



**International Covenant on
Civil and Political Rights**

Distr.: General
18 December 2009
English
Original: Arabic

Human Rights Committee

**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Sudan

**Information received from Sudan on the implementation of
the concluding observations of the Human Rights Committee
(CCPR/C/SDN/CO/3)***

[19 October 2009]

* Annexes can be consulted in the files of the Secretariat.

Concluding observations of the Human Rights Committee

Recommendation No. 7

Efforts by the State to deal with the issue of self-determination in Southern Sudan and, in particular, article 222 of the Interim National Constitution, which provides for a referendum on self-determination

1. The Abyei problem was referred for international arbitration and the decisions of the expert committee were forwarded to the international Permanent Court of Arbitration, which issued its decision. The Government is attempting to get all sides to accept the decision and to guarantee peaceful coexistence in the region.
2. The partners have taken measures to secure a draft agreement between the two sides on the referendum. The team representing the southern side still disagrees over who is entitled to take part in the referendum, and the National Congress Party is insisting that every southerner in the north or south of the country has the right to take part. However, the Popular Movement insists that this right must be afforded to southerners present in Southern Sudan. Consultations are still being held between the two sides with a view to reaching a settlement.
3. The President of the Sudan has promised, on more than one occasion, to hold the referendum at the appointed time in 2011 and to establish a referendum committee as soon as the Referendum Act is passed.
4. The Sudan made this clear to the United States Administration during a discussion with its envoy on this issue. It also conveyed this information to the European Community and to the European Commission in Brussels.

Recommendation No. 8

Exercise of the rights set forth in the Covenant

5. The Political Parties Registration Act of 2007 provides for the establishment of political parties, while the General Elections Act of 2008 was adopted to guarantee the peaceful alteration of power by means of elections. As for electoral districts, the Act established a system of proportional representation, for the first time ever, to allow small parties to be represented. A quota of 25 per cent of seats was established for women, a national elections committee was set up and subcommittees were formed in all the regions. On 1 August, the boundaries of electoral districts were delineated and political parties were given one month to appeal against boundary delineation decisions. Elections for the presidency, the national Parliament, State-level parliaments and State governors were scheduled for April 2009.
6. A law was enacted establishing the Human Rights Commission in accordance with the Principles relating to the Status of National Human Rights Institutions (the "Paris Principles"). The Commission includes a wide range of representatives of society and women. The Commission was assigned its own budget, with the approval of the Parliament. It receives complaints from individuals or investigates abuses on its own initiative.
7. The Voluntary Work Act of 2006 provides for the establishment of voluntary organizations, subject to some basic conditions, and allows for judicial reviews of decisions taken by the voluntary work registrar.

8. The Press Act of 2009 guarantees freedom of the press and makes it illegal to harass journalists on account of the views that they print. A Press Council was established by a majority vote, and there is nothing to prevent the licensing of a newspaper, provided that it meets some basic formal conditions. The Act prohibits administrative closures of newspapers for more than two days and stipulates that it must be the Press Council which imposes this sanction.

Recommendation concerning the right to invoke the articles of the Covenant in court

9. Further to this recommendation, the courts established by the Counter-Terrorism Act tried defendants implicated in an attack by the Justice and Equality Movement on the city of Omdurman, where many civilians were injured and civil infrastructure was destroyed. Child fighters in the Movement were separated from adult defendants and were tried by juvenile courts. The children were held in separate detention facilities and the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF) and the Special Rapporteur on the situation of human rights in the Sudan, Ms. Sima Samar, were given permission to visit them and to check up on them. A general amnesty was issued for these children, who were sent back to their relatives.

10. Al-Kamilin Court in the governorate of Jazirah, which borders on the governorate of Khartoum, issued a judgement on a citizen's pension rights which found against a local council. The judgement was upheld at appeal and by the Supreme Court.

Recommendation No. 9

11. The Committee refers, in its concluding observations, to Decree No. 114, concerning the general amnesty. The Sudan should like to point out that this text has not entered into force, as it was not submitted to the Parliament at the session before last.

12. That the State is serious about trying perpetrators of war crimes is clear from the amendment introduced to the Criminal Code in May 2009 giving the Sudanese courts competence for trying war crimes, crimes against humanity and crimes of genocide (see annex).

13. The Public Prosecutor for Darfur conducts a series of important investigations concerning the different parties in the conflict (see annexed report).

Recommendation No. 10

14. The State does not impose the penalty of amputation under any circumstances. It views the penalty of flogging, which is carried out on condition that it does not cause excruciating pain or leave a mark and only after consultation with a doctor, as a much better option than the alternative, namely, imprisonment, which has social consequences and wastes employment opportunities. Moreover, flogging is not carried out in public.

15. The penalty of blood money (*diyah*), applies solely in cases of bodily injury and only where the victim or a group of victims agrees to the commutation of a death sentence. It is not a principal penalty, but rather a supplementary penalty which is intended to provide redress. The payment of blood money does not preclude the imposition of a prison sentence or the payment of any other damages awarded by a court.

Recommendation No. 11

16. Attached please find a table with details of trials conducted in connection with human rights violations in Darfur, in particular violent crimes against women. This information was given to the Special Rapporteur during her most recent visit to the Sudan in May 2009.

17. The State provides essential funding and facilities for the judicial authorities in Darfur and for the Office of the Public Prosecutor and the police. Police stations were established in and around the Darfur camps to receive complaints and in areas over which the Sudanese Army regained control, such as Qaridah and Muhajiriyah. The Sudanese Government is working through the Advisory Council for Human Rights to provide training to Ministry of Human Rights judges and legal advisers on international law principles, human rights law norms and international humanitarian law. Judges and legal advisers were sent to the United Kingdom, Germany and the Netherlands (Max Plank Institute) and elsewhere for training on these norms. Moreover, several Western organizations, such as the Windle Trust which is based in the United Kingdom, have run training courses in the Sudan on these topics.

18. The Advisory Council, in conjunction with the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and the United Nations Mission in the Sudan (UNMIS), provides law enforcement agencies with training on human rights principles and international humanitarian law norms, particularly the amendments made to the Criminal Code to include crimes under international humanitarian law. This training is provided via a support programme which is sponsored by the Swiss Government and is designed to improve professional capacities in the human rights domain.

19. In 2008, the Parliament of the Government of Southern Sudan approved the terms of reference of the Human Rights Commission, while the Human Rights Act was adopted in the Sudan in May 2002.

Recommendation No. 13

20. The Government of the Sudan agrees with the Committee's observation about the existence of a persistent pattern of discrimination against women in legislation. As for discrimination against women in the area of marriage and divorce and, in particular, with regard to the institution of the *wali* (guardian), article 24 of the Code allows for the submission of an application to annul a marriage where the (adult) bride did not give her consent. Article 13 of the Personal Status Code of 1991 stipulates that marriage is voluntary; thus, neither partner may be forced into marriage. Under article 40 of the Code, it is possible for a woman who has reached the age of discretion to be married by a court, if the marriage is found to be in her overriding interest. Article 37 of the Code states that where a guardian is not able to give a woman in marriage, the woman herself may ask a court to act in the guardian's place.

21. With regard to women's rights in the area of divorce, article 142 provides that either spouse may seek an annulment of their marriage by mutual consent. The Code grants women the right to apply for a divorce in various circumstances, in particular:

- (a) Where the husband has a physical defect or a disease;
- (b) Where the wife is not satisfied with the husband;
- (c) Where the wife cannot perform her marital obligations and pays compensation to the husband;

(d) Where the husband fails to maintain his wife.

22. The Advisory Council for Human Rights, in association with State entities such as women's organizations and the League of Working Women, is revising the laws on women, particularly working women, to increase awareness of their rights. Newspapers and the media play a major role in such efforts. Growing numbers of women are participating in public life, not only within the central Government, but also in regional Governments and legislative assemblies. Women hold ministerial positions in the Governments of the White Nile, Northern, River Nile, Jazirah, Kordofan, Khartoum, North Darfur and South Darfur States and also serve in legislative assemblies as chairs of committees at the ministerial level and as members of the national Parliament's Legislation Committee, Human Rights Committee, Health Committee and Social Welfare Committee, as well as the Social Welfare Committee of the Parliament of Southern Sudan. The legal adviser to the President of the Republic is a woman and the Minister for Health and Social Welfare and the Deputy Minister for External Trade are both women. Two women were appointed to ministerial-level positions, namely, the Chairperson of the Child Welfare Council and the chief of the unit which deals with violence against women. Women also hold positions as deans of faculty in several universities and as university lecturers and medical specialists. There are women major generals in the police and the Armed Forces and a number of women represent the Sudan abroad: the Ambassador of the Sudan to Norway; the Deputy Permanent Representative of the Sudan at the Permanent Mission of the Sudan to the United Nations in Geneva; the Chief of the Human Rights Department at the Ministry of Foreign Affairs; the Chief of the Department of the Environment at the Ministry of Foreign Affairs; and the Ambassador of the Sudan to Canada, up until 2000. Women hold positions in the Supreme Court, the Constitutional Court and appeal courts; there are 75 women judges, in addition to 321 legal advisers at the Ministry of Justice.

23. The Committee to Combat Violence against Women continues to carry out its work at the central and the State levels. The Committee ran several workshops to raise awareness of violence against women. As a result of the efforts by the police to follow up on a group of displaced women in Darfur who were living outside the camps, together with the efforts of UNAMID, the incidence of violence against women outside the camps has decreased and any episodes that do occur are quite rare. Attached is a list of trials of violent crimes against women in Darfur.

24. As for the revision of articles 145 and 149 of the Criminal Code of 1991, the Advisory Council on Human Rights held two workshops, the first on 16 August 2008 and the second on 4 January 2009, to discuss this matter. The workshops were attended by criminal law experts, judges, the police, deputy public prosecutors, Members of Parliament, members of the Women's Union and representatives of civil society. The participants produced recommendations calling for a clearer definition of the crimes of rape and sexual intercourse outside marriage and higher penalties for rape. The recommendations were submitted to the Ministry of Justice for comments.

25. The unit which deals with violence against women held a meeting in June 2009 with the regional unit chiefs to discuss the implementation in Darfur and elsewhere of a national plan to combat violence against women.

Recommendation No. 15

26. Some States, such as Kassala and Southern Kordofan, have adopted recommendations on prohibiting the practice of female genital mutilation. Moreover, in the framework of the Children's Act of 2009, a proposal was adopted on the prohibition of this practice. However, the Cabinet has asked for this proposal to be incorporated into the Criminal Code of 1991 in the form of an article in its own right.

27. Two doctors who performed female genital mutilation procedures in contravention of the ethics code of the Medical Council were stripped of their licences.

Recommendation No. 16

28. In keeping with this recommendation, the Advisory Council on Human Rights is considering a proposal on the establishment of a criminal justice board together with the necessary mechanisms to receive complaints about torture. The Council's own complaints panel does receive complaints on this matter and has begun to deal with them in consultation with the relevant authorities.

29. A section of the Advisory Council on Human Rights known as the Criminal Justice Section was set up and has run workshops in Darfur and Khartoum for judges, deputy public prosecutors and police officers on the rights of detainees. A simplified manual will be prepared on the guiding principles of Sudanese law, in particular of the Code of Criminal Procedures, the Criminal Code, the Armed Forces Act and the Police Act.

30. The Khartoum courts are hearing two cases of torture in which the defendants are members of the police. UNMIS in Khartoum was notified so that it could follow the trial proceedings.

31. In keeping with this recommendation, section VIII of the Constitution, which bears the title "Bill of Rights", contains numerous articles prohibiting torture. For example, article 33 of the Constitution prohibits torture and cruel, inhuman or degrading treatment of any kind, while article 29 guarantees the right to liberty and security of person and the right not to be placed in detention or prison or to be subjected to deprivation or restriction of liberty, except as provided for by law. Article 28 recognizes the right to life, dignity and security of person and article 25 guarantees the right to seek a legal remedy.

32. The Code of Criminal Procedures of 1991 states that persons under arrest must be afforded the following treatment:

(a) They must be treated in a manner consistent with the preservation of their dignity and must not be subjected to physical or mental abuse. They must also be provided with appropriate medical care;

(b) They must not be subject to measures of deprivation of liberty beyond those necessary to prevent them from absconding;

(c) They must be given the right to talk to their lawyers and to representatives of the Office of the Public Prosecutor or a judge;

(d) They must be placed in the custody of the police unit which made the arrest or which is conducting the inquiry; they may not be transferred or placed in another facility without the approval of the Office of the Public Prosecutor or a court;

(e) They have the right to inform their families or a person of their own choosing about what has happened to them and may communicate with such persons, subject to approval by the Office of the Public Prosecutor or a court. The police, the Office of the Public Prosecutor or the competent court must notify the family or a relevant authority in cases where minors or persons suffering from a disability or an illness of any kind are taken into custody and are unable to provide notification themselves;

(f) They have the right to a reasonable amount of food, reading matter and clothing, which they pay for themselves, having due regard to security and public order considerations;

(g) They must comply with the rules on public morals and good behaviour and with any regulations governing custodial facilities.

Recommendation No. 17

33. A total of 1,500 children were released under the Comprehensive Peace Agreement, the Eastern Sudan Peace Agreement and the Darfur Peace Agreement (see reports of the Disarmament, Demobilization and Reintegration Commission, attached).

Recommendation No. 18

34. Before the signing of the peace accord in Nifasha and with a view to ending tit-for-tat abductions between tribes in the south and the north of the Sudan, article 30 of the Constitution of the Sudan was written to provide for a comprehensive ban on slavery, human trafficking and human bondage. In May 2009, the Sudanese Navy thwarted a plan to traffic 157 persons, following a three-hour chase in Sudanese territorial waters. The individuals involved in the trafficking operation were sent for trial.

Recommendation No. 20

35. Under the Children's Bill of 2009 a child is defined as a person below the age of 18. This definition omits any mention of the term "natural signs" which was included in the definition in the 2004 Children's Act as an indicator of maturity, even in persons below the age of 18.

36. A ruling has been handed down in a murder case brought against a Sudanese citizen. The court overturned the death sentence handed down to the citizen after questions had been raised about his true age. The defendant was found to be under 18, even if he was married at the time of the offence. The Constitutional Court sent the case back to the court of first instance for a retrial.

Recommendation No. 23

37. The Hybrid Operation's Tripartite Committee, which is comprised of the Government, the African Union and the United Nations, is pursuing its efforts to resolve the difficulties encountered by the Hybrid Operation forces in trying to protect the displaced in camps. The Operation expressed satisfaction with the cooperation extended by the Government of the Sudan to UNAMID and with the Addis Ababa accord concluded by the two sides on the use of Sudanese airports, the maintenance of "fast-track" procedures for customs exemptions on material used by the forces and priority clearance at the port and transfer to Darfur.

38. The police in Darfur take coordinated security measures to prevent trafficking in vehicles owned by voluntary organizations. On 14 March 2008, the police in the State of West Darfur, acting on information received, chased a group which had taken a vehicle belonging to the Save the Children organization in the Kerenek area. Following a confrontation, in which a police lieutenant was killed, the vehicle was recovered and the culprits were arrested.

39. The police chased a group of persons who had stolen a vehicle belonging to a United States children's charity in the city of Geneinah. The chase ended at the Chad border, where

the group was arrested. The members of the group were found to be in possession of a second humanitarian aid vehicle.

40. The Government remains committed to the principle of non-compulsory return. Voluntary returns are undertaken when the security situation in places of return permits and when there are sufficient quantities of water and seeds for the autumn season to convince community leaders and citizens to return.

Recommendation 24

41. The Government of the Sudan affirms its total commitment to observing the rights of refugees. The bureau of the Office of the High Commissioner for Refugees (UNHCR) in the Sudan continues to exercise its authority over the processing of asylum applications, provided that they are submitted through United Nations channels. The Sudanese Government has not expelled refugees or refused them the right to seek asylum through the proper channels. In the past, efforts were made to stop illegal immigration or to identify the migrants arriving in growing numbers in the Sudan. Expulsions were carried out in a limited number of cases and on the recommendation of a tripartite committee consisting of UNHCR, the Government of the Sudan and the Government concerned. Leave was granted to appeal against these measures before the courts, and the Government helped to provide the necessary legal aid. The Government, in welcoming this recommendation, invites the Committee to submit specific information on the names of any refugees who have been forcibly expelled. The Government furthermore confirms its willingness to provide the Committee with whatever information it may need.

Recommendation No. 27

42. In May 2009, the new Press and Publications Act was issued following wide-ranging consultations between parliamentary blocs and civil society organizations. The Act recognizes freedom of the press and provides for the protection of journalists from harassment, coercion or imprisonment on account of the views that they publish. The Act established the Press Council, which is democratically elected by a majority of its members. The Act empowers the Council to issue licences automatically to newspapers which meet a set of formal conditions. It also prohibits the administrative closure of newspapers by the Council for more than two days and the imprisonment of journalists for acts that have nothing to do with the public interest, such as defamation, which carries a fine (the Press and Publications Act of 2009 is attached, in English).

Recommendation No. 28

43. The Sudan welcomes the Committee's recommendation on this matter. Training courses are being run for members of the services concerned to ensure that the Sudan meets its obligations under the Covenant.