o>.

⁵ "Sudan: End Sham Trials by Terror Courts," Human Rights Watch news release, August 6, 2008, <http://www.hrw.org/en/news/2008/08/06/sudan-end-sham-trials-anti-terror-courts>.

⁶ UNMIS Human Rights Bulletin, issued June 12, 2009, on file with Human Rights Watch.

In the period leading up to and following the International Criminal Court indictment of Sudanese President Omar al Bashir on March 4, 2009, NISS officials harassed and arrested human rights activists in Darfur and Darfuris in Khartoum and elsewhere.⁷ This coincided with the closure of three Sudanese human rights organizations around the same time as the expulsion of 13 international organizations from Darfur.

In March and April, NISS arrested and detained prominent lawyers in El Geneina and Al Fasher who had been active with human rights programs.⁸ Between March and May 2009, NISS arrested and detained at least 20 members of the United Popular Front, a group affiliated with the Abdel Wahid faction of the Sudan Liberation Army that organized pro-ICC events at several universities following the indictment of President al-Bashir. Several of those released reported being beaten with sticks, electric cables, and rifle butts. At least seven remain in custody, have not been charged, and some do not have access to their families or lawyers.⁹

On August 28 a group of 15 armed security officers arrested Abdelmajeed Saleh Abaker Haroun, a Darfuri employee of the Darfur Transitional Regional Authority (a government body created by the 2006 Darfur Peace Agreement), in broad daylight in downtown Khartoum and held him in an undisclosed location without access to family or lawyers for several weeks. He remains in detention and the government has not stated reasons for his arrest.¹⁰

Authorities also targeted activists from other parts of the country. In May 2009, NISS officials arrested a student for making a speech at Khartoum University about the Merowe dam, and arrested student members of the Beja Congress Party in Kassala and detained them without charge for a week.¹¹

As in Darfur, the scale of arbitrary arrests and detentions throughout the country is not known in large part because of the government's restrictions on freedom of expression and assembly. Reporting of cases has also been restricted by its closure of three Sudanese human rights organizations in March.

⁷ Human Rights Watch report, *'It's an Everyday Battle': Censorship and Harassment of Journalists and Human Rights Defenders in Sudan*, ISBN: 1-56432-437-0, February 2009, <http://www.hrw.org/en/reports/2009/02/18/it-s-everyday-battle-o>.

⁸ African Centre for Justice and Peace Studies, Sudan Human Rights Monitor, Issue No. 1, March-May 2009.

⁹ Human Rights Watch communication with activist (name withheld), September 7, 2009 and UNMIS staff (name withheld), September 10, 2009.

¹⁰ Human Rights Watch communications with witnesses (names withheld), September 6, 8, 13, and 30, 2009.

¹¹ African Centre for Justice and Peace Studies, Sudan Human Rights Monitor, Issue No. 1, March-May 2009.

Restrictions on Freedom of Association and Expression

Sudanese authorities have continued to violate the rights to freedoms of assembly and expression, as Human Rights Watch documented in early 2009.¹² Sudanese authorities rely on the sweeping powers of the 1999 National Security Forces Act (NSFA) to control the country's media and have engaged in intensive direct pre-print censorship of newspapers that report on any politically sensitive issues, including the work of the International Criminal Court, developments in Darfur, and human rights concerns. Powers include surveillance, arrest, search and seizure, summons and interrogation.¹³ Security officers have used powers under this law to arbitrarily arrest and detain journalists and human rights defenders and to suspend and otherwise penalize newspapers.

Between January and June 2009, authorities prevented publication of newspapers on at least 10 occasions through heavy censorship, harassed or arrested journalists and the author of a book on Darfur, and shut down an organization that was training and supporting journalists.¹⁴

In August 2009, the Constitutional Court upheld the government's policy of pre-print censorship.¹⁵ However, on September 27, 2009, President Bashir announced the government would no longer censor newspapers before publication but warned journalists to observe the established "red lines" without elaborating them clearly.¹⁶ It remains to be seen whether the government's shift will translate into greater freedom of expression on key issues of public interest.

On at least six occasions since June 2009, Sudanese security officials interrupted or prevented civil society organizations and opposition political parties from holding events such as public talks and symposia on elections in various locations including Khartoum, Medani, Port Sudan, and Southern Kordofan.

In some instances, security officials arrested and detained members of opposition political parties. Members of the Popular Congress Party reported their members were arrested by

¹² Human Rights Watch, *'It's an Everyday Battle.'*

¹³ National Security Forces Act, 1999, art. 9.

¹⁴ Sudanese Journalists for Human Rights, "Semi-annual report on the situation of freedom of expression and press in Sudan," January 1 – June 30, 2009, on file with Human Rights Watch.

¹⁵ Constitutional Court decision no. 73/2008, dated August 2, 2009, on file with Human Rights Watch.

¹⁶ "Sudan president lifts censorship but warns from exceeding 'red lines,'" *Sudan Tribune*, September 28, 2009, <http://www.sudantribune.com/spip.php?article32594> (accessed September 29, 2009) and confirmed in communications with Sudanese journalists.

security officials in July in Port Sudan and in August in Southern Kordofan while they were preparing for a meeting about elections preparations.¹⁷ Members of the Communist party were arrested for distributing leaflets bearing the party name in Khartoum.¹⁸

In September alone, security officials interrupted an elections-related symposium organized by civil society organizations, a press conference on elections and referendum organized by a coalition of journalists, and removed elections-related articles from two major newspapers causing the papers to cancel their editions.¹⁹

¹⁷ “Crackdown on Freedom of Expression and Association Ahead of Elections,” African Center for Justice and Peace studies press release, September 17, 2009, <http://acjps.org/Publications/09-17-09Crackdown%20on%20Freedom%20of%20Expression%20and%20Association%20Ahead%20of%20Elections.html> (accessed September 21, 2009); Human Rights Watch correspondence with activist (name withheld) September 17, 2009.

¹⁸ UNIMS Human Rights Bulletin, August 13, 2009, on file with Human Rights Watch.

¹⁹ “Crackdown on Freedom of Expression and Association Ahead of Elections,” African Center for Justice and Peace studies press release, September 17, 2009.

V. Conflict and Human Rights Abuses in Darfur

During the rainy season from June to September 2009, there were fewer clashes between armed groups in Darfur. However, fighting has since resumed, suggesting it was premature for the departing head of the African Union-United Nations peacekeeping mission in Darfur (UNAMID) to conclude that the war “is over.”²⁰

The fact is that 2.7 million people remain in displaced persons camps in Darfur and a further 200,000 in refugee camps in Chad, where they face low-level violence, harassment, and intimidation on a daily basis. This includes sexual violence. The UN secretary-general notes in his last two reports on Darfur that between April and June 2009 UNAMID documented 21 incidents of rape and sexual violence against 54 victims, 13 of whom were under 18, and most of whom described their attackers as wearing military uniforms.²¹ Given the stigma attached to rape and geographic distances and other obstacles to reporting cases, it is likely this number represent a small fraction of all such cases.

Continuing Conflict

Commanders from the rebel Sudan Liberation Army-Abdel Wahed (SLA-AW) reported both to UNAMID and journalists that on September 18, 2009 Sudanese Armed Forces launched ground and air attacks on their positions in Korma, North Darfur. UNAMID received confirmation of the attack from non-rebel sources, and peacekeeping troops heard explosions coming from the area, but were not able to verify the reports as they did not have a presence in the area. On September 20, a spokesman for the Sudanese army told reporters at the state news agency SUNA that it had cleared several more areas of rebel control in North Darfur. To date, SAF has restricted UNAMID from accessing the area to assess consequences for civilians.

According to news accounts and reports, fighting and other violence in the first three months of 2009 killed more than 400 people²² and displaced over 137,000.²³ Testimony from

²⁰ Sarah El Deeb, “UN Peacekeeping Chief in Darfur says war over” Associated Press, September 3, 2009, <http://www.google.com/hostednews/ap/article/ALeqM5gHmShkRA51sEpsS8nvt-5VBQZygD9AG3T5Oo> (accessed September 29, 2009).

²¹ UNSC, “Report of the Secretary-General on the deployment of the Africa Union-United Nations Hybrid Operation in Darfur,” July 13, 2009, S/2009/352, http://www.un.org/ga/search/view_doc.asp?symbol=S/2009/352 (accessed September 30, 2009) and June 9, 2009, S/2009/297, <http://daccessdds.un.org/doc/UNDOC/GEN/No9/363/65/PDF/No936365.pdf?OpenElement> (accessed September 21, 2009).

²² El Deeb, “UN peacekeeping chief in Darfur says war over,” Associated Press.

displaced persons and other witnesses suggest government forces violated humanitarian laws in the course of this and other fighting. In July Human Rights Watch interviewed more than 40 civilians in eastern Chad who had fled clashes and Sudanese government bombardment in North and South Darfur between January and May 2009.

Ulu Saleh, age 30, fled fighting in the town of Um Baru, North Darfur, which began on May 5 when the rebel Justice and Equality Movement (JEM) clashed with ex-rebel SLA-Minni Minnawi (SLA-MM) and Sudanese government forces.²⁴ On May 8 and 9, after SLA-MM and government forces ousted JEM forces from the town, government aircraft carried out a series of bombing raids on areas around Um Baru and nearby Furawiya.²⁵

Saleh told Human Rights Watch how he fled the fighting:

JEM came to attack the town. Some people ran towards the UNAMID base. Others came towards Chad, like me. After the fighting the Antonov [aircraft] came and bombed. They were dropping 12 bombs a day. They dropped in all the areas around the town. At least 30 people were killed, men and children.²⁶

Witnesses told Human Rights Watch that the Antonovs bombed water points and other civilian objects in and around Um Baru and neighboring Farawiya. Maka Ibi Daoud, age 51, recounted how he fled Um Baru and Furawiya:

At first when the fighting happened we did not come to Chad, we ran to the mountain [near Farawiya] and hid there but we had to go back to Farawiya to get water. It was very dangerous... it was when people were at the waterhole that the army bombed. Animals were hurt and the people with them. I saw two people killed.²⁷

²³ USAID Sudan – Complex Emergency Situation Report #12, (FY) 2009, September 04, 2009, http://www.usaid.gov/locations/sub-saharan_africa/sudan/ (accessed September 12, 2009).

²⁴ SLA Minni Minawi was the only rebel faction to sign the Darfur Peace Agreement with the Sudanese government on May 5, 2006.

²⁵ UN Security Council, “Report of the Secretary-General on the deployment of the African Union-United Nations Hybrid Operation in Darfur, June 9 2009, S/2009/207, <http://daccessdds.un.org/doc/UNDOC/GEN/No9/363/65/PDF/No936365.pdf?OpenElement> (accessed September 21, 2009).

²⁶ Human Rights Watch interview with Darfuri Refugee, Ouri Cassoni, Chad, July 23, 2009.

²⁷ Human Rights Watch interview with Darfuri Refugee, Ouri Cassoni, Chad, July 21, 2009.

Medical staff in Oure Cassoni, eastern Chad, treated 36 people, including three children, injured in at least five separate bombing incidents in Darfur in May and June. In one case, a five-year-old child lost his ear when he was hit by shrapnel from a bomb in Um Baru.²⁸

In January and February 2009, JEM and government forces clashed at Muhajariya, South Darfur. Between February 6 and 17, UNAMID received reports of at least 20 government bombardments, including bombings at night, of actual and suspected JEM positions in the surrounding area. Fighting and government bombing continued until JEM retreated into Chad on February 25.²⁹

In addition to killing and injuring civilians, the clashes at Muhajariya and ensuing bombardment displaced more than 40,000 people from Muhajariya. At least 36,000 fled to Zamzam camp for internally displaced persons in North Darfur, placing a significant strain on resources, particularly water and sanitation.³⁰ The situation was greatly exacerbated by the government's March 4 expulsion of 13 aid organizations from Darfur, including those providing aid in Zamzam.

The government's air attacks using ill-equipped Antonovs without capacity to aim with precision were indiscriminate and violated international humanitarian law. Where hostilities in Darfur rise to the level of an armed conflict, Common article 3 to the Geneva Conventions of 1949, the Second Additional Protocol to the Geneva Conventions (Protocol II),³¹ and customary international humanitarian law³² are applicable. Indiscriminate aerial bombing of civilians and civilian objects, such as water points, are violations of the laws of war.³³ Protocol II explicitly prohibits destruction or removal of objects "indispensable to the survival of the civilian population" such as livestock and water supplies.³⁴

²⁸ Human Rights Watch Interview with Medical staff in Oure Cassoni, Chad, July 25, 2009.

²⁹ UN Security Council, "Report of the Secretary-General on the deployment of the African Union-United Nations Hybrid Operation in Darfur," April 14, 2009, S/2009/201, <http://daccessdds.un.org/doc/UNDOC/GEN/No9/296/93/PDF/No929693.pdf?OpenElement> (accessed September 21, 2009).

³⁰ Ibid.

³¹ Protocol Addition to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978. Sudan ratified Protocol II in 2006.

³² See generally, International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge: Cambridge University Press, 2005).

³³ See ICRC, *Customary International Humanitarian Law*, rules 11-13.

³⁴ Protocol II, art. 14.

In addition, the government's continued air attacks on both civilian objects and military targets is a violation of UN Security Council Resolution 1591 (2005), which bans offensive military overflights by the Sudanese government in Darfur.³⁵ The UN Sanctions Committee is empowered to impose targeted sanctions on any individual responsible for such offensive military overflights, as well as for violations of international humanitarian or human rights law,³⁶ but to date has only imposed sanctions on one member of the Sudanese Armed Forces.³⁷ The Sanctions Committee has not designated any individual to be subject to such sanctions for this or any other reason in relation to Darfur since April 2006.

No Peace or Justice in Darfur

While the AU-UN joint chief mediator, Djibril Bassole, has made some progress toward peace talks, such talks between JEM and the government were suspended on June 18, 2009. They are scheduled to resume in Qatar in October 2009, as are unification talks between rebel factions.³⁸

The Sudanese government has repeatedly refused to cooperate with the ICC, and has long rejected the first two warrants issued by the court for former government minister Ahmed Haroun and militia leader Ali Kosheib.³⁹ This animosity towards the ICC solidified with the ICC's issuance of a warrant for President al-Bashir himself. In response, far from cooperating with the court, Khartoum sought to divert attention from his alleged crimes in part through the expulsion of aid agencies.

Khartoum has paid lip-service to improving domestic accountability for war crimes and crimes against humanity, but to date it has investigated only a handful of low-ranking

³⁵ United Nations Security Council, Resolution 1591 (2005), S/Res/1591 (2005)
<http://daccessdds.un.org/doc/UNDOC/GEN/No5/287/89/PDF/No528789.pdf?OpenElement> (accessed September 13, 2009), para. 6.

³⁶ United Nations Security Council, Resolution 1591 (2005), S/Res/1591 (2005)
<http://daccessdds.un.org/doc/UNDOC/GEN/No5/287/89/PDF/No528789.pdf?OpenElement> (accessed September 13, 2009) para. 3 (c).

³⁷ Under Security Council Resolution 1672 the committee imposed targeted sanctions on four individuals, one member of the Sudanese Armed Forces, one militia leader, and two rebel leaders. United Nations Security Council, Resolution 1672 (2006), S/RES/1672 (2006), <http://daccessdds.un.org/doc/UNDOC/GEN/No6/326/77/PDF/No632677.pdf?OpenElement> (accessed September 29, 2009).

³⁸ "Darfur peace talks to resume next October – mediator," *Sudan Tribune*, September 8, 2009,
<http://www.sudantribune.com/spip.php?article32387> (accessed September 8, 2009).

³⁹ "Sudan: Handover War Crimes Suspects to ICC," Human Rights Watch news release, May 2, 2007,
<http://www.hrw.org/node/72077>.

individuals, largely for ordinary crimes.⁴⁰ The Sudanese courts have yet to prosecute a single high-level official in relation to past crimes in Darfur, and has made no move even to investigate, let alone bring prosecutions, in relation to ongoing attacks and violence against civilians this year. The Sudanese criminal code still does not allow for liability on the basis of command responsibility and contains immunities for military forces and other provisions, for example evidentiary requirements in rape cases, that could preclude meaningful prosecution of war crimes and crimes against humanity.⁴¹

UNAMID's Weak Protection of Civilians

The United Nations-African Union hybrid peacekeeping force in Darfur (UNAMID) has a mandate under Security Council Resolution 1769 to use “all necessary means” to protect civilians in Darfur, but the mission is not yet fulfilling this essential component of its mandate. A fully deployed UNAMID would consist of 26,000 troops and a significant budget: US\$1.6 billion for July 1, 2009 through June 30, 2010.⁴² However, more than two years after its authorization, UNAMID is just 70 percent deployed and still lacks critical equipment, including tactical helicopters and other essential transport. The UN department of peacekeeping operations (DPKO) has been seeking this equipment since mid 2007, yet to date no government has provided a single tactical helicopter.

Despite having made repeated commitments to facilitate UNAMID since its authorization in July 2007, Sudanese authorities continue to hamper deployment and effective operation of the force. The Sudanese government has delayed approval of over 300 visa applications for UNAMID personnel, the vast majority of which are for staff from western countries; delayed customs clearance and permission for UN contracted vessels to disembark at Port Sudan for weeks or months, slowing the movement of critical equipment into Darfur; and refused to authorize UNAMID to import equipment that would give their aircraft night vision capabilities, meaning that aircraft cannot fly at night.⁴³ The “tripartite mechanism” made up of the Sudanese government, the United Nations, and the African Union meets approximately

⁴⁰ In August 2008 Sudan's justice minister, Abdelbasit Sabdarat, appointed a Special Prosecutor to investigate crimes that occurred from 2003 onward, and in February 2009 the Special Prosecutor announced that three men, including Ali Kosheib, who is wanted by the ICC, had been charged in a case related to events in Deleig, Mukjar, Bandas, and Garsila. However, there has since been no indication of any progress in this or any other case.

⁴¹ Human Rights Watch, Human Rights First, and Save Darfur, “Rhetoric vs. Reality: The Situation in Darfur,” December 2008, http://www.hrw.org/sites/default/files/related_material/darfur1208.pdf.

⁴² UNAMID, African Union/United Nations Hybrid operation in Darfur Facts and Figures, <http://www.un.org/Depts/dpko/missions/unamid/facts.html> (accessed September 21, 2009).

⁴³ UNSC, “Report of the Secretary-General on the deployment of the Africa Union-United Nations Hybrid Operation in Darfur,” July 13, 2009, S/2009/352, [http://reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/EGUA-7TZPH4-full_report.pdf/\\$File/full_report.pdf](http://reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/EGUA-7TZPH4-full_report.pdf/$File/full_report.pdf) (accessed September 21, 2009).

monthly in Khartoum to discuss these and other outstanding issues in relation to deployment. However despite reaching agreement on key issues in those meetings, this mechanism has not effectively resolved many of these issues on the ground. At the local level, Sudanese authorities restrict the movement of UNAMID, including incidents of security forces preventing patrols from passing government checkpoints. On April 11, 2009, government authorities arrested and detained two UNAMID staff for three and four days respectively.⁴⁴ It appears both were beaten while in custody.

The mission has taken some steps to protect civilians, for example through preventive patrolling. In August 2009, it introduced 24 hour/seven days a week patrolling in 15 new locations. It has also provided refuge to civilians fleeing fighting. At Um Baru, for example, it gave 350 civilians shelter following clashes. However, it could and should do more to operationalize its protection mandate, including rolling out 24/7 patrols across Darfur, and responding immediately and effectively to threats against civilians, including through strong advocacy with government authorities, military, and rebels. UNAMID also should develop strategies and procedures on how military, police, and civilian components of the mission work together to ensure civilian protection.

Aid Operation under Attack

The Sudanese government's decision on March 4, 2009 to shut down organizations providing over 40 percent of the aid to North Sudan has severely undermined the entire operation. The UN and remaining NGOs used emergency measures, such as one-off distributions of food, to avert an immediate catastrophe. However these measures are not sustainable or far reaching, and do not include civilian protection and sexual violence prevention programs that were previously provided by expelled organizations.⁴⁵

Following the March expulsions, Sudanese security forces arrested and detained and otherwise harassed national staff of the closed national NGOs and of the expelled international NGOs.⁴⁶ Sudanese National Intelligence and Security Services (NISS) arrested at least two INGO staff, six UN staff, and 12 national NGO staff between April and June

⁴⁴ UNSC, "Report of the Secretary-General on the deployment of the Africa Union-United Nations Hybrid Operation in Darfur," July 13, 2009, S/2009/352, [http://reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/EGUA-7TZPH4-full_report.pdf/\\$File/full_report.pdf](http://reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/EGUA-7TZPH4-full_report.pdf/$File/full_report.pdf) (accessed September 21, 2009).

⁴⁵ Eleven of the 13 International NGOs and all three national NGOs were providing protection related programming; 10 of the International NGOs were responding to Sexual and Gender Based Violence. Human Rights Watch interview with expelled aid worker (name withheld) September 8, 2009.

⁴⁶ Human Rights Watch interview (name withheld) September 3, 2009.

2009.⁴⁷ Many of those arrested, including two staff members of UNAMID, report being beaten and otherwise mistreated while in detention.⁴⁸

In May the government agreed to allow some organizations to return to Darfur under different names, yet six months after the expulsions none is yet operational. The UN secretary-general reported that as of June 30, 2009 the number of international and national aid workers in Darfur had dropped from 17,700 to 12,658. Experienced humanitarian staff warn that the loss of capacity, expertise, institutional memory, and relationships with communities in Darfur will continue to impact on the operation for years.⁴⁹

Suppression of Information

The full impact of the expulsions on those relying on aid in Darfur is not known, in large part because the expulsions created an information vacuum about Darfur. The agencies expelled included those with the most extensive and well-established presence in Darfur, as well as those who played key roles in NGO coordination fora, such as the Interagency Standing Committee in Khartoum. Their absence has reduced information collection and dissemination about conditions in Darfur. Combined with the government's closure of Sudanese organizations, and its ongoing repression of human rights activists and journalists, this means that the government now controls much of the information, not only about humanitarian needs but about the situation in Darfur, human rights abuses, and civilian protection concerns. This suppression of information severely hampers the ability of concerned governments and the UN to monitor and respond to humanitarian needs or human rights abuses.

A joint Sudanese government-UN assessment on March 11-19 in selected locations in Darfur identified immediate critical gaps in core sectors, including water, sanitation, and health, but did not assess human rights and protection gaps.⁵⁰ On June 15 another joint committee⁵¹ visited Darfur to "examine efforts that had been undertaken at the state-level to facilitate

⁴⁷ UNAMID April 14 and May 12 weekly Situation Reports, on file with Human Rights Watch; Human Rights Watch interview (name withheld) September 3, 2009.

⁴⁸ Ibid.

⁴⁹ Human Rights Watch interview with staff of expelled organization (name withheld), September 8, 2009.

⁵⁰ Government of Sudan—United Nations: Joint Assessment Mission to Darfur, March 24, 2009, [http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDdocUnidFilename/SODA-7QFT8D-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDdocUnidFilename/SODA-7QFT8D-full_report.pdf/$File/full_report.pdf) (accessed March 26, 2009).

⁵¹ A mission of the High Level Committee, including representatives of the Sudanese government, China, Russia, United Kingdom, United States, African Union, League of Arab States, NGOs, UNAMID and Office for the Coordination of Humanitarian Affairs (OCHA).

humanitarian assistance through visits to the IDP camps, and meetings with local officials and UNAMID.”⁵²

However, there has been no independent comprehensive assessment of the impact of expulsions, either by the United Nations, or via a survey of all NGOs still operating.⁵³ Such an assessment should include human rights and protection needs and cover geographical areas that organizations already struggled to serve because of insecurity.⁵⁴ UNAMID should also report publicly and systematically on protection of civilians and human rights abuses.

⁵² UNAMID Situation Report 22 June 2009, on file with Human Rights Watch.

⁵³ The “Humanitarian Needs Profile” previously produced by OCHA that sets out humanitarian needs and response in locations across Darfur, has not been published since January 2009.

⁵⁴ The High Level Committee agreed on June 17 that its areas of operation should include protection, but have yet to produce an assessment of the impact of expulsions on protection needs and programming.

VI. Failure to Protect Civilians in Southern Sudan

Inter-ethnic Conflict

Severe inter-ethnic fighting, usually linked to competition over resources and exacerbated by the widespread availability of weapons, is the primary and escalating threat to civilians in Southern Sudan. In 2009 alone, attacks and counter-attacks between armed members of the Murle and Lou Nuer ethnic communities in Jonglei state killed well over 1,200 civilians.⁵⁵ In late August, Lou Nuer groups from Wuror County attacked a Dinka village in Twic East County, killing around 40 civilians, including women and children. A representative from the county who witnessed the attack told Human Rights Watch the attackers looted animals and goods from the community.⁵⁶ On September 20, a large group of heavily armed Lou Nuer youths attacked the Dinka town of Duk Padiet, overrunning security forces and killing some 100 civilians, soldiers, and police.⁵⁷

The fighting is not confined to Jonglei state. In Warrap state, a clash between Dinka groups over grazing rights reportedly resulted in 30 civilian deaths in August.⁵⁸ In Upper Nile state, tensions between Shilluk and Dinka communities, which flared at the CPA anniversary in Malakal in January 2009, surfaced again in late August when armed Shilluk attacked a Dinka village north of Malakal, killing 20 and prompting retaliation from armed Dinka.⁵⁹

In some of the recent fighting, especially in Jonglei, the attacks have featured an increase in targeting of women and children. In some instances, including the most recent attack on Duk Padiet, witnesses reported the attacking groups used new weaponry. These factors have prompted renewed allegations by southern politicians and observers that northern-aligned forces are fuelling the fighting.⁶⁰ Neither the UN nor Human Rights Watch has obtained direct evidence of this alleged involvement.

⁵⁵ "Sudan: End Violence in Jonglei State," Human Rights Watch news release, August 11, 2009, <http://www.hrw.org/en/news/2009/08/11/sudan-end-violence-jonglei-state>.

⁵⁶ Human Rights Watch interview with Hon. Maker Deng Malou, Juba, Sudan, August 31, 2009.

⁵⁷ Skye Wheeler, "More than 100 dead in south Sudan attacks – officials," Reuters, September 21, 2009, <http://www.alertnet.org/thenews/newsdesk/LL61402.htm> (accessed September 22, 2009).

⁵⁸ "Warrap Governor condemns tribal clash over grazing lands," *Sudan Tribune*, August 13, 2009, <http://www.sudantribune.com/spip.php?article32112> (accessed September 22, 2009).

⁵⁹ "Upper Nile calls for no military intervention after bloody fighting," *Sudan Tribune*, September 6, 2009, <http://www.sudantribune.com/spip.php?article32357> (accessed September 22, 2009).

⁶⁰ "South Sudan says Khartoum is reneging on CPA deal," Reuters, August 25, 2009, <http://www.alertnet.org/thenews/newsdesk/LP333979.htm> (accessed September 21, 2009). See also, John Prendergast, "Avoiding Total War in Sudan," September 2009, published by a consortium of organizations,

Southern Sudanese authorities have been unable to address the underlying causes of these conflicts or protect civilians from the inter-ethnic violence. The Southern Sudan Police Service (SSPS) and SPLA are insufficient in number or resources to repel armed attacks, and not trained to effectively intervene to protect civilians. The SPLA has also not adopted a clear policy on when and how soldiers should intervene in inter-ethnic civilian fighting; in attacks and counter-attacks among the Lou Nuer and Murle communities in Jonglei earlier this year, commanders ordered their forces not to intervene in civilian matters.⁶¹ That policy appears to have changed. In September the government deployed hundreds of additional soldiers to Jonglei state following a string of attacks there.⁶²

Many GoSS authorities told Human Rights Watch they believe the only way the GoSS can respond to inter-ethnic violence is to engage in forced civilian disarmament.⁶³ In the first week of September, the SPLA and SSPS conducted a search and cordon operation in Juba town, without major incident. Other state governors have carried out additional operations since May 2008 when President Kiir issued a decree instructing disarmament.⁶⁴ However, the current piecemeal approach to forced disarmament presents a huge risk to civilians, as illustrated by past operations in which the security forces became abusive to civilians or entered into open conflict with armed communities, sometimes along ethnic lines.⁶⁵ The most violent example was in 2006 in Jonglei state, when a forceful disarmament campaign of the Lou Nuer communities resulted in fighting between soldiers and armed civilians. Some 1,600 soldiers and armed civilians died in the fighting.⁶⁶

The LRA Menace

Persistent LRA attacks in Western Equatoria state also continue to threaten the lives and human rights of civilians. LRA rebels operating in Democratic Republic of Congo (DRC),

<http://www.enoughproject.org/publications/avoiding-total-war-sudan-urgent-need-different-us-strategy> (accessed September 22, 2009).

⁶¹ Human Rights Watch, *No One to Intervene: Gaps in Civilian Protection in Southern Sudan*, ISBN: 1-56432-506-7, June 2009, <http://www.hrw.org/en/reports/2009/06/21/no-one-intervene-o>.

⁶² "SPLA deploy to Duk county," *Sudan Radio Service*, September 24, 2009, <http://www.sudanradio.org/viewArticle.php?id=2725> (accessed September 25, 2009).

⁶³ Human Rights Watch Interview with Southern Sudan Human Rights Commissioner Hon. Joy Kwaje, Juba, Sudan August 31, 2009.

⁶⁴ Adam O'Brien, "Shots in the Dark: the 2008 South Sudan Civilian Disarmament Campaign," *Small Arms Survey*, January, 2009, http://www.smallarmssurvey.org/files/portal/spotlight/sudan/sudan_publications.html (accessed September 22, 2009).

⁶⁵ Human Rights Watch, *There is No Protection: Insecurity and Human Rights in Southern Sudan*, ISBN: 1-56432-436-2, February 2009, <http://www.hrw.org/en/reports/2009/02/12/there-no-protection-o>, pp. 25-26.

⁶⁶ Ibid.

Central African Republic (CAR), and inside Southern Sudan continue to attack civilian populations, resulting in an influx of refugees to Western and Central Equatoria. The UN estimates 18,000 refugees from CAR and DRC are currently living in camps in Southern Sudan, and that 68,000 southern Sudanese are currently living in displacement. The last major attack occurred on August 12, 2009, at Ezo, Western Equatoria, when a group of LRA rebels attacked a church, killed two people, abducted 10 girls and looted large food stores.⁶⁷ The UN counted at least seven more incidents in Southern Sudan the first week of September.⁶⁸

The Ugandan army and Southern Sudan's SPLA are present in the LRA-affected areas of Southern Sudan but neither has been able to protect civilians from the attacks. The UN Missions in Sudan (UNMIS) forces have also been inadequate, their patrolling limited to main roads and focused on protecting humanitarian and UN staff rather than villagers who remain prone to attack.

Potential for Violence near the North-South Border

There are at least five areas spanning the North-South border from Western Bahr el Ghazal to Blue Nile that are disputed between the northern and southern governments because of the presence of natural resources such as copper, oil, and grazing lands. These include Kafia Kingi/ Hofrat al Nahas in Western Bahr el Ghazal; border between Northern Bahr el Ghazal and South Darfur; Heglig at the border between Unity and Southern Kordofan; a small area on the border between Upper Nile and White Nile; and Shar el Fie, near southern Blue Nile.⁶⁹

These disputes are potential flashpoints for further violence and human rights violations if authorities do not manage tensions effectively. Relations between communities along the border have in the past turned violent, particularly in areas north of Aweil in Northern Bahr el Ghazal in 2006, and in the Kharasana area of Unity state in 2008.

In the coming months, it will be increasingly important for state and local authorities to carefully manage these community relations, particularly as the parties to the CPA do not appear likely to resolve these border disputes through the technical process of North-South

⁶⁷ "New LRA attacks trigger more displacement in Southern Sudan" UNHCR press statement, August 21, 2009, <http://www.unhcr.org/4a8e974e9.html> (accessed September 21, 2009).

⁶⁸ "UN raises new concerns about increasing LRA attacks in Southern Sudan," UNMIS news release, September 11, 2009, <http://unmis.unmissions.org/Default.aspx?tabid=587&ctl=Details&mid=2680&ItemID=5633> (accessed September 11, 2009).

⁶⁹ "Announcement of the Modified Elections' Time-frame," National Elections Commission, June 28, 2009, on file with Human Rights Watch.

border demarcation. The parties have stalled over how to handle their disagreements in the demarcation. They are scheduled to complete the demarcation on paper by the end of September, and on the ground in December 2009.⁷⁰

In addition to these disputed border areas, Abyei also remains a flashpoint for violence and human rights violations. Abyei is an oil-rich area that straddles the North-South border and one of three transitional areas governed by separate protocol to the CPA.⁷¹ In May 2008, clashes between SAF and SPLA soldiers caused near total destruction of the town and displacement of some 60,000 civilians.⁷² The parties agreed to restore peace to the area and submitted the question of Abyei's boundaries to international arbitration.

On July 22, 2009 the Hague-based Permanent Court of Arbitration awarded much of the claimed area, excluding Meiram and Heglig, to the Dinka Ngok community. With the boundary decided, the parties to the CPA may now implement administrative, financial, and security arrangements described in the Abyei Protocol. Yet more than two months after the PCA decision, they have not completed physical demarcation of the award, the Government of National Unity has not transferred promised resources to the Abyei Administration, and has not passed an Abyei referendum law.⁷³

Leaders of the Dinka Ngok and quasi-nomadic Misseriya community, the two communities that claimed land rights over Abyei, publicly accepted the PCA decision. However, Misseriya leaders are not unanimous in their support and some have made statements rejecting the border, fearing it will prevent them from accessing grazing lands.⁷⁴ The two communities have not settled on the terms of their reconciliation or modalities of migration in the coming dry season.⁷⁵

⁷⁰ Ibid.

⁷¹ The Abyei Protocol sets out the arrangements for administering the territory. Protocol Between the Government of The Sudan (GOS) and The Sudan People's Liberation Movement/Army (SPLA/M) on the Resolution of the Abyei Conflict, May 26th 2004, 5.1.

⁷² Human Rights Watch, *Abandoning Abyei: Destruction and Displacement*, ISBN: 1-56432-364-1, July 2008, <http://www.hrw.org/en/reports/2008/07/21/abandoning-abyei-o>.

⁷³ Under the CPA, the Abyei referendum is to be conducted separately from general southern referendum in 2011. Chapter IV, Section 1.3.

⁷⁴, "Misseriya leader denies historic border with Dinka Ngok," *Sudan Tribune*, September 21, 2009, <http://www.sudantribune.com/spip.php?article32535> (accessed September 21, 2009).

⁷⁵ Human Rights Watch email correspondence with UNMIS staff (names withheld), September 9 and 11, 2009.

Meanwhile, the Abyei Administration is encouraging the return of Dinka Ngok to the Area—a policy that could spark conflict in areas where Misseriya maintain settlements.⁷⁶ Human Rights Watch is also concerned that plans to replace the Joint Integrated Police Unit (mandated under the Abyei Roadmap that they agreed upon following the May 2008 clashes) with local police could contribute to conflict rather than prevent it, particularly given the weak rule of law and absence of courts in Abyei.

UNMIS has considerably bolstered its presence in the Abyei Area following the May 2008 clash, with bases in Abyei and Agok, and has developed a strategy for protection of civilians in locations within the arbitration award boundaries where conflict could arise.⁷⁷ However, it still faces challenges accessing the original area of Sector VI extending beyond the arbitration award boundaries.

Failure to Implement Security Provisions of the CPA

The failure of the parties to fully implement CPA security provisions requiring withdrawal of troops and integration of former militias also contributes to possible violence near the border. Both parties have yet to pull back troops to agreed locations on either side of the January 1, 1956 border. For example, in Unity state SAF kept a checkpoint at “Tishwin” (between Bentiu and Pariang) that local authorities say is illegal, and could trigger conflict with southern forces.

UNMIS does not have access to many locations close to the border, travels with representatives of both armies, and cannot conduct surprise inspections. These restrictions compromise the mission’s ability to verify troop levels, monitor ceasefire violations, and thoroughly analyze the potential for violence.

The parties have also failed to integrate former militia, called “other armed groups” in the CPA, into their respective armies or to demobilize and reintegrate them into civilian life.⁷⁸ This failure is a potential trigger for violence especially in areas where the former militias were active during the civil war. In Upper Nile state, authorities told Human Rights Watch they fear former SAF-aligned militias can be easily “reactivated” by their former commanders.⁷⁹

⁷⁶ Human Rights Watch interview with UNMIS Sector Commander, Abyei, Sudan, August 14, 2009.

⁷⁷ Ibid.

⁷⁸ CPA, chapter VI, art. 7.

⁷⁹ Human Rights Watch interview with Gatluak Deng Garang, Governor of Upper Nile state, Juba, August 30, 2009.

The presence of ex-militias have been destabilizing particularly in the Joint Integrated Units, the joint security forces created under the CPA composed equally of SAF and SPLA.⁸⁰ Ex-militias who were not been properly integrated into the SAF directly contributed to violence and human rights violations in the clashes between the SPLA and SAF in Malakal in November 2006 and February 2009, and in Abyei in May 2008.⁸¹

Ex-militias in SPLA are also a source of instability in other contexts. In Unity state, for example, continuing rifts between the SPLA soldiers and former militia from SSDF (Southern Sudan Defense Forces) who were nominally absorbed into the SPLA have exacerbated ethnic and political tensions in the state, and observers believe these tensions could lead to further insecurity and human rights violations if not kept in check.

⁸⁰ CPA, chapter VI, art. 4.

⁸¹ Human Rights Watch, *Abandoning Abyei* and “Letter to the Presidency of the Sudanese Government of National Unity Concerning the Situation in Malakal,” May 21, 2009, <http://www.hrw.org/en/news/2009/05/21/letter-presidency-sudanese-government-national-unity-concerning-situation-malakal>.