

# SECURITY COUNCIL

Focus on referenda in the Sudan, UNMIN withdrawal from Nepal, and sexual violence in the DRC



Photo: UN/Tilak Pokharel

Nepal succeeded in its bid to oust the UN peacekeeping mission in Nepal (UNMIN).

## THE SUDAN: SECURITY COUNCIL CONFIDENT REFERENDA WILL OCCUR ON TIME DESPITE LACK OF PROGRESS THREE MONTHS OUT

Like the Independent Expert on the Sudan, the Security Council (the Council) has called on parties to the Comprehensive Peace Agreement (CPA) to 'take urgent action' to ensure 'peaceful and on-time referenda' in Southern Sudan and Abyei on 9 January 2011.<sup>1</sup> In addition to lengthy delays to basic arrangements for the referenda, including voter registration, the Security Council is also concerned about the deteriorating humanitarian situation and escalation of violence in Darfur.<sup>2</sup> Without a political strategy to resolve the conflict in Darfur, there is concern a sustainable peace may elude the rest of the country.

Over the course of September, the Council intensified its focus on the Sudanese referenda. It received briefings, issued a press statement outlining the criteria for credible referenda,<sup>3</sup> and prepared a mission to north and south Sudan in early October.<sup>4</sup> Whilst on mission, Security Council members said that although the timeline was 'extremely tight', they were confident the referenda would be held on time, and that a range of post-referenda concerns, including citizenship and border demarcation, would be addressed.<sup>5</sup>

A number of initiatives taken by the UN Secretary-General in September may have contributed to this confidence. As requested by the parties to the CPA, Mr Ban Ki-moon appointed a three-member panel to monitor the referenda.<sup>6</sup> Panel members undertook the first of many visits to the country in early October. The Secretary-General also organised a high-level meeting on the Sudan in New York on 24 September.<sup>7</sup> It helped to focus international attention and mobilise resources to address the considerable political, financial and technical challenges to the referenda.

Nonetheless, even if the referenda are held on time and without incident, it remains to be seen whether they will 'reflect the will of the Sudanese people' and be broadly accepted.<sup>8</sup> Should this not be the case, there is a risk that violence could return to the Sudan and derail the peace process. It is difficult to predict how the Council might respond in this situation, as its membership will change on 1 January 2011.

1 The referendum will decide whether Southern Sudan secedes from the rest of the country. On the same day, the residents of Abyei (an oil-rich area in the centre of the country) will vote separately to determine whether to retain Abyei's special administrative status in the north, or become part of the south.

2 The Council unanimously adopted *Resolution 1935* on 30 July 2010, thereby agreeing to extend the mandate of the UN-African Union peacekeeping mission in Darfur (UNAMID) until 31 July 2011. The resolution also condemned the attacks on civilians, peacekeepers and humanitarian personnel, and expressed 'deep concern' at the continuing restrictions placed on UNAMID's movement and operations by Sudanese authorities.

3 Press statement by Security Council President, 15 September 2010, available at <http://bit.ly/aftg9C>.

4 The mission to the Sudan was jointly led by the United States (USA) and United Kingdom (UK). It visited Khartoum, Juba (the capital of Southern Sudan), Abyei and Darfur between 4 and 10 October 2010. The mission also included a visit to Uganda, which was headed by the Ugandan Ambassador to the UN in New York.

5 Comment by Ambassador of the UK Mark Lyall Grant, UN news centre article, 11 October 2010, available at <http://bit.ly/byOI1V>.

6 The panel members are Mr Benjamin Mkapa (former Tanzanian President); Mr Antonio Monteiro (former Minister for Foreign Affairs for Portugal); and Mr Bhorjraj Pokharel (former Chairman of the Nepalese Electoral Commission).

7 The communiqué issued at the conclusion of the meeting is available at <http://bit.ly/c5oNR0>.

8 Press statement by Security Council President, 15 September 2010, available at <http://bit.ly/aftg9C>.

## UN PEACEKEEPERS TO LEAVE NEPAL IN 2011, DESPITE STALLED PEACE PROCESS AND DEEP POLITICAL DISUNITY

On 15 September, Nepal succeeded in its bid to oust the UN peacekeeping mission in Nepal (UNMIN). This premature withdrawal of peacekeepers by the UN, at the request of the host Government, is the latest in a series this year.<sup>9</sup> With Nepal now joining Chad and the Democratic Republic of the Congo, it is clear this concerning trend is not unique to the African continent.

Over the course of this year, a number of developments heralded the likelihood that UNMIN's days in Nepal were numbered. In May, when UNMIN's mandate was last renewed, Nepal had advised the Security Council to immediately begin to take steps to wind up its mission. Afterwards UNMIN had come under a 'flood of criticism', including accusations by the Nepalese Army that the UN was siding with the Maoists against the Government.<sup>10</sup> Finally on 13 September, the Government and opposition parties reached the so-called 'Four-Point Agreement', under which they would complete the remaining tasks of the peace process by 14 January 2011, including the integration and rehabilitation of over 19,000 Maoist combatants. These developments left the Security Council little alternative but to agree to Nepal's request to extend the mission by only four months until 15 January 2011.

This unanimous decision by the Security Council (*Resolution 1939*) followed a frank and discouraging briefing on the state of Nepal's peace process by the Secretary-General's Special Representative and head of UNMIN, Ms Karin Landgren, on 7 September.<sup>11</sup> She reported the peace process was in serious jeopardy as a result of the 'gulf of mistrust between the parties', as well as internal divisions within the parties. The inability of the parliament to elect a new Prime Minister<sup>12</sup> was a further indication of the unlikelihood parties could overcome their differences and form a consensus government in the foreseeable future. The stalled political process was also blocking progress on drafting a new constitution.<sup>13</sup> Each of these concerns was addressed by the Security Council in *Resolution 1939*, along with a very strong appeal that all political parties expedite the peace process and work together to find durable, peaceful and democratic solutions.

9 The UN will end its mission in Chad and the Central African Republic by the end of 2010, as requested by the Government of Chad. Its mandate in the DRC expires in June 2011, and the DRC Government has been very public in its desire to assume full responsibility for security thereafter. Further information is available in ISHR's second (July 2010) edition of the Human Rights Monitor Quarterly, see text boxes in the chapter on the Human Rights Council, available at <http://www.ishr.ch/quarterly>.

10 Report of Security Council meeting on 7 September 2010, available at <http://bit.ly/bgdINw>.

11 The report of the proceedings (S/PV.6377) is available at <http://bit.ly/bgdINw>.

12 The Prime Minister stepped down in July, and after three months and 12 rounds of voting, the Parliament has not been able to elect a successor. A caretaker government is in place.

13 The deadline for completing the constitution was extended by one year until 28 May 2011.

The UN's withdrawal from Nepal will bring an end to any monitoring of the arms and armies of both the Government and Maoist sides. It will also remove the stabilising effect that UN peacekeepers have had in the country. Longer-term UN assistance to Nepal will continue to be delivered by UN agencies. This includes the Office of the High Commissioner for Human Rights, which has operated in the country since 2005 and is responsible for monitoring the human rights situation during the peace process.

## MASS RAPES IN THE DRC: SECURITY COUNCIL ACTS TO ADDRESS ITS FAILINGS

International media reports, which helped to bring to light mass rapes in the eastern DRC that occurred between 30 July and 2 August<sup>14</sup>, were a powerful demonstration to the Security Council of a series of failures of the UN system. Not only were there serious communication problems between peacekeepers and the civilians they were mandated to protect, but it appeared that early-warning mechanisms, such as the Special Representative of the Secretary-General (SRSG) on sexual violence in conflict, had only learnt of the rapes after a UN human rights team had conducted a fact-finding mission and made their findings public.<sup>15</sup>

The Security Council was united in its 'outrage' at the attacks, and within days made a statement to the press demanding all parties to the armed conflict immediately cease all forms of sexual violence and other human rights abuses. The statement also urged the DRC Government to 'swiftly investigate the attacks and bring the perpetrators to justice'.<sup>16</sup> The Council welcomed the Secretary-General's prompt dispatch of senior UN officials to the DRC to investigate the UN's response, and his appointment of the SRSG on sexual violence in conflict, Ms Margot Wallström, as the coordinator of the UN response and follow-up.

In the weeks that followed, the Security Council received numerous briefings from senior UN officials who had undertaken fact-finding missions in the DRC.<sup>17</sup> Their message was

14 'UN knew of rebels in area of Congo rapes', The New York Times, 25 August 2010, available at <http://nyti.ms/aPKSJI>. The article reported that 'at least 179 women' were raped by rebel forces during this period. It also reported that a humanitarian organisation, International Medical Corps, told the UN about the rapes on 6 August. However the UN claims it was only told on 12 August.

15 On 23 August 2010, the Spokesperson for the UN Secretary-General announced that a UN human rights team had conducted a fact-finding mission, confirmed mass rapes had occurred in the North Kivu province in late July, and victims were receiving psycho-social care. The SRSG on sexual violence in conflict first addressed the UN press corp on the matter on 31 August 2010 and said she had only recently learned of the situation.

16 On 26 August, the Security Council was briefed by the Assistant Secretary-General of the UN Department of Peacekeeping Operations (DPKO) and the SRSG on sexual violence in conflict, and issued a press statement that day. Further press statements followed on 8 and 9 September.

17 ASG of DPKO (Khare), SRSG on sexual violence in conflict (Wallstrom)

clear and consistent: the UN mission in the DRC (MONUSCO) had ‘failed’ and ‘must do better’.<sup>18</sup> Not only were more resources needed to improve MONUSCO’s ability to communicate with remote villages, but peacekeepers needed training to respond to the needs of rape victims. Furthermore, the establishment of a mining regulatory mechanism in the DRC could address the nexus between the use of sexual violence and illicit exploitation of natural resources by armed forces. Finally, and perhaps most importantly, Ms Wallström emphasised that the DRC Government’s policy of ‘zero tolerance’ towards sexual violence could no longer be backed up by ‘zero consequences’.<sup>19</sup>

On 17 September the Security Council issued a Presidential Statement reiterating its earlier messages that primary responsibility for security in the DRC rested with the Government.<sup>20</sup> In addition to ‘swift and fair’ prosecutions, the Government was recognised to have a responsibility to assist victims, protect against future violence, and cooperate with the UN and others to end impunity. The Council was ‘determined to support the Congolese authorities in addressing the root causes’ of the mass rapes, and encouraged the Government to strengthen its military capacity, reinforce the training and equipment of the police, and build capacity in the domestic justice and corrections systems. MONUSCO was also encouraged to work more closely with civilians, better assist victims, and further develop its strategy for the protection of civilians. A number of other recommendations from the Secretariat were taken up by the Security Council, including the possible use of targeted sanctions against the perpetrators of the mass rapes.

One of the positive consequences of the horrific violations in the DRC has been the solidification of a close working relationship between the Security Council and the SRSO on sexual violence in conflict.<sup>21</sup> The Security Council has encouraged her to ‘regularly interact with MONUSCO’s sexual violence unit’ in order to coordinate the UN response to the mass rapes and monitor the UN’s strategy to combat sexual violence in the DRC. As a result, the Council continues to invite her to provide periodic briefings.

The nature and scale of the human rights violations that occurred in the DRC has also prompted the DRC Government to acknowledge its need to focus more attention on security sector reform. Although much is dependent on the availability of donor funding to provide equipment and training for the military, police and justice system, it is welcome news that the DRC Government has requested an expansion of

these forms of assistance from MONUSCO. It is also encouraging that MONUSCO has expanded the number of bases in eastern DRC, and helped the Congolese authorities in arresting a rebel leader implicated in the mass rapes. It remains to be seen whether these forms of cooperation between the two parties will prompt the DRC Government to reconsider its demand that the UN withdraw its mission when the mandate expires in mid-2011. The Secretary-General has already proposed to the DRC President that any future draw-down of MONUSCO be based on a joint assessment of the situation.<sup>22</sup>

Though the Security Council acted to address the UN system’s failings in regard to mass rapes, it is not likely to directly take up the issue of impunity for human rights violations in DRC from 1993 to 2003, which are documented in the mapping report of the DRC by the Office of the High Commissioner for Human Rights.<sup>23</sup> This is despite the fact that the mapping exercise was first announced in a report to the Security Council in June 2006, and that the Security Council endorsed the exercise in *Resolution 1794* in December 2007. There is a difficult political environment around the report’s release, including Rwanda’s threat to withdraw from all UN peacekeeping missions, after the report raised questions of whether some crimes committed by their troops might be classified as ‘crimes of genocide’. This situation is no doubt influencing how and when the UN will ultimately move forward to implement the report’s call for accountability for the atrocities committed. ■

and SRSO on the DRC (Meece).

18 Security Council briefing by ASG of DPKO, Mr Atul Khare, 7 September 2010.

19 Press conference by SRSO on sexual violence in conflict, 31 August 2010.

20 PRST /2010/17 of 17 September 2010.

21 This special procedure was created by the Council via *Resolution 1888* (2009) and Ms Margot Wallström was the first mandate-holder, a position she accepted in February 2010.

22 Secretary-General press conference, UN Headquarters, 6 October 2010, available at <http://bit.ly/bDtL7Z>. The Secretary-General commented that an underlying reason for MONUSCO’s failures in responding to the rapes was because “the number of peacekeepers was too small and our resources too limited.” This lack of capacity was accentuated in May when the Security Council had come under pressure from the DRC to withdraw the UN peacekeeping mission altogether, and acquiesced to a significant draw-down of armed personnel in *Resolution 1925*. The Secretary-General reported that 1,700 peacekeepers had recently left the mission and critical assets such as helicopters had been withdrawn. “We are now trying to make up for all these losses of critical assets, but it is going to be quite a difficult operation,” he said.

23 The report is available at <http://bit.ly/9zl0FT>.