
4.5 The GoNU appointed a senior point of contact to meet with UN and AU officials regarding any deployment related issues. The point of contact will serve as a liaison to help overcome any impediments to deployment.

4.6 The movement of UNAMID equipment through Port Sudan Customs takes place within a maximum of 7 days from arrival. The GoNU has assigned a senior customs official to work with the UN Movement Control Office at the Port to ensure the effective implementation of this policy. This 7 days movement requirement is from the day and time the equipment arrives in Port Sudan to the time the equipment's convoy is cleared for departure to Darfur.

4.7 During the last visit of the UN Security Council Members to the Sudan, the GoNU agreed to their request pertaining to the declared contributions of the TCCs including the Thai Battalions and the Nepalese units.

4.8 The GoNU commits itself to providing escorts to UNAMID convoys to Darfur every 48 hours, and is taking the necessary arrangements in order that this escort is provided every 24 hours in the near future. This has been recognized by the UNSG in its report dated 7th July 2008.

4.9 The GoNU responded positively to UNAMID request to extend the working hours of Darfur airports by an additional 2 hours time; however the UN did not honor its commitment made since April 2007, of implementing the heavy support package aiming at upgrading the airports capabilities. This has been recognized by UNSG in paragraph 36 of its report dated 7th July 2007.

4.10 The GoNU has facilitated contacts between the Sudanese Civil Aviation officials and their UNAMID counterparts. Both sides are currently working to upgrade airport capabilities in order to create better conditions for the deployment of the Hybrid Operation.

4.11 Recently GoNU facilitated the deployment of Engineering Units from Egypt, China, and Ethiopia, in addition to facilitating the rotations of the units from different countries.

4.12 The GoNU commits itself to providing protection to UNAMID tactical patrols throughout Darfur in close coordination with UNAMID and the Sudanese Armed Forces, especially after the considerable increase of attacks and carjacking against UNAMID by armed groups and bandits.

4.13 The GoNU provided logistical and humanitarian support to the peacekeeping missions (UNMIS AND UNAMID) when attacked by armed



groups in Haskanita (2007) and Shangeli Tobaya in (2008) in Darfur. It also commits itself to cooperate with UNAMID through joint investigations to identify the perpetrators of these attacks.

4.14 The GoNU commits itself to ensure access to land and water as necessary to support UNAMID infrastructure and camp expansion. UNAMID has been handed over the land it requested, and GoNU commits itself to meet all UNAMID future demands of land.

4.15 The GoNU signed a memorandum of understanding with the government of South Africa (SA) to facilitate the landing of SA planes at the Sudanese airports to provide the logistical support, or transport military personnel in rotation.

4.16 The GoNU is working with UNAMID to increase UNAMID's presence in the affected areas to help in securing civilian needs and protect relief operations. The AU/UN Joint Special Representative for Darfur, Rudolph Adada, has lauded the cooperation of the Sudanese police forces with UNAMID in the provision of security at the IDP camps.

4.17 The cooperation with UNAMID includes also the training of Sudanese police on modern police means and human rights laws. This cooperation resulted in the establishment of community police in south Darfur that included the training of 287 persons including 30 women.

4.18 The Sudanese police work in full harmony with UNAMID, and will continue to do so in order to consolidate security all over Darfur, and to stop the increasing banditry and carjacking.

4.19 It is obvious that the GoNU has fulfilled its part with regard to the deployment of UNAMID; however some commitments await fulfillment on the part of the international community, especially in relation to the financial aspects, the logistical requirement of the operation, and the heavy support package.

5. THE HUMANITARIAN SITUATION:

5.1 The Government of Sudan (GOS) signed two memoranda of understanding with the UN, to facilitate the humanitarian work. The first was signed with the former UNSG, Kofi Anan, during his visit to the Sudan in 2004, and the second was signed with UNMIS. The latter includes a working plan pertaining to the Security Council Resolution 1556. The plan



comprised steps to be taken by the GOS to curb militia activities and strengthen confidence building among the various communities of Darfur.

5.2 In September 2003, GOS and SLA signed an agreement allowing free and unimpeded humanitarian access within Darfur. The signing of the April 2004 ceasefire agreement by GOS made it safer and much easier for aid agencies to operate in Darfur.

5.3 On 6th July 2004, GOS issued 15 decrees which included measures to:

- enhance security in Darfur;
- establish police stations in IDP camps.
- facilitate the work of the Ceasefire Commission and the African Union Monitoring Force;
- streamline the granting of visas for aid workers in Darfur;
- exempt all humanitarian aid from any restrictions, customs, tariffs, or personal fees;
- facilitate freedom of movement for those working in the humanitarian aid organizations in Darfur;
- facilitate the flow of humanitarian assistance to IDPs in Darfur.

5.4 These decrees were regularly renewed until they were substituted by the signing of the Joint Communiqué with the UN on 28 March 2007, which activated the mechanism for the easy flow of relief into Darfur.

5.5 Through consultation with UNAMID and WFP, the GoNU agrees to provide additional security for the transportation of humanitarian goods through police patrols and escort along routes in Darfur. Moreover, if UNAMID requests security escort for any UNAMID convey, GoNU commits itself to respond to the request within 24 hours.

5.6 Humanitarian Partners:

	2003	2007
NGOs	23	250
Workers	9000	15.500
Vehicles	-	3000
Communication Devices.	-	4000

5.7 All camps are found in GoNU controlled areas and in urban centers with regular GoNU forces, a matter that refutes the allegations of ethnic cleansing or GoNU's assistance to some militia to annihilate some ethnic groups in Darfur.



5.8 The GoNU contributes to all efforts of tribal reconciliation, which help to stabilize the security condition and the return of IDPs to their areas.

5.9 The total customs exemption for humanitarian goods during the period (2005 to 2008) amounted to \$620 million.

5.10 The GoNU donated 20,000 metric tons of sorghum to the WFP to be distributed in Darfur.

5.11 The GoNU paid \$ 15 million to support emergency operations and \$10 million to support voluntary return.

5.12 The humanitarian indicator with regard to voluntary repatriation is the most important indicator. So far, 720,851 IDPs have voluntarily returned to 526 villages in Darfur.

5.13 As regards food security, the indicators are good. No segment of the Darfur society is affected by food shortage.

5.14 On the health indicator, no epidemic diseases have been detected.

6. HUMAN RIGHTS:

6.1 Referring to the UNSG positive note about the cooperation of GoNU with UNAMID towards the implementation of the recommendations made by a group of UN Human Rights Experts on Darfur, and according to the Special Rapporteur's report on the Situation of Human Rights in the Sudan, submitted to the 9th Ordinary Session of The Human Rights Council, the following has been achieved:

- The passing of 59 new bills by the National Assembly (the Parliament) by the end of July 2008, which include, *inter alia*, the Armed Forces Act, the Joint Integrated Units Act, the Police Forces Act and the Political Parties Act;
- the passing of the Elections Act, which allocated 25% of the seats to women besides the possibility of competing for other seats;
- finalization of the revised amended version of the Child Act of 2004, which defined clearly the child as a person below 18 years old, prohibited Female Genital Mutilation (FGM), raised the age of



criminal responsibility and provided better guarantees for children with disabilities;

- the adoption on 8 June 2008 by a Presidential Decree of the "Roadmap for the return of IDPs and implementation of Abyei Protocol" that provides for; security arrangements, return of IDPs, an interim administration and final arbitration;

- the passing of a number of bills into laws by the Southern Sudan Legislative Council;

- the completion of the fifth national census in fulfillment of the CPA.

6.2 The general human rights situation:

- The commendable decision taken by GoNU in allowing independent observers access to the 90 captured child combatants used by the rebel movement (JEM) in its 10th of May 2008 attack on Omdurman and their exclusion from trials and transfer to a rehabilitation centre where they were kept in good conditions and care. Finally, they were handed over to their families in early September 2008;

- that the Sudan's Disarmament, Demobilization and Reintegration (DDR) Commission continues to be very active in its efforts to campaign against the recruitment and use of child soldiers in collaboration with UNICEF and other international partners;

- the steps taken by the GoNU to implement the recommendations of the Group of Expert on Darfur particularly with regard to the launching of the Swiss funded project with a number of activities both in Darfur and Khartoum;

- increasing the number of police, including community police recruited from within IDP camps, with full consent of the IDPs and policewomen that have been deployed to Darfur.

6.3 The activities of the State Committees against Sexual and Gender Based Violence (SGBV), included the indictment, prosecution and sentencing of several regular forces personnel accused and found guilty of rape.



6.4 During the recent visit made by the President of the Republic to the three Darfur states he announced a comprehensive plan to address the situation in Darfur. Also a wide consultation among the political parties and organizations is now going on within a framework of the Sudanese People Initiative to settle the problem of Darfur.

The President also, during the visit, declared amnesty for all children who took part with the JEM forces in the attack of 10 May 2008 on Khartoum considering them as victims of the conflict in Darfur.

6.5 One of the recent breakthroughs in resolving the crises of Darfur is the disarming, demobilizing and reintegrating of 233 members of the SLA (peace wing) that took place in May 2008.

6.6 A new joint administration for Abyei has been established and mandated with the task of facilitating the swift return of the IDPs and to seek compensation of all victims in the area from a fund, which was specifically allocated for this purpose. It is worth noting that by virtue of these new measures the troops of both the SAF and the SPLA have withdrawn from the area.

6.7 In Southern Sudan, the commitment by many interlocutors in Southern Sudan to human rights justifies the significant progress made by the Southern Sudan Human Rights Commission in carrying out its mandate.

6.8 After the conclusion of the Eastern Sudan Peace Agreement (EPA) with the opposing Eastern Front, an immediate emergency development plan of rehabilitation was initiated addressing the areas of health, education, water networks and electricity in the region. Large amounts of fund from the national treasury have been allocated for these projects, which are now under implementation.

7. THE SUDAN CHAD RELATIONS:

7.1 The incursions of Chad in Darfur, which it claims are in pursuit of the Chadian rebels, are actually meant to support the Sudanese rebel groups such as JEM and SLM Unity faction. These incursions have aggravated the security situation in the region.

7.2 The view of GoNU is that compliance with the agreements signed between the two countries will be a major factor in addressing this situation; consequently GoNU responded positively to President Wade initiative and attended the Dakar meetings, which established the Contact Group.



7.3 This group held its first meeting in Libreville Gabon at ministerial level. The Libreville meeting took a decision to activate the Tripoli agreement between GoNU and Chad and previous agreements reached between the two countries, and to allow international partners and observers (UN, EU, USA, France) to participate in the Military Experts Meeting, that was held in Tripoli, Libya, in order to assist in the implementation of the plan of the deployment of a protection force and observers in points along borders between the Sudan and Chad, as stipulated in the Tripoli Agreement.

7.4 The participants, members of the Contact Group expressed their intentions to call upon leaders of countries of the group to continue their efforts aiming at bridging the gap between President Al Bashir and President Debby, and at consolidating the normalization process between the two countries.

7.5 The meeting of the Military Experts, which was held in Tripoli on 28th April 2008, approved the plan of deploying the joint force along the borders, and also the completion of establishing the (10) monitoring points. The meeting has also approved a budget that will be paid by the countries of the group.

7.6 On the other hand evidence proved that Chad has fully supported JEM in its attack against the Sudanese capital launched on the 10th of June 2008. In spite of the foregoing, GoNU continued to participate in all meetings of the contact group that were held after the 10th of June 2008 including the last meeting held in Asmara, Eritrea, on 10 Sept. 2008.

7.7 The 5th Foreign Ministers Contact Group on Normalization of the Sudanese-Chadian relations discussed in Asmara on 10 September 2008 the resumption of diplomatic relations between the two countries. According to the final communiqué issued at the end of the meeting, GoNU reaffirmed its readiness to resume diplomatic relations with Chad, which accepted the restoration of bilateral relations with the Sudan. The two countries further agreed to exchange Ambassadors before the 6th meeting of the contact Group to be held in N'djamena, Chad. Also Libya and the Republic of Congo are charged to coordinate the Ambassadors exchange between the two countries. The meeting agreed to take the minutes of the Experts on Defense, Security and intelligence as guideline for the provision of budget and logistics and organization of the command centers to the observer force to be deployed along the Chadian-Sudanese borders.



8. COMBATTING IMPUNITY:

8.1 The Interim constitution of the Republic of the Sudan, currently in force, devoted Chapter 2 of Part Five thereof to the National Judiciary, from Article 123 to Article 132. Article 123 of constitution provides that: *"The National Judiciary Authority in the Republic of the Sudan shall be vested in the National Judiciary. The National Judiciary shall be independent of the legislature and the Executive, with the necessary financial and administrative independence. The National Judiciary shall have judicial competence to adjudicate on disputes and render judgments in accordance with the law. All organs and institutions of the state shall execute the judgments and orders of the courts"*. Article 124 of the constitution provides for the structure of the National Judiciary as follows:
The National Supreme Court;
National Courts of Appeal;
Other National Courts;

8.2 With respect to the independence of justices and judges, Article 128, Reads as follows: *"All Justices and judges are independent in the performance of their duties and have full judicial competence with respect to their functions, and shall not be influenced in their judgments. Justices and judges shall uphold the constitution and the rule of law and shall administer justice diligently, impartially and without fear or favor. Tenure of office of the Justices and judges shall not be affected by their judgments."* This means that the Interim Constitution has adopted the principle of separation of powers, and hence the independence of the judiciary.

8.3 The CPA (Article 2.11.4.3) provides that *"The Justices of the Constitutional Court and National Supreme Courts and all other judges of other National Courts, shall perform their functions without political interference, they shall be independent and shall administer justice without fear or favor. The Interim National constitution and the law shall protect their independence."*

8.4 Precedents of application of the principle of independence of the judiciary are many. Tracing the process of the Sudanese Judicial System and its judgments published in the law journals and reports issued since 1956 up to the present, reveals a diligent judicial wealth of published and unpublished judgments, which emphasize the same.

8.5 Interacting with incidents in Darfur states, the Sudanese chief Justice issued the Decree No: 702/2005 dated 11th June 2005 establishing a



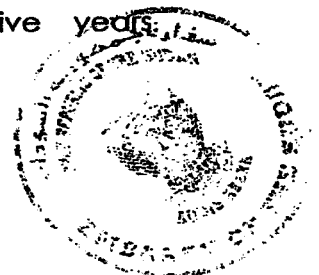
special court to try persons committing offences against humanity presided by the Supreme Court Justice, Mr. Mahmoud M. Abkam. The court seated in AL Fashir, and was authorized to transfer its sittings in any other place, as it may specify. Actually the court held its sittings in Nyala. The court referred to the files of criminal suits before other courts. This was followed by issuing the decrees No: 1129 and 1124 to establish a court for such suits in each of the three states of Darfur. The courts had been given the necessary authorization to try any accused whose guilt had been proved, for the purpose of maintaining the dignity of the state and independence of the Sudanese Judiciary. The courts assumed their duties and decided in a number of cases. It may be relevant to mention some examples of the cases tried by those courts:

- Report No : 462/2005: The accused persons were prosecuted under sections 21/16 (Haraba) of the Penal Code, and under sections 26/44 of Arms and Ammunition Act, for attacking and firing at 4 cars, 2 belonged to the US AID and 2 owned by the IRC, when they were on their way from Nyala to Zalingi, In that incident an American lady was injured, and was transported to USA. The court convicted the accused persons under section 26 of Arms and Ammunitions Act, and sentenced them to imprisonment, and dropped the charges under the other sections for non-appearance of the complainant before the court.

- Report No: 6271/2004: The accused persons in this Report were prosecuted under sections 168 (Haraba) 175 (robbery) and 182 (mischief) of the Penal Code, 1991, and section 26 of the Arms Act. The court imposed the sentence of imprisonment for five years. A minor accused was sent to a reformatory for a term of three years. The trials took place in Nyala City, and then the court transferred to AL Fashir.

- Report No. 3/2005: The two accused persons, who were an officer and a non-commissioned officer of Kottum Military Area, were prosecuted under sections 22/130/2 for torturing the deceased to death, on the belief that he had been making intelligence activities for the rebels. The court convicted them under section 130 (murder), and sentenced them to death. But a parent of the deceased, who was a high ranking officer of the rebels, pardoned the convicts.

- Report No. 1482/2004: The accused persons, who were seven members of the Armed Forces and two civilians, were prosecuted under sections 17 (robbery) and 182 (mischief). The court convicted the military accused and sentenced them to three years imprisonment, and convicted the civilians under section 175, and sentenced them to five years imprisonment.



- Report No. 611/2004: The two accused members of the Armed Forces were prosecuted under sections 21/130 (2) for torturing the deceased to death, on the belief that he was an intelligence agent of the rebels. They were convicted under section 130 (2) (murder) of the Penal Code, and sentenced to death. The blood relatives of the deceased insisted on *Qisas* (retribution). The Supreme Court upheld conviction and sentence, in its decision issued on 6 July 2006.

- Report on the assault on Tama and Kashkour Areas: It is worth mentioning that Court of AL Fashir decided on the information with respect to the assault on Tama and Kashkour areas where the accused persons, three of the Frontier Guards and other, were prosecuted under section 176 (Haraba) and 174 (theft), and Articles 7 and 8 of the International Humanitarian Law. The court followed the procedures, which are followed by the International Criminal Court. The accused were convicted under section 174, and quashed the charges under the other sections for absence of evidence, and imposed the sentence of five years imprisonment.

-Report No. 3217/2005: The accused, a member of the Central Police Reserve Force, shot dead the deceased. The court convicted him under section 130(2) (murder). and sentenced him to death.

8.6 The courts are still assuming their business in connection with the reports submitted thereto, in order to accomplish their functions as soon as possible, despite the circumstances that make some accused inaccessible.

8.7 The Public Prosecution of the Republic of the Sudan is currently enquiring into a number of criminal suits in the states of Darfur. Such suits will be submitted for trial as soon as the enquiry is completed. The courts met the acceptance of all parties due to the judgment they delivered, despite the fact that some judgments imposed the death sentence by hanging on militaries and civilians, and the sentences were actually executed, as the relatives of deceased insisted on *Qisas* (retribution), and refused pardon, settlement for *Dia* (blood money). It is to be mentioned that some criminal cases, relating to rape in the most, were dismissed for lack of evidence.

8.8 It is also worth mentioning that the Fact Finding Committee on crimes and violations alleged to have been committed in Darfur (The National Committee) was headed by Honorable Daffaalla Al Hajj Yousif, the former



Chief Justice, who was one of the prominent pioneers of the Sudanese Judiciary, and accredited with impartiality and integrity.

8.9 The GoNU Minister of Justice appointed on 3-8 -2008 Mr. Nimir Ibrahim Mohamed as Prosecutor General for the crimes committed in Darfur during the period starting from 2003 and thereafter. The Prosecutor General for Darfur Crimes will be assisted by three Senior Legal Advisers. On the 2nd of September 2008 the Prosecutor General for Darfur submitted his first report to the minister of Justice which, contained the following benchmarks:

(a) The newly constituted investigation team perused the investigation diary of the report no. (2868) in which colonel Hamdi Sharafeldin, Ali Kushaib and others are named as accused persons, the Committee after determining the unfinished processes relating to this case visited Nyala and Ginena. In Ginena, they questioned a number of witnesses in the above case and decided to resume the questioning of other witnesses when availed.

(b) The Investigation Committee also perused the report no. (1634/2005) relating to the incidence of Kas (shattaya and Kaylake) in which Captain Police Saleh Elzein Osman and others are named as accused persons. In this case the committee started the short-listing of witnesses who were not yet interrogated and those accused persons who were not yet detained.

(c) During its visit to Ginena the Investigation Committee noticed the lack of assessment reports of the losses in property as a result of fire or looting. The committee asked the administrative authorities to provide any reports determining or assessing loss as a result of the incidence occurred

8.10 In conclusion, the abovementioned cases clearly testify that the GoNU does not condone impunity and would prosecute crimes of all sorts.

