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on civil and
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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Third periodic reports of States parties due in 2001

SUDAN* ** ***

[29 June 2006]
[Arabic]

* This document contains the third periodic report of Sudan, due on 7 November 2001. For the second periodic report and the summary records of the meetings at which the Committee considered those reports, see documents CCPR/C/75/Add.2 and CCPR/C/SR.1628-1629.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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

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Introduction

1. Since its ratification of the International Covenant on Civil and Political Rights on 25 January 1986, Sudan has continued to exert its maximum efforts to meet its obligations under the Covenant. Furthermore, Sudan has shown growing interest in the activities and deliberations of the Human Rights Committee established under article 28 of the Covenant and has regularly attended its meetings and cooperated with the Committee, responding promptly to its enquiries and providing it with information and documents, out of its faith in the Committee's noble mission and active role in the protection and promotion of human rights.

2. In this spirit, Sudan submitted on 3 January 1991 its initial report on measures taken to implement the rights recognized by the Covenant and on progress in the enjoyment of these rights. This was followed by its second report in 1996, which was considered by the Committee at its sixty-first session in October 1997 and reached its concluding observations on the report on 5 November 1997.

3. Under article 40 of the Covenant, Sudan submits hereby its third periodic report. To begin with, our approach in drafting this report follows closely the guidelines elaborated by the Committee in its document CCPR/C/66/GUI/Rev.2 and taking into consideration the following points:

(a) The report starts with our response to enquiries and concluding observations made by the Committee on the second periodic report of Sudan (CCPR/C/75/Add.2), which was considered by the Committee on 28 October 1997. In our response we shall confine ourselves to the period covered by that report and consequently to these final observations;

(b) To make our discussion of the rights contained in the Covenant more useful, we provide an abstract of the legal framework of human rights in Sudan and a description of the government machinery in the post-Interim Constitution phase, noting that many changes have occurred in the intervening period between the second periodic report and the present report. This section also clarifies some developments that have taken place in the period following the release of the concluding observations;

(c) At the time of previous reports Sudan had no constitution but only separate constitutional decrees. For this reason it was necessary to include in this report all relevant articles of the Constitution;

(d) As this report builds on previous reports, it avoids to the extent possible repeating information from those reports, except to point out fresh developments;

(e) In reviewing fundamental rights, we observed the same order in which they appear in the Covenant, citing only the number of the article without its title;

(f) We drafted the report in short paragraphs, each devoted to a new idea, and the paragraphs were numbered for ease of reference.

I. RESPONSE TO CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE ON THE PREVIOUS REPORT FROM THE SUDAN

4. These recommendations were adopted after consideration of the second report of the Sudan in October 1997, which was submitted in a legal context and under political conditions totally different from the present situation, especially after the Interim Constitution was promulgated in 2005. Earlier, on 9 January 2005, a comprehensive peace agreement was signed and the State adopted policies which were more open and transparent, with a number of opposition political parties sharing power. For this reason we shall confine our response to the concluding observations under the prevailing conditions of the time, and shall discuss fresh legal and practical developments in the body of the report (see paragraph 3 (b) of this report).

5. Following are replies of the Government of the Sudan to the concluding observations of the Human Rights Committee at its 1,642nd meeting, held on 5 November 1997, in respect of the second periodic report of the Sudan (CCPR/C/75/Add.2) which was considered by the Committee on 28 October 1997.

6. The Government of the Sudan pays tribute to the Committee which welcomed the report and maintained a constructive and frank dialogue with the Sudanese delegation and expressed its gratitude for the documents submitted by the Sudanese Government. The Government reaffirms its willingness to cooperate with the Committee, supplying it with all information needed for its proceedings and responding to any questions that the Committee may raise.

A. Factors and difficulties affecting the implementation of the Covenant

7. Citizens in the parts under the control of the Sudanese Government in Southern Sudan enjoy all rights and freedoms provided for in the Constitution and law, which parallel the rights contained in this Covenant. As already indicated in that report, these rights include the right to self-determination and autonomy through a Coordination Council of Southern States and local councils of ministers, legislative councils and other local government channels. Gross violations of the Covenant appear in the parts under the control of the rebel movement in Southern Sudan.

8. After the conclusion of the Khartoum Peace Agreement in 1997, the promulgation of the (previous) Constitution in 1998 in which provisions of the Peace Agreement were reflected, the establishment of the Coordination Council of Southern States, the establishment of the federal government in Southern Sudan and the creation of the Office of the Adviser on Peace Matters, which was attached to the presidency and tasked with the advancement of peace and development in Southern Sudan, there were no longer grounds to claim lack of conciliation among races, cultures and religions. In fact, the Constitution establishes that cultural, religious and ethnic diversity is an element in the structure of the State; Sudan has thus become a State where races, cultures and religions coexist in harmony and conciliation.

9. The continuation of the war in the south was a major impediment that hindered the State from providing essential services, since rights overlap and are interrelated. Another hindrance was the foreign intervention, in the form of an invasion by neighbouring countries and a substantial support of the rebel movement.

B. Positive factors

10. The Government of the Sudan continued its efforts to establish peace and reconciliation in Sudan after signing the Khartoum Peace Agreement in 1997. These efforts were extended to reflect provisions of this agreement in the Fourth Constitutional Decree, which was annexed to the Constitution and became an integral part of it. Thus, the agreement is now as sacrosanct as constitutional provisions. Also in 1997, the Nuba Peace Agreement was concluded with the rebel Nubian groups, ending fighting in the Nuba mountains. The Government has also persistently attended all rounds of peace talks sponsored by the Intergovernmental Authority on Development (IGAD). With faith in the vital need for peace and reconciliation in Sudan, the Government accepted the joint Egyptian-Libyan initiative to establish peace and reconciliation in Sudan without any condition and declared its readiness to initiate negotiations with other parties to the conflict covered by this initiative anywhere and any time as may be determined by the sponsors of the initiative. Recently, the Government concluded an agreement sponsored by the United States of America to establish peace and facilitate relief work in the Nuba mountains with the rebel movement.

11. After strenuous and continuous work for nearly eight months, the Committee to Draft the Constitution concluded its task and the draft constitution was submitted to the National Assembly for adoption by representatives of the people. Later, the draft was put to general referendum where it was approved by an overwhelming majority and entered into force on 1 January 1998 after being signed by the President of the Republic. As of that date, the state of emergency which was in force since June 1989 was lifted. The Constitution enshrines the principle of political pluralism for the system of government, which is discussed in detail in our response under article 22 of the Covenant in this report.

12. The Sudanese Government continues its efforts to repatriate refugees and to help them to return to their home districts. It should be noted that drilling for oil in those areas and investing the returns in development projects and infrastructures, such as roads, bridges, communications, etc., in the relevant districts, has contributed to the success of repatriation and resettlement of refugees.

C. Response to subjects of concern and the Committee's recommendations

13. The application of Islamic sanctions (*hudud*) in more serious crimes is an integral part of the freedom of religion provided for in article 18 of the Covenant, but these sanctions may be implemented only after all appeals have been exhausted and if the conditions of fair trial have been fulfilled throughout proceedings. Annex 1 contains statistics on death sentences implemented in the period 1998-2001, while annex 2 shows the number of death sentences that have been commuted.

14. Female circumcision is an age-old tradition and custom in the Sudanese society and is treated by the Sudanese law as a crime of deliberate injury punishable by prison and fine, without prejudice to the right to *diyya* (compensation) as provided for in section 139 of the Penal Code of 1991. Capital punishment may sometimes be applied for female circumcision as indicated by section 30 of the Code. Among difficulties of application of the law to practitioners of this offence is that it takes place without the knowledge of authorities and is practised on minor children with the consent of their parents. Aware of its responsibilities to combat such

practices, the State undertook a more effective course of action in organizing national campaigns to raise awareness of the negative effects of this practice, in cooperation with UNICEF and British and United States childcare organizations, the Society to Combat Harmful Customs and other national voluntary and feminist associations. These campaigns were centred mainly on seminars and workshops on the negative effects of female circumcision. For example, the General Secretariat of the National Population Council organized a forum for the elaboration of a separate law to combat female circumcision in cooperation with UNICEF. The forum recommended the elaboration of a separate law to combat this phenomenon and these recommendations are expected to be implemented in the near future. On the point of early marriage, the Personal Status Law of 1991 protects a female minor who is made to marry without her consent by providing for the possibility of a court annulment of the marriage. Concerning abortion, the Penal Code of 1991 treats this act as a criminal act punishable by section 135 of the Code with imprisonment for a maximum of three years and/or a fine, without prejudice to the right to *diyya*. Section 136 of the Penal Code also incriminates any act that leads to a miscarriage of a pregnant woman.

15. The Constitution grants women equal rights as men, without discrimination on grounds of gender (art. 21 of the Constitution of 1998) and obligates the State to care for the family, facilitate marriages and liberate women from injustices in all aspects of life (art. 15). Consequently, the Personal Status Law of 1991 (annex 3) requires the consent and acceptance by a future wife of the husband and the dowry before the marriage contract is concluded (art. 34 (1)). A guardian in marriage is meant to act on behalf of the woman in the contract proceedings but has no right to declare acceptance or rejection without her consent. On the minimum age for marriage, it should be noted that marriage is considered as a contractual act, and article 22 (1) of the Code of Civil Proceedings of 1984 (annex 4) provides that any person who reaches the age of majority, is mentally sound and is not sequestered may exercise all civil rights, including marriage. Paragraph 2 of the same article establishes the age of majority at 18.

16. As we shall elaborate under articles 6, 7 and 8 of this report, the Sudanese legal system does not allow in the first place any extrajudicial execution, torture, slavery, disappearances, abductions or abuses of power by the authorities.

17. As to reports of slavery, which are internationally circulated against Sudan, such reports are only an echo of false campaigns led by suspect international organizations and Sudanese opposition organizations, the object of which is to distort the image of Sudan internationally, to divide its people and to prolong war.

18. In response to these allegations, we say that Sudan is exerting tremendous efforts to refute these claims and has been able to convince United Nations organs in the field of human rights that reported practices do not amount to slavery but are rather age-old tribal practices among nomadic tribes in south-west Sudan and occur in the context of their disputes to control resources of grazing land and water.

19. As an evidence of the sincerity of the Sudanese Government in cooperating with United Nations bodies to eradicate this phenomenon, the Minister of Justice issued a decision to create the Committee for the Eradication of Abduction of Women and Children (CEAWC) in response to a resolution adopted by consensus at the Human Rights Commission in April 1999. The Committee has been chaired since its creation by Dr. Ahmed Al-Mufti (former

Under-Secretary for Justice) and its membership includes representatives of the Office of Public Prosecutor, Ministries of Social Planning, Foreign Affairs and the Interior, internal security organs, military intelligence, general intelligence, the armed forces, the Office of Federal Government, the Human Rights Committee of the National Assembly, the Federation of Women, the Higher Council for Child Welfare and the Chairman of the main Dinka committee and leaders of other concerned tribes. The Committee also includes 22 joint tribal committees constituted by involved tribes in the target states. These joint committees act as the executive arm of the parent CEAWC.

20. Under its terms of reference, CEAWC is given all powers of investigation, arrest and search and referral of all criminal cases to court as provided for in the Code of Criminal Procedures of 1991 (annex 15).
21. The Committee carries out its activities with a set financial subsidy from the Sudanese Government and from EU countries, UNICEF and the British and Swedish childcare organizations. In its continued efforts to achieve its objectives the Committee has identified 1,681 abduction cases and has reunified 360 cases of Dinka abductees and 118 abductees from Rizeiqat tribes until 2002. For detailed information on the activities of the Committee, see paragraphs 206-210 of this report.
22. To further improve its work and its efficiency CEAWC continued to organize workshops to evaluate its performance in cooperation with UNICEF (Sudan office), foreign and local voluntary organizations and United Nations specialized agencies.
23. The Committee has received international recognition of its activities from the United Nations Human Rights Commission in Geneva and the United Nations General Assembly after being convinced that current practices do not amount to slavery. These two bodies appealed to the international community for support of the Committee, in recognition of Sudan's cooperation and determination in dealing with human rights issues.
24. In respect of allegations of enforced disappearances in the Nuba mountains area, the Minister of Justice formed in 1996 a committee to investigate cases of enforced disappearances which the chairman of the Working Group on Enforced or Involuntary Disappearances claimed to have happened in the Nuba mountains area. The Sudanese committee continuously submitted reports on its work to the Working Group, the last of which was on 15 August 2001, in which it presented its conclusions and findings after meetings with 36 citizens who were alleged to have disappeared. In these interviews these persons affirmed that they were leading a normal life without any restrictions, and that they had arrived to the peace villages voluntarily after rebels seized their home areas and treated them savagely. The committee also confirmed the death of nine persons, of whom two were killed by rebels, while others died naturally. The committee also confirmed the return of two persons who had joined the rebel forces. In its interviews with chiefs of tribes and sects in Nuba, the committee obtained information on the whereabouts of the remaining persons who were wandering in Sudan looking for work; it should be noted that it is extremely difficult to determine exactly the address of these people in view of the poor infrastructure and their continual wandering in various parts of Sudan.

25. The National Security Act, 1994, as amended (annex 6), defines the concept of national security as a preventive measure to ward off crimes that may endanger the country, such as armed robbery and plundering, religious extremism and other destructive activities that may terrorize society and undermine its peace and security.
26. For safeguards under the Sudanese legal system to ensure the right to liberty and security of person, as provided for under article 9 of the Covenant, see the text under article 9 in this report.
27. There are no restrictions of the freedom of movement, except for those restrictions internationally recognized as necessary for the protection of public safety and public order, which are compatible with article 12 of the Covenant. Lists of persons prohibited from travelling are no longer used, and the law allows every person to move and travel freely, except for those persons whose movement is restricted by a judicial order. Even in this case, a person may appeal to the authority that issued the order to prohibit his travel or to appeal to a higher judicial court, including the Constitutional Court, to protect his right to the freedom of movement. For guarantees of the freedom of movement under the Sudanese legal system, see text under article 12 in this report.
28. There are no longer restrictions on the travel of women, and a married woman or a female minor is only required to inform her husband or her guardian, and this restriction is meant to maintain the cohesion of the family against disintegration.
29. There are no “ghost houses” in Sudan, and reports on their existence are only adverse propaganda by political opponents and suspect sources. Persons sentenced to imprisonment are placed in public prisons or in reformatories in the case of minors. Persons awaiting trial are kept in police stations or in prisons under the supervision of the court before which they will appear. Detainees held under the National Security Act are kept in national security centres where they are treated in conformity with the Constitution, laws and regulations. For more details, see text under article 7 of this report.
30. An objective examination of the Public Order Act (now abolished) shows that this Act does not contain provisions that contravene the inviolability of individuals on grounds of the interest of the society. The Act was only a compilation of legal provisions from local regulations and instructions, in addition to a revival of some articles from the Penal Code of 1991. As a matter of fact, there were some negative aspects in the implementation of this act, including: (a) inaccurate formulation of some provisions that were not in keeping with legislative formulation; (b) abuse of powers or authority by some members of the police; (c) an increase in the cases of false impersonation of police officers; and (d) the multiple use of the term “public order” in other organs which were not part of the public order police. These shortcomings were overcome by changing the name of Public Order Police to “Police of Security of Society”, abolition of Public Order courts, and procedures were established to combat impunity by bringing police abusers to court and accountability. Furthermore, a plan has been elaborated to upgrade the work of the Department of Security of Society by organizing orientation courses for its members to improve performance, prevent abuses and track cases of false impersonation of police officers that distort the reputation of public officials, and to adopt social treatment of criminal phenomena rather than prosecution.

31. Sudanese laws allow for recourse and appeals before the courts for any person whose rights are violated by members of the police, security forces or the armed forces, after obtaining authorization from supervisors, so that employers are aware of any abuse or violation of their authority. Statistics show, for example, that in the period 1992-1994 sanctions were imposed administratively or judicially on 25 police officers who were tried after being removed from office for violations of human rights.
32. The system of registration and licensing of the press and other media is meant to organize the information activity and avoid the use of similar names for newspapers and other media. Registration of journalists is required by the profession and is meant to ensure training of journalists but not to restrict the freedom of publication and expression. The Journalists' Union, which covers all journalists, also applies this system. For further information on constitutional and legal safeguards of the freedom of expression, see text under article 19 of this report.
33. For information on constitutional and legal safeguards of the freedoms of expression, association and peaceful assembly under the Sudanese legal system, see texts under articles 19, 22 and 21 of this report.
34. Sudan is a country of racial and cultural harmony and religious tolerance. Islam is the religion of the majority of the population and Christianity and traditional religions have a large following. Arabic is the official language and the State permits the development of local languages and other international languages. Every person who lives in Sudan has the right to freedom of conscience and religion and the right to manifest and disseminate his religion or belief in teaching, practice or observance. Every sect or group of citizens have the right to keep their particular culture, language or religion (arts. 1, 2, 24 and 27 of the Constitution of 1998). Accordingly, members of cultural and religious minorities have the right to bring up their children and educate them in the language they choose. Annex 7 contains statistics of the number of churches in Sudan with details on their types, resources and educational and other service institutions run by the churches. In addition, several radio and television programmes are broadcast in local languages and dialects and the law establishes the principle of translation in all administrative and judicial matters to local and international languages other than Arabic.
35. The Sudanese judiciary is fully independent from other organs of the State. The Constitution of 1998 has asserted this independence in article 99 which states that the judiciary shall be vested in an independent body called the judicial authority. This authority undertakes the administration of justice through the adjudication of disputes and giving judgements in accordance with the Constitution and law. The judicial authority is administered by a judicial council composed of senior judges and other noted legal personalities, and submits recommendations for the appointment, promotion and termination of judges. The law provides for the financial independence of the authority, and judges enjoy immunity and may not be subject to pressure. Under the Constitution, they are required to administer justice and apply principles of the supremacy of the law. Article 104 (4) of the Constitution of 1998 states that no judge shall be dismissed except for a disciplinary process and upon a recommendation from the supreme judicial council. Judges are selected on merit, and on the basis of their competence, academic qualification and integrity without discrimination on grounds of race, religion or gender. Figures for 1999 show that there were 97 female judges in the various degrees of courts and 17 Christian southern judges, 3 of whom were in the Supreme Court, and 4 Christian judges not from the South. Opportunities for training and qualification are made available fairly to all

judges. In this context, the Law and Reform Training Institute was set up in 1994 to provide legal training to all members of legal professions, law reform and systems of justice. The Institute establishes the law syllabus and encourages research and legal culture. The State works continuously to provide opportunities for academic qualification. In evidence, statistics show that 7 judges obtained Ph.D. degrees, 43 obtained M.A. degrees and 5 obtained high diploma degrees. As for training on human rights for members of the legal professions, an agreement was signed with the Office of the High Commissioner for Human Rights on 29 March 2001 under which training and qualification would be provided in the field of human rights to judges and other members of the legal professions. The programme has been implemented fully with the cooperation of all organs of the State as represented by the Consultative Council for Human Rights, in spite of difficulties of financing.

36. The Government of the Sudan affirms that there are no legal or administrative requirements that impose a uniform code of dress on women at work or in public. Women are free and they choose to abide by traditions in which they believe. Thus they opt for a dress that covers them and protects them. As for the compatibility of Sudanese laws with the Covenant, the Government of the Sudan endeavours to bring its laws in line with the Covenant. Provisions of the Personal Status Law which are based on Islamic sharia apply to Muslims only.

37. The Constitution clearly stipulates that every person enjoys the right to freedom of religious belief and conscience with concomitant freedoms to manifest and disseminate his religion and beliefs through missionary or educational activities and in practice. This matter is discussed in detail in our text on freedom of religion and conscience under article 18 in this report. Religious tolerance in Sudan is a reality as evidenced by the existence of churches and educational establishments run by more than 10 Christian sects. Annex 7 contains the statistics on the number of churches by their types and resources, and educational and service establishments run by them.

38. This statement cannot be substantiated any more,* now that the Constitution has established the system of political pluralism and freedom of association (see article 22 of the Covenant in this report). The Constitution has also guaranteed eligibility of all citizens to public office on an equal footing and without discrimination (art. 25 in this report), and the right to seek any information or adopt any opinions or thoughts without compulsion, and the freedom of expression and receiving information, and the freedom of publication and of the press (art. 19 in this report).

II. GENERAL LEGAL FRAMEWORK

A. Geographical and historical background

39. Sudan is located between latitudes 3.5° and 23° north of the Equator and between longitudes 21.75° to 38.5° east of Greenwich. There is a huge basin that slopes mildly northward with central plains and low-rising hills on the other three sides, to reach the hills of

* *Translator's note:* As in the original text.

the Red Sea on the east northern side, the Marrah mountains, rising to 10,000 feet (3,000 metres) on the west and the Imatong mountain chain in the far south. Ground altitude ranges from 500 to 1,500 metres above sea level.

40. Sudan is the largest country in Africa, with an area of 2,492,360 square kilometres or the equivalent of 967,500 square miles, which is approximately one tenth of all Africa. Sudan has borders with nine countries: Egypt and Libya to the north, Chad and the Central African Republic to the west, the Democratic Republic of the Congo to the west, Uganda and Kenya to the south, and Ethiopia and Eritrea to the east, and the Red Sea separates Sudan from the Kingdom of Saudi Arabia.

41. The main physical feature in Sudan is the river Nile and its tributaries, which make up a network running for approximately 2,500 miles. The river begins with the White Nile, with its source at Lake Victoria, Uganda, and runs to the southern borders of Sudan where it is called Bahr al Jabal, passing through the major dams area after which it meets the Sobat river and continues to Khartoum where it meets the Blue Nile coming from Tana Lake in Ethiopia, and after this convergence and up to its mouth the river is called the Nile. At Atbara, the river meets Atbara River in the north. The most important sources feeding the Nile proper are the Blue Nile, the Sobat and Atbara rivers. The White Nile contributes only 30 per cent of the Nile river discharge as it loses most of the water by evaporation in the Sudd region in Sudan.

42. The Nile network provides the country with large agricultural areas, creating very fertile land between the White Nile and the Blue Nile and between Atbara River and the Blue Nile. The important irrigation projects are located between Atbara River and the Blue Nile, in addition to Hamadab Dam, which is being constructed in the north.

43. Climate in Sudan varies from tropical and equatorial in the far south to dry desert in the north. Vegetation is generally determined by other factors of nature. In the central plains and in the southern parts of Western Sudan, savannah and shrubs prevail while the north-western parts of the country are mainly desert. The southern parts of the country have a tropical climate and swamp and savannah forests cover the southern and eastern parts but western parts are covered by tropical and equatorial forests.

44. For most of the year, average maximum temperature in most parts of the country is 100° F. In central and northern parts of the country, especially in summer months from March to July, tropical storms herald the rainy season between July and October. The Red Sea coast, however, has a maritime climate, with some rains in winter.

45. According to the 1993 census, 68.1 per cent of the population live in the rural areas while 29.3 per cent live in urban areas and the remaining 2.6 per cent are nomads. The demographic composition of the population shows variety with three main ethnic groups in the country that speak more than 115 local dialects. First there are the Negroid groups which cover the two Niles, then the Hamitic Nilotic peoples and finally the Sudanese tribes which are medium-black and the Arab race.

46. Arabic is the prevalent language, while English is used widely in financial and commercial circles. English has a long history of use in the past as the language of study in secondary schools, higher institutes and universities.

47. Since independence in 1956, Sudanese lawmakers have been enacting laws and legislation that reflect principles and values calling for respect and promotion of human rights, and these laws make up a framework of guarantees to safeguard political and civil rights as well as cultural, economic and social rights.

48. Among the most important elements which ensure these rights are the Constitution of 1956, the Constitution of 1964, Amended, the Permanent Constitution of 1973, the Interim Constitution of 1985, the Constitution of 1998 and the Interim Constitution of 2005.

B. Constitution of 1998

49. The armed forces took over power for many reasons, including rampant corruption in the period of dictatorial political parties, weakness of economic infrastructure, ignorance, widespread diseases and absence of security.

50. After taking over power on 30 June 1989, the current Government undertook the task to restore civilian government at the end of extraordinary circumstances. It started with the establishment of a permanent Constitution that affirmed the supremacy of the law and ensured human rights and fundamental freedoms. After 30 June the Government moved gradually from military to civilian authority and this state culminated in the drafting of the Constitution.

51. To do so, a national commission was constituted in July 1997 to draft the Constitution. The commission was composed of nearly 500 members representing various geographic regions, social forces, political and intellectual affiliations and various professions, and was chaired by former Chief Justice Khalfallah al-Rasched.

52. After consuming and continuous work for eight months the committee concluded its task and the draft was submitted to the National Council (the federal parliament). After approval by representatives of the people in the National Council, the draft was put to a general referendum, and was approved by a high percentage of the voters, as 10,472,888, out of 10,932,751 voters, voted in favour, as did 130,000 Sudanese living abroad.

C. Interim Constitution of 2005

53. After the Comprehensive Peace Agreement was signed by the Government of the Sudan and the Sudanese Popular Liberation Movement (SPLM) on 9 January 2005 in Nairobi, which put an end to the longest war in Africa, an interim constitution was drafted under article 2.12.5 of the Agreement which stipulated that the preparation of the constitution would be undertaken by the National Constitution Review Commission composed under article 2.12.4.3. The Commission was composed of both parties to the agreement and representatives of other political forces and civil society in Sudan. The Commission immediately started its work and finally elaborated a draft interim constitution for Sudan in 2005.

54. The draft was submitted to the Transitional National Council which approved the draft at its 24th meeting in its ninth session on 6 July 2005. The draft was also submitted to the National Liberation Council of SPLM for approval, which was given by the Council's decision 006/2005,

in accordance with article 2.12.5 of the Peace Agreement. After these approvals the draft went into force as a binding Constitution of Sudan, having been signed by the President of the Republic on 9 July 2005 (annex 8).

55. The Constitution is made up of 226 articles, spread over 17 chapters under the following headings:

- The State, the Constitution and the guiding principles;
- Bill of Rights;
- National executive authority;
- National legislative authority;
- National judiciary machinery;
- Public prosecution and defence;
- National civil service;
- Autonomous organs and commissions;
- Armed forces and law and national security enforcement organs;
- National capital;
- Government of Southern Sudan;
- States and Abyei Area;
- Financial and economic matters;
- State of emergency and declaration of war;
- Statistics and elections;
- Right to self-determination of Southern Sudan;
- Miscellaneous.

The Constitution determines the nature of the State, State organs and their functions and authorities as well as relations between various authorities. Articles of the Constitution also highlight freedoms and rights and their protection as follows.

Nature of the State

56. In article 1 (1), Part One, the Constitution determines the nature of the State: “The Republic of the Sudan is a sovereign, democratic, decentralized, multicultural, multisocial, multi-ethnic, multireligion and multilingual State.” Thus the Constitution establishes the principles of democracy, decentralization, multiculturalism, multiracialism, multi-ethnicity, multireligion and multilingualism in a united republic which is Sudan.

57. Accordingly, article 6 of the Constitution provides that the State shall respect a group of rights related to religious freedom including: the freedom to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes (art. 6 (a)); to make, acquire and use the necessary articles and materials related to the rites of all customs of a religion or belief (art. 6 (c)); to write, issue and disseminate religious publications (art. 6 (d)); to teach religion or belief in places suitable for these purposes (art. 6 (e)); and to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of religious beliefs. In application of multilingualism, article 8 (1) states that “all indigenous languages of the Sudan are national languages and shall be respected, developed and promoted”. Article 8 (4) gives the legislature at any sub-national level the power to adopt any other national language as an additional official working language, in addition to Arabic and English.

58. Article 1 (1) of the Constitution makes religions and cultures whose multiplicity is recognized a source of strength and inspiration in one homeland. Article 1 (2) elevates the promotion of human dignity, justice and equality and the advancement of human rights and fundamental freedoms and the establishment of political pluralism to a basic obligation of the State and are thus provided for in article 1 of the Constitution.

59. Article 2 of the Constitution establishes and affirms the principle of democracy: “sovereignty of the nation is vested in its people and shall be exercised in accordance with the provisions of this Constitution and the law, without prejudice to the autonomy of Southern Sudan and the states”.

Fundamental freedoms and rights

60. In Part Two, entitled “The Bill of Rights”, the Constitution guarantees and provides for all fundamental rights and freedoms as follows:

- The right to life and human dignity (art. 28);
- Personal liberty (art. 29);
- Prohibition of slavery and forced or compulsory labour (art. 30);
- Equality before the law (art. 31);
- Rights of women and children (art. 32);
- Prohibition of torture (art. 33);
- Fair trial (art. 34);

- Right to litigation (art. 35);
- Restrictions on the death penalty (art. 36);
- Right to privacy (art. 37);
- Freedom of creed and worship (art. 38);
- Freedom of expression and media (art. 39);
- Freedom of assembly and association (art. 39);
- The right to vote (art. 41);
- Freedom of movement and residence (art. 42);
- Right to property (art. 43);
- Right to education (art. 44);
- Rights of persons with disabilities (art. 45);
- Right to public health care (art. 46);
- Rights of ethnic and cultural communities (art. 47).

61. The Constitution did not stop at providing for these freedoms alone but further incorporated other freedoms which are not cited in any international convention, covenant or charter of human rights ratified by Sudan. The Constitution made these additional freedoms integral to the Constitution (art. 27 (3)).

62. The Interim Constitution imposed on the State the duty to protect, promote, guarantee and implement all freedoms contained in this chapter (art. 27 (2)).

63. To ensure that the exercise of these freedoms and rights are not curtailed by laws, article 27 (4) of the Constitution states that “legislations regulate freedoms and rights contained in this instrument and do not cancel or detract them”.

64. The Constitution assigned the judiciary the task of protecting and guarding freedoms and rights. To further consolidate these rights and freedoms, the Constitution prohibited their suspension even in a state of emergency, and treated them as fundamentals that legislative institutions cannot undermine or amend without a general referendum.

The judicial system

65. The Constitution firmly establishes a judicial system based on rule of law and independence of the judiciary and judges. In articles 123 (2), 128 and 131, it provides for the right of litigation and equality before the law, establishes guarantees of fair trial and the right to recourse and appeal. It also establishes a constitutional court to protect rights and freedoms and to provide remedy and recourse from injustice.

66. Under article 123 (1) of the Interim Constitution of 2005, the national judicial competence in Sudan is vested in an independent authority to be known as the “national judiciary”, which assumes judicial powers in adjudicating on disputes and issuing judgements on those disputes in accordance with the law. The National Judicial Service Commission undertakes the overall management of the national judiciary (art. 129) and the national judiciary is chaired by the Chief Justice of Sudan (art. 123 (4)).

67. According to article 124, there are three degrees of courts in Sudan: the National Supreme Court, national courts of appeal, and any other national courts or tribunals. In addition there is the Constitutional Court (art. 119 (1)) which is composed of nine judges appointed by the President of the Republic upon a recommendation of the National Judicial Service Commission and with the approval of two thirds of the representatives of the Council of States (art. 121 (1)), with due regard to adequate representation of Southern Sudan. These same conditions for the appointment of justices apply in the case of their removal (art. 121 (3)).

68. Under the Constitution and the Constitutional Court Act of 2005 (annex 9), the Constitutional Court has the duty to uphold the Constitution, interpret constitutional provisions at the instance of the President of the Republic, the national Government, the government or council of any state; protect human rights and fundamental freedoms; adjudicate on the constitutionality of national or state laws or laws enacted by the government of Southern Sudan; exercise criminal jurisdiction over the President or the Vice-President, the two Speakers of the national legislature, and the justices of the national and Southern Sudan Supreme Courts. Decisions of the Constitutional Court are final and binding (art. 122).

Democratic representation

69. One of the principles emphasized by the Constitution is free elections, fair competition and popular delegation as the basis for the legality of government institutions, as indicated in articles 36, 56, 67 and 97, starting with the President of the Republic and Governors of State to federal and state legislatures and local government councils. An independent commission runs elections and its members should fulfil conditions of fairness, neutrality and competence.

Sources of legislation

70. In article 5, the Constitution reaffirms the stipulation in successive Sudanese constitutions that Islamic sharia, consensus of the people and their customs and values as main sources of legislation. This applies to legislations enacted on the national level and applied in Northern Sudan. The article complies with the Comprehensive Peace Agreement and takes into account the religious nature of the Sudanese people. In the states of Southern Sudan, where national legislation is currently in operation or is enacted, the legislative authorities of the state

may introduce legislation, allow practices, or establish institutions that are consistent with the religion or customs of the citizens in that state. Under article 5 (a) these authorities refer such laws to the Council of States for approval by a two-thirds majority.

The Presidency

71. In view of the fact that Sudan is a multiracial, multicultural and multireligious country with a vast geographic area extending over 1 million square miles, with weak means of communications, and since the Comprehensive Peace Agreement signed in January 2005 is binding, a formula for the Presidency was adopted in Part Three, Chapter I, that is considered the most suitable to govern the country, to maintain its national unity and cohesion, and the most likely to preserve political stability, by selecting a Head of State who is authorized by the masses directly to exercise genuine powers.

The federal system of government

72. The Constitution opts for the federal system of government in article 177 (1) to ensure equitable sharing of power and wealth among various parts of the country, to enable cultural communities to preserve their identity and advance their culture and heritage, to widen popular participation and to curtail central authority. This system ensures smooth and efficient administration of a vastly spread country like Sudan. This requires that the country be divided by virtue of a national legislation that determines the number of states and their geographical boundaries, in accordance with provisions of article 177 (2). Each state shall have its legislative, executive and judicial institutions as provided for in article 178 (1). Since the division of the wealth of the country requires a similar procedure, financial resources are distributed among the various federal, state and local levels of government so that each level will acquire a certain amount of taxes and revenues. To ensure solidarity, a national fund is created to support the poorer states, while article 195 of the Constitution empowers every state to enact financial laws and raise taxes.

Interim measures for Southern Sudan

73. To give the Constitutional Decree No. 14 (Implementation of the Khartoum Peace Agreement) the required legal force, it was decided to consider the Decree as part of the Constitution of 1998, and to continue in force for the whole interim period of four years that is due to end with referendum in the South on the options of unity or secession.

74. After the Nairobi agreement, or the Comprehensive Peace Agreement, was signed on 9 January 2005, the whole region of Southern Sudan as traditionally recognized at the time of independence in 1956, has become covered by the right to self-determination, which is to be exercised through a referendum held under international observation.

75. The Constitution gives Southern Sudan within the boundaries recognized in 1956 the right to have separate legislative, judicial and executive authorities and a separate constitution and to have a portion of all revenues and an assessed share of national income. Southern Sudan may also participate in the political and legislative authorities of Northern Sudan.

III. ORGANS OF GOVERNMENT

A. Presidency of the Republic

76. The Presidency of the Republic consists of the Presidential Council, which comprises the President and the two Vice-Presidents (article 51 (1) of the Constitution). This composition was designed to reflect the Comprehensive Peace Agreement that was signed in January 2005.

77. Under article 52 of the Constitution, the President of the Republic must be directly elected by the people in nationwide elections conducted according to the regulations set up by the National Constitutional Review Commission. Article 53 of the Constitution defines the conditions of eligibility for nomination for the Presidency, whereby no specific religion, race, sex or affiliation is required. The Constitution requires only that the candidate should be a Sudanese national by birth, of sound mind, being at least 40 years of age, able to read and write, and has not been convicted of a crime involving moral turpitude or dishonesty. This post is occupied for a term of office of five years, renewable only for another term (article 57 of the Constitution).

78. The Constitution, in article 54 (2), requires, for acceding to the post of the President of the Republic, that the candidate obtain more than 50 per cent of all the votes cast in the election. Where the percentage mentioned in this article has not been achieved, polling shall be repeated between the two candidates who have obtained the highest number of votes.

79. Under the presidential system, the President of the Republic exercises the powers granted by article 58 of the Constitution: ensuring the country's security; supervision of the constitutional executive bodies; appointment of holders of constitutional and judicial posts; presiding over the Council of Ministers; declaration and termination of the state of war; representation of the State in its foreign relations; appointment of ambassadors; endorsing laws; in addition to endorsing execution sentences, granting pardons and seeking the opinion of the Constitutional Court.

80. In addition, the President of the Republic exercises some powers with the consent of the First Vice-President, such as declaring and terminating the state of emergency, convoking, postponing or ending the legislative sessions (article 58 (2) of the Constitution).

81. Article 61 of the Constitution gives anyone harmed by an act of the President of the Republic the right to make an application before the Constitutional Court regarding any action that infringes or violates the Constitution, the Bill of Rights, the decentralized system or the comprehensive peace agreement, as well as to appeal to the appropriate court against other actions of the President of the Republic.

B. The two Vice-Presidents of the Republic

82. The President of the Republic has two Vice-Presidents, including a First Vice-President. One of them comes from the North of the country and the second comes from the South in accordance with article 62 (1) of the Constitution. If the presidential elections produce a President from the North, the First Vice-President must then be from the South, and if they

produce a President from the South, the First Vice-President must be from the North. The two Vice-Presidents are subject to the same eligibility requirements that are applicable to the President of the Republic by virtue of article 53 of the Constitution.

83. Article 63 (1) of the Constitution defines the powers of the First Vice-President, including acting for the President in his absence, serving as a member of the National Council of Ministers, the National Security Council and the Presidential Council, in addition to presiding over the Presidential Council when the post of the President of the Republic becomes vacant in the aftermath of the elections.

84. Meanwhile, article 63 (2) of the Constitution defines the powers of the Vice-President of the Republic. These include acting for the President and the First Vice-President in their absence, serving as a member of the National Council of Ministers, the National Security Council and the Presidential Council and acting as the Supreme Commander of the Sudanese Armed Forces in case the post of the President of the Republic becomes vacant.

85. Under article 61 (a) and (b), the two Vice-Presidents of the Republic are responsible for their acts before the Constitutional Court or the competent court.

C. The National Council of Ministers

86. The National Council of Ministers is the federal government and consists of a number of ministers who are appointed by the President of the Republic, pursuant to article 70 (1) of the Constitution, after consultation with the two Vice-Presidents. The national minister is answerable to the President of the Republic and the National Council of Ministers; national ministers being collectively and individually responsible before the National Assembly. The federal government, consisting of the National Council of Ministers, is responsible for the general planning of the policies of the country, the carrying out of executive duties and the preparation of draft laws and the general budget.

87. Under article 78 of the Constitution, any person aggrieved by an act of the National Council of Ministers or of a national minister has the right to contest such an act before the Constitutional Court when that act infringes or violates the Constitution, the Bill of Rights, the decentralized system or the comprehensive peace agreement, and has the right to appeal to the appropriate court against other actions of the President of the Republic.

D. State governments

88. The Constitution gives every state its executive organ that is headed by a Governor elected by the people in the state, in compliance with the Constitution and the procedures prescribed by the National Elections Commission (art. 179 (1)). The Governor, in accordance with the state Constitution, appoints the state ministers who are collectively and individually accountable to the Governor and the state legislature. The Governor and the state council of ministers exercise the executive powers of the state, as determined by the Constitution and the Comprehensive Peace Agreement.

E. The National Legislature

89. The National Legislature is the federal legislative authority and is composed of two chambers: the National Assembly and the Council of States (article 83 (1) of the Constitution).

(a) The National Assembly: it consists of members elected in free and fair elections. The National Elections Law determines the number of members and the composition of the National Assembly (article 84 (1) and (2) of the Constitution). The term of office of the National Assembly is five years.

(b) The Council of States: it is composed of two representatives from each state, elected by the state legislature in accordance with the National Elections Law and regulations set forth by the National Elections Commission (article 85 of the Constitution). Its term of office is five years.

90. The Constitution, in article 86, sets the conditions for membership of the National Legislature: the candidate must be a Sudanese national, be at least 21 years of age, of sound mind, literate and not have been convicted during the previous seven years of an offence involving honesty or moral turpitude. It has also determined how membership is lapsed (art. 87), the seat of the National Legislature and the composition of its committees (art. 95) and the elaboration of its regulations (art. 96).

91. The Constitution, in article 91, defines the functions of the National Legislature, which consist in representing the will of the people, exercising legislative functions, overseeing the National Executive, promoting the decentralized system of government, in addition to amending the Constitution, approving amendments affecting the Comprehensive Peace Agreement, approving the annual budget, approving the declaration of war and confirming the declaration of the state of emergency. Under the Constitution, the National Legislature is also entitled to impeach the President of the Republic or the First Vice-President, to summon and interrogate national ministers, in addition to other specific functions spelt out in the Constitution.

F. State legislatures

92. Article 180 of the Constitution gives to the states the right to set up a state legislature composed of members elected in accordance with the state Constitution and the regulations set forth by the National Elections Commission. The state legislatures are competent to elaborate and approve the state Constitution and to make certain laws and regulations.

G. The judiciary

93. The Constitution provides for an independent national judiciary to carry out judiciary functions. It has a national character, is accountable only to the President of the Republic (see paragraphs 64 to 67 above), and is fully independent of both the executive and legislative branches of government. It is run by a judiciary council, which is headed by the Chief Justice and comprises senior judges and others. The council recommends the appointment, promotion, transfer, discipline and dismissal of judges. The financial independence of the National Judiciary is guaranteed by law and judges have immunity and may not be subjected to any

interference. Pursuant to the Constitution, they are required to dispense justice and apply the rule of law. The Constitution requires public organs to implement the decisions of the judiciary.

94. The national judiciary is composed of a Supreme Court that functions according to the system of chambers. There is a Criminal Chamber, a Civilian Chamber and chambers for personal status and administrative appeals. The Supreme Court is followed in rank by the courts of appeals in the states, general courts in the governorates and courts of first instance in urban and rural areas.

95. Judges enjoy guarantees against arbitrary dismissal. A judge may be disciplined only after the formation of a disciplinary board set up by the Higher Judiciary Council and the Chief Justice. Any sanctions against him must be approved by the Higher Judiciary Council.

H. The National Elections Commission

96. In article 141, the Constitution provides for the establishment of an independent National Elections Commission composed of nine impartial, non-partisan and competent members who are appointed by the President of the Republic, with the consent of the First Vice-President. Their appointment should reflect wide representation. The National Elections Law should define the general rules and procedures that govern the elections and functions and conditions of service of the Commission's personnel.

97. In accordance with article 141 (2) of the Constitution, the National Elections Commission is to prepare the general electoral roll and pursue its annual revision, organize and supervise the elections for the President of the Republic, the President of the Government of Southern Sudan, Governors, the National Legislature, the Southern Sudan Assembly and state legislatures, in addition to the organization of any referendum provided for in the Constitution.

I. The Public Grievances Chamber

98. The Constitution of 2005, in article 143, provides for the establishment of an independent Public Grievances Chamber, the members of which are nominated by the President of the Republic from among persons of competence and integrity and approved by the National Assembly. The Chamber is accountable to the President of the Republic and the National Assembly.

99. The Public Grievances Chamber is mandated by the Constitution to settle grievances and ensure an efficient functioning of the State and the delivery of justice. In the performance of its duties, it is more analogous to the system of administrative oversight (ombudsman). Its importance stems from the fact that it seeks to settle grievances, even through going beyond definitive judicial decisions without prejudice to the verdict in question.

J. Human rights guarantees

100. The concern for respect and observation of human rights in Sudan stems from the fact that, globally speaking, those rights are in harmony with the moral heritage and social conduct of the Sudanese people who are well-known for their tolerance and inherent rejection of injustice, violence and cruelty.

101. Nevertheless, there are strong guarantees for the protection of human rights in Sudan that can be summarized as follows:

(a) The adoption of a comprehensive Constitution that came into force on 9 June 2005 and that guarantees fundamental freedoms and rights in Part Two (see paragraphs 59-63 above). This gives a great legal weight to those freedoms and rights to the extent of forbidding any amendment to them except after the approval of a two-thirds majority of the National Legislature and the Council of States through a separate meeting of each (article 224 of the Constitution). Furthermore, the Constitution, in article 48, provides for the safeguarding of those rights and freedoms by the Constitutional Court and other competent courts as well as their supervision by the Human Rights Commission;

(b) The existence of an independent judiciary, a competent constitutional court and an ombudsman in order to settle grievances and deliver justice;

(c) The existence of a special commission for the rights of non-Muslims in the national capital, the main function of which is to ensure that the rights of non-Muslims are protected in conformity with the Constitution and that non-Muslims are not harmed by the application of Islamic sharia (law) in the national capital;

(d) The ratification by Sudan of a wide range of human rights covenants and agreements, which are considered part of national legislation;

(e) The incorporation of many provisions of those agreements in national legislation, such as the guarantees for fair trial, the right of access to courts, the treatment of inmates, the control of preventive detention, etc.;

(f) The establishment of oversight legislative bodies to control the executive performance at the federal and state levels, through the right of legislative organs to interrogate executive organs and through parliamentary human rights committees that receive complaints, carry out investigations and visit detention centres;

(g) The provision in the Constitution for the establishment of an independent Human Rights Commission, the 15 members of which are independent, competent, impartial and non-partisan (article 142 of the Constitution);

(h) The establishment of governmental advisory and coordinating mechanisms that comprise experts and specialized persons, such as the Advisory Council for Human Rights and the National Council for Childhood. These mechanisms formulate the public policies of the State in the areas concerned;

(i) These governmental advisory mechanisms provide advice to official bodies, follow up the implementation of international and regional instruments and reflect the deliberations of international forums that deal with the situation of human rights. They also have an executive role at some levels;

(j) The existence of a free press that scrutinizes performance and monitors abuses;

(k) The existence of active and effective civil society organizations, which are amply represented in the above-mentioned advisory and coordinating mechanisms, such as the Lawyers Union, the Sudanese Human Rights Commission, the Federation of Sudanese Women, where women play an effective role at various levels.

IV. COMMENTS ON ARTICLES 1-27 OF THE COVENANT

Article 1

102. Sudan's second periodic report on civil and political rights, submitted to the Human Rights Committee in December 1996, reviewed the measures and steps taken by Sudan to promote and respect the right to self-determination and the extent to which the Government of the Sudan had encouraged the observance of that right at the national level. This had been positively reflected in the signing of the Political Charter of 10 April 1996, which was accepted by the majority of Southern Sudan's rebellion factions at the time. The Charter had given Southern Sudan the right to self-determination through a referendum of its citizens.

103. Negotiations on the provisions of the Political Charter between the Government and the rebellion factions had continued, resulting in the signing of the Khartoum Peace Agreement of 1997 (KPA), which included the right of Southern Sudan to self-determination. Confirming the seriousness of the Government in implementing that agreement, the latter was reproduced in a constitutional decree having the force of law, called the Fourteenth Constitutional Decree (Implementation of the Peace Agreement) of 1997.

104. With the promulgation of the Constitution of Sudan of 1998, all constitutional decrees were cancelled as of the date of the entry into force of the aforementioned Constitution, except for the Fourteenth Constitutional Decree (Implementation of the Peace Agreement) of 1997, which was considered an integral part of the Constitution, having the same sanctity as constitutional provisions.

105. The KPA guaranteed the right of the Southern states to legislate, through the codification of their customs and culture and the safeguarding of their particularities (article 3 (4) of the Fourteenth Constitutional Decree (CD)), in addition to the participation of the citizens of Southern Sudan in constitutional and federal institutions (article 3 (8) of the Fourteenth CD). The State was required to develop the states and eliminate disparities among them with regard to basic services, through the elaboration of comprehensive development plans (article 4 (9) of the Fourteenth CD).

106. The right to self-determination of Southern Sudan will be exercised through a referendum of its citizens following the expiry of the transitional period of four years that may be extended or reduced pursuant to a recommendation of the Coordination Council of Southern States, established under the agreement. The referendum will be to choose between unity and secession, through a secret ballot for all 18-year-old citizens of Southern states, living inside or outside them. It will be supervised by a special commission to be established by law (article 6 of the Fourteenth Constitutional Decree).

107. Following the signing in January 2005 of the Comprehensive Peace Agreement, which provides for the right to self-determination of the citizens of the South, and the passage and promulgation of the Interim National Constitution of 2005, article 219 of which provides for the right to self-determination of the citizens of the South, this right has become a constitutional right protected by law.

108. The right to self-determination contained in article 1 of the International Covenant on Civil and Political Rights is concerned with oppressed peoples. The Vienna Declaration and Programme of Action of 1993 did not allow this right to be construed in a way that could be taken as a pretext to dismember any independent country possessed of a Government representing the whole people belonging to the territory without distinction of any kind (paragraph 2 of the Vienna Declaration and Programme of Action). Furthermore, the contemporary international law prevents the United Nations and the international community from recognizing a newly independent State that emerges through secession from another existing State as long as the latter State continues to be governed by a democratic system and respects the right of self-determination.

109. Although the Government of the Sudan was democratically elected by the people in free and fair elections under international and regional supervision at various levels and although the Constitution has guaranteed fundamental freedoms and rights and accorded them protection and despite Sudan's observance of the right of self-determination through the various measures and actions it has taken, including the enactment of a law apportioning resources among various states and establishing a fund to support poor states with a view to achieving the economic dimension of the right of self-determination, it has agreed to grant the citizens of Southern states, based on the recognized geographical borders of Sudan at the time of its independence, the right of self-determination by choosing between unity and secession. It has done so in fulfilment of its duty to reinforce international peace and security.

110. In addition, the Government, through the various rounds of negotiations that were organized by the Intergovernmental Authority on Development (IGAD), continued its efforts to achieve peace with those factions that continued to bear arms. In so doing, it showed a great flexibility in negotiations until the Framework Agreement of Machakos (Kenya) was concluded on 20 July 2002.

111. To show its goodwill, the Government unilaterally declared a comprehensive and permanent ceasefire in order to ensure the delivery of humanitarian aid and prepare for the definitive solution of the dispute but the rebellious movement agreed only to a partial ceasefire not exceeding three months and only in limited areas.

112. The Government continued its contacts with leaders and forces of rebellion, through the Southern political leadership inside the country. Those contacts resulted in the return to the country of several Southern leaders, in addition to large numbers of women and children, and whole regions put an end to their rebellion. This was facilitated by the declaration of general amnesty, the good reception given to returnees, the formation of peace councils in the states and the establishment of ministries for peace in Southern states.

113. The State continued its efforts toward peace with the help of some regional intergovernmental organizations, including the Intergovernmental Authority on Development (IGAD) and some African heads of State such as the Kenyan President Daniel arab Moi. The first round of peace negotiations between the Government and the Sudan People's Liberation Army/Movement (SPLA/M) was held and resulted in both parties agreeing to the Machakos Protocol which was signed by them on 20 July 2002.

114. That agreement represented a comprehensive framework for peace, including arrangements for stopping the war and reaching a comprehensive peace. Its main provisions are as follows:

(a) The adoption of a system of government under which Sudan is divided into Northern and Southern states. Southern Sudan would form one region;

(b) There would be a bicameral national parliament comprising a council of representatives and a council of states' representatives with special powers with regard to legislation in Southern Sudan;

(c) Islamic sharia (law) would be one of the sources of legislation at the national level. Legislations derived from Islamic sharia would apply directly to the north of the country, whereas in the south they would apply only through the Council of Representatives and the Council of States;

(d) At the end of an interim period of six years, a referendum would be organized for Southerners to choose either the system of government adopted in the agreement or secession, following a mid-term assessment of that system of government by an assessment and evaluation commission comprising both parties and some international observers;

(e) The contents of the agreement would be incorporated in the Constitution during the interim period.

115. Combined with the efforts of the State in this regard, there were mediation endeavours made by several European and American countries, including Sweden, Italy and Canada. Several protocols were reached with the SPLA/M, particularly a protocol on security arrangements and a protocol on the sharing of wealth and power.

116. Efforts towards peace continued, culminating in the signing in Nairobi, Kenya, in January 2005 of the Comprehensive Peace Agreement between the Government and the SPLA/M, thus ending the longest war on the African continent. The agreement opened the way towards fundamental changes involving both the north and south of the country in terms of both the system of government and politics, with the parties to the agreement giving the utmost priority to the principle of unity (annex 10).

117. Article 1.3 of the Machakos Agreement accorded citizens in the South the right of self-determination after an interim period of six years from the date of the signing of the definitive peace agreement, which took place on 9 January 2005 (article 2.5 of the Machakos Agreement). A self-determination referendum will be organized under international supervision

by the Southern Sudan Referendum Commission in cooperation with the National Government and the Government of Southern Sudan (article 222 (1) of the Interim Constitution of 2005) with a view to choosing between Sudan's unity and secession.

118. On the economic side, the Constitution, like the Comprehensive Peace Agreement, provides for the right of the South and other states to share in local resources in terms of collection and expenditure. It also provides for the fair distribution of wealth, based on the premise that all parts of Sudan are entitled to development (article 185 (1) and (2) of the Constitution).

119. Both the Constitution and the Peace Agreement have given the Government of Southern Sudan the right to borrow money at home and abroad, under guarantees from the Government of Southern Sudan or the government of the state concerned (article 203 (3) of the Constitution).

120. Concerning land regulation, the Constitution provides that this would be exercised at the appropriate level of government (art. 186). In order to settle land disputes raised against or by individuals at various levels through arbitration, the Constitution established a National Land Commission that should be independent and accountable to the President of the Republic (arts. 178 and 188).

Article 2

121. Article 27 (3) of the Constitution states that "all rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified by the Republic of the Sudan shall be an integral part of this Bill". Consequently, pursuant to the 2005 Interim National Constitution of the Republic of the Sudan, all articles of the International Covenant on Civil and Political Rights, which was ratified by the Government of the Sudan in 1986, have become binding and enforceable constitutional articles since the entry into force of that Constitution on 9 June 2005.

122. Moreover, in addition to incorporating articles of international human rights instruments into the Constitution pursuant to the aforementioned sub-article, article 27 (4) of the Constitution provides that "legislation shall regulate the rights and freedoms enshrined in this Bill and shall not detract from or derogate any of these rights".

123. The Sudanese constitutional system recognizes the fact that Sudan is a democratic society in which "Supremacy in the State is to God, the Creator of human beings, and sovereignty is to the people who practice it as worship of God, bearing the trust, building up the country and spreading justice, freedom and public consultation." It underlines the cultural, religious and ethnic diversity in Sudan, its leading role in building the homeland in which races and cultures coexist in harmony and religions coexist in tolerance. It considers Arabic, in addition to English, as the official languages of the country, which express the cultural diversity in the constituting various states and which are spoken by all citizens. Meanwhile, the Constitution recognizes other local and international languages which the State allows their promotion as an enriching factor that contributes to the consolidation of national unity (articles 1, 4 and 8 of the Constitution).

124. According to the Constitution, citizenship is acquired by birth or residence. Pursuant to it, every person born to a Sudanese mother or father has an inalienable right to enjoy Sudanese citizenship and all rights and duties related to it. Every person raised in Sudan or domiciled there for several years has the right to nationality as regulated by law (article 7 (2) of the Constitution).

125. In accordance with the Sudanese Nationality Act (annex 11), Sudanese citizenship is acquired by birth if the following conditions are met:

- (a) If he acquired the Sudanese citizenship by birth;
- (b)
 - (i) If he or she was born in Sudan or if his or her father was born in Sudan;
 - (ii) If, at the time of entry into force of this Act, he or she was domiciled in Sudan and he/she or his/her ancestors in the direct male line have been domiciled in it since 1 January 1956;

(c) If neither he/she or his/her father were born in Sudan, that person may submit an application for Sudanese citizenship to the minister of the interior, if he/she meets the requirements of paragraph (b) (ii) above.

Also a person is Sudanese by birth if his/her father was Sudanese by birth at the time of his/her birth. A person born to parents who became Sudanese by naturalization is a Sudanese citizen if his/her parents obtained the Sudanese citizenship by naturalization before his/her birth. Any foreigner may acquire Sudanese citizenship by naturalization if he/she applies for it, is a major, of full capacity, has been domiciled in Sudan for at least five years, of good manners and has not been convicted of a crime involving moral turpitude or dishonesty.

126. Except for certain political rights such as the right to stand for elections to public office and the right to vote, foreigners enjoy the same rights and freedoms as citizens, such as the right to life and freedom, the banning of enslavement and torture (article 30 of the Constitution), equality before the law (article 31 of the Constitution), freedom of creed and worship (article 38 of the Constitution), inviolability of communications and privacy (article 37 of the Constitution), immunity from detention (article 29 of the Constitution), the right to litigation (article 35 of the Constitution) and the right to presumption of innocence and fair trial (article 34 of the Constitution).

127. Equality before the law is guaranteed to everyone without distinction as to race, sex, religion, language, political opinion, social origin, economic situation or any other social factor.

128. The right to equality before the law is one of the rights that may not be suspended or derogated even in case of the declaration of the state of emergency (article 211 of the Constitution).

129. With regard to guaranteeing the right to remedy for those whose rights or freedoms as recognized in the Covenant are violated, Sudan has taken the following measures:

(a) Article 35 of the Constitution states that the right to litigation is guaranteed for all persons; no person shall be denied the right to resort to justice. No one can be denied the right to bring a lawsuit nor can he or she be brought to justice in a criminal case except according to the law;

(b) In article 119 (1), the Constitution establishes an independent constitutional court to safeguard the Constitution. The Constitution mandates the constitutional court to examine or decide cases brought by injured parties seeking to protect freedoms or rights guaranteed by the Constitution, in addition to appeals against acts of the President of the Republic or the First Vice-President prejudicing rights and freedoms. It has also a criminal competence over the Vice-President, the Speakers of the National Legislature, the Council of States and the justices of the National Supreme Court and Southern Sudan Supreme Court;

(c) Sudan passed the Constitutional Law Act of 1998 (see paragraph 67 above on the Constitutional Court Act of 2005). Article 11 of that Act provides that the Constitutional Court shall be competent to examine and decide any suit presented by any aggrieved person, who, contesting a law, appeals for protection of his/her freedoms or rights guaranteed by the Constitution. It is also competent to consider and decide lawsuits brought by any aggrieved person who is contesting the acts of the President of the Republic, the Council of Ministers, a federal minister, governors or state ministers, which violate his/her constitutional freedoms or rights, after having exhausted all remedies available at the level of executive organs. Over the period 1999-2004, the Constitutional Court decided 290 applications and cases;

(d) The Public Grievances Chamber was established pursuant to article 143 of the Constitution. It is competent to seek, without prejudice to the jurisdiction of the judiciary, to settle grievances and ensure efficiency and honesty in the functioning of the State and its organs and in the definitive executive and administrative actions;

(e) Another relevant law is the Public Grievances Institution Act of 1998 which seeks to deliver justice through final decisions of judicial organs. Without prejudice to the preceding, the Institution is competent to examine and decide the following:

1. General grievances relating to actions of State organs;
2. Evident damage resulting from or overlooked by final judicial decisions, without prejudice to their definitive character;
3. Damage resulting from abuse of power by State authorities or from the latter's corruption, provided that all legally available remedies provided by competent bodies have been exhausted;
4. Damage resulting from actions of ministers, governors and holders of high office in the State, over which the judiciary has no jurisdiction;

5. Any other public grievances against State organs that could not otherwise be settled, resulting in evident injustice;

(f) The Advisory Council for Human Rights was established in Sudan. It comprises representatives of competent government bodies and representatives of civil society. It seeks to protect and promote human rights. It receives complaints from those who claim to have been aggrieved and those who claim that their rights have been violated;

(g) Many human rights violations are considered crimes under the Criminal Law of 1991 (annex 5), such as forced labour (art. 163), illegal detention (art. 165), abduction (art. 162), violation of privacy (art. 166), and incitement to hatred against communities or among them (art. 64). All these crimes are punishable by prison or fine or both;

(h) Paragraph 2 of article 34 of the Criminal Law of 1991 states that a court may order the payment of the whole or part of the fine in compensation of a person harmed by the commission of a crime unless he is awarded a separate compensation;

(i) Part Three of the Civil Transactions Law of 1984 (annex 4) deals in much detail, in articles 138 to 163, with compensation for damage and harm, particularly with regard to damage resulting from actions of State officials. It also deals with criteria for assessing compensation, including also compensation for moral damage;

(j) The Regulation on the Treatment of Detainees at the Internal Security Apparatus of 1966 and the Regulation on the Organization of Work at Prisons and the Treatment of Detainees contain binding standards for the treatment of detainees and prisoners that are compatible with international human rights criteria. The number of prisoners in 2001 was 2,364 inmates. Religious guidance courses are organized for Muslim and Christian inmates. There are also training and rehabilitation workshops and illiteracy programmes and inmates are allowed to continue their education. There are also medical care units at big prisons, while, at small prisons, sick inmates are referred to the nearest health centre. To ward off epidemics, inoculations and vaccinations are provided.

130. Concerning the practical application of those remedies and the results thereof over the past period, annex 12 contains statistics on the numbers of law enforcement officers who were prosecuted or administratively disciplined over the excessive use of force or abuse of their authority.

131. With regard to the enforcement of sentences handed down in favour of those whose rights or freedoms were violated, the Constitution requires all State agencies to be bound by the rule of law and the enforcement of judgements passed by the Judiciary (art. 123 (5)).

Article 3

132. The Covenant, in article 3, provides that States parties undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

133. Out of its duty under the just-mentioned paragraph, Sudan, throughout its history since independence and irrespective of the various successive systems of governments, has ensured the right to equality between men and women in the enjoyment of civil and political rights and has embodied that right in its various constitutional and legal legislations.

134. Sudan's present Constitution of 2005 states, in article 223 (1), that reference to men applies equally to women. It can therefore be said that the Constitution has granted women equal rights with men without distinction, including basic rights such as the right to life and freedom, the right to national citizenship, the right of movement, the right to work, the right of expression and freedom of thought, the right of political and social organization, the right of association, the right of ownership, the right of privacy, the right of fair trial, the right to litigation, the right of presumption of innocence and the right of defence (articles 27-47 of the Constitution).

135. Article 15 (2) of the Constitution provides that the State undertakes to protect motherhood and "liberate women from injustices in all aspects of life, encourage women's role in the family and public life". In providing for the empowerment of women in public life, this article seeks to establish positive discrimination in favour of women, pursuant to article 32 (2) of the Constitution.

136. Further, article 32 (1) of the Constitution, in Part Two entitled "Bill of Rights", provides that "the State shall guarantee equal right of men and women to the enjoyment of all civil, political, social, cultural and economic rights ...".

137. The present Constitution does not discriminate between men and women with regard to the conditions listed in it for holding public office, such as the posts of the President of the Republic, ministers, governors, members of parliament, etc. Women have therefore the right to assume any of those posts, on top of which is the post of the President of the Republic (articles 53, 62 and 86 of the Constitution).

138. Sudanese women have acquired their natural right to take part in elections as voters and candidates since 1964.

139. The State, out of its belief in the leading role of women in public life, has provided them with the possibility of holding the post of governors of states and several federal and state ministerial posts. The federal government has currently four women ministers in addition to women occupying hundreds of seats in legislative bodies at the state and local levels. The Supreme Court has five women justices in addition to scores of women judges at lower courts.

140. As far as equality in employment is concerned, the Public Service Law of 1995 (annex 13) provides for the principle of equal pay for equal work (art. 25). It defines free competition based on competence as the basis for selection to public office, without any distinction with regard to gender (articles 18 and 38 of that Law).

141. Taking into account the particular situation of women as a wife and mother playing a vital role in the upbringing of generations, the Sudanese legislator has given her a leave from work in conjunction with the death of her husband, a maternity leave for childbirth and lactation and a leave to accompany her husband when he travels abroad with a view to preserving the solidity of the family (articles 130, 129, 128 and 133 of the Service Law of 1995).

142. The Labour Code of 1997 (annex 14) has followed the example of the Public Service Law in granting similar benefits to women working in the private sector. In addition, it has given them special protection from dangerous types of work (article 19 of the Labour Code).

143. Although the Physical Planning and Land Law of 1994 provides for the registration in the name of husband, being the head of family, of the housing land given to a family if the plot of land in question was granted as part of the housing plan of the State, this law prevents him from disposing of it without his spouse's approval. The Law also allows a woman to be granted a plot of land to be registered in her name if she is a divorcee, a widow or a head of family. As for lands located outside the area covered by the housing plan, a woman can possess a plot there to be registered in her own name and over which she has an absolute freedom to dispose of without any restrictions.

144. In the area of personal status, the State applies the provisions of the Personal Status Law of 1991 (annex 3) and the personal status codes of other religious groups, which are derived from their religions and customs.

145. The Muslims' Personal Status Law of 1991 requires that in order for the marriage to be concluded, the bride's consent and acceptance of the husband and dowry must be obtained (art. 34 (1)). The approval by the woman's guardian means that he represents her at the contract meeting but he cannot decide for her without her consent. Also in case of divorce, a divorced woman is entitled, during the time-bound period just before her divorce becomes definitive, to receive a legal alimony covering her food, clothing and accommodation needs, in addition to a lactation allowance if she is to breastfeed her child (articles 72 and 73 of this Law).

146. As for non-Muslim women, the State applies the provisions of the Personal Status Law for non-Muslims of 1901 as well as other personal status laws for other non-religious communities.

147. Sudan has acceded to the International Labour Organization (ILO) and ratified many of its conventions, particularly the Equal Remuneration Convention, with a view to ensuring the elimination of discrimination against women.

148. As a member of the United Nations and other international and regional organizations, Sudan has participated in efforts designed to eliminate all forms of discrimination against women.

149. Sudan, out of its conviction of the importance of women's role in sustainable development, has made strenuous efforts to provide education for women, despite the many difficulties posed by obsolete traditions, scarce resources and remote locations of schools.

150. The following table shows school enrolment rates by gender in the basic phase of education, thus illustrating girls' enrolment rates.

Table 3

Basic education: No. of schools, students and teachers, by sex and state for the year 2002/2003

State	Teachers	Students			Schools
		Total	Females	Males	
All Sudan	132 041	3 758 694	1 718 334	2 040 360	12 463
Khartoum	24 313	742 559	358 806	383 753	1 855
River Nile	8 722	167 786	80 226	87 560	589
Northern	6 742	120 527	57 472	63 055	445
El Gezira	23 485	590 558	275 774	314 784	1 714
Sinnar	5 780	172 430	81 337	91 093	476
Blue Nile	1 893	67 189	27 328	39 861	208
White Nile	9 170	223 932	104 191	119 741	822
El Gadarif	5 291	173 779	75 987	97 792	612
Kassala	4 170	162 267	74 325	87 942	519
Red Sea	3 463	92 306	42 572	49 734	337
N. Kordofan	8 274	273 927	124 703	149 224	929
S. Kordofan	3 720	113 819	51 122	62 697	493
W. Kordofan	3 810	140 027	58 667	81 360	672
N. Darfur	8 933	196 859	84 021	112 838	761
S. Darfur	7 504	213 490	92 827	120 663	906
W. Darfur	2 964	138 072	51 091	86 981	666
Upper Nile	1 307	57 624	26 982	30 642	158
Bahr El Ghazal	872	51 843	23 983	27 860	129
Equatoria	1 628	59 700	26 920	32 780	172

Source: Ministry of Education.

151. The percentage of women education has risen in general terms. Women have been included in illiteracy programmes, which is shown in the following table.

Table 7

No. of classes, students and teachers (literary and adult education) by sex and state for the year 2002/2003

State	Teachers	Students			Classes
		Total	Females	Males	
North States	5 734	157 326	95 631	61 695	5 452
Khartoum	1 877	36 492	23 514	12 978	1 729
River Nile	134	2 415	1 489	926	129
Northern	145	2 364	1 595	769	138
El Gezira	409	12 136	8 698	3 438	409
Sinnar	312	7 539	6 393	1 146	301
Blue Nile	42	1 886	1 677	209	27
White Nile	162	5 677	4 065	1 612	162
El Gadarif	323	24 000	10 000	14 000	322
Kassala	165	6 337	4 455	1 882	156
Red Sea	194	4 484	1 916	2 568	194
N. Kordofan	334	8 488	7 077	1 411	334
S. Kordofan	93	2 264	1 032	1 232	88
W. Kordofan	101	2 430	1 121	1 309	92
N. Darfur	427	8 914	5 572	3 342	377
S. Darfur	774	21 909	11 231	10 678	763
W. Darfur	242	9 991	5 796	4 195	231

Source: Ministry of Education.

152. In 1997, the total workforce in Sudan was 8 million persons, 67.7 per cent of whom were men and 31.3 per cent were women. The proportion of rural women working in agriculture was 70 per cent, while that of women employees, in the seventh to fourth grades, was 22 per cent and women occupying grades from the 14th to 10th were 57 per cent.

153. Among the various forms of equality between men and women embodied in the Constitution is the right of every newborn child to a Sudanese father or mother to have the Sudanese citizenship, as opposite to the practice in the past when it was given only to those born to a Sudanese father (article 7 (2) of the Constitution).

154. At the official level, the Ministry of Social Welfare is leading the efforts aimed at the advancement of women. It has established a department for women affairs. At the state level, ministries for social and cultural affairs were established to be concerned with youth, women, family and children affairs. At the grassroots level, there are scores of voluntary women organizations which are working for women and their work is being coordinated by the Voluntary Work Commission. There are also many associations working in the field of combating practices which are harmful to the health of women and children.

155. The State now seeks to accede to the United Nations Convention on the Elimination of all Forms of Discrimination Against Women, since it is part of applicable human rights standards. The State has started to raise national debate about the benefits of joining that Convention and pave the ground for its acceptance by all religious communities in the society, through the organization of seminars, workshops and radio and television programmes. In cooperation with the representative in Khartoum of the United Nations High Commissioner for Human Rights, the Advisory Council for Human Rights organized in December 2004 a workshop on that subject to which lecturers with various global experiences were invited. It was attended by a considerable number of officials and representatives of the civil society.

156. Despite the granting to women of constitutional and legal rights, women in Sudan continue to suffer from some harmful practices, particularly female circumcision which is widespread in the entire region of the Horn of Africa and some West African States for historical and traditional reasons. Given the grave bodily and psychological damage resulting from it, the State and women's organizations are making formidable efforts to eradicate it. It is now constantly diminishing. In addition to its being legally forbidden in Sudan, the national campaign against it is essentially based on spreading education and awareness about its bad effects.

157. In 2004, the Government of the Sudan, through its Sudanese Medical Council, issued a decision preventing physicians in Sudan from practising circumcisions. It also financed many awareness-raising campaigns to warn against its harmful effects.

158. On the religious side, the Islamic Religious Verdict Council gave a religious opinion banning the Pharaonic circumcision, which represents the worst form of female circumcision.

159. The State has made strenuous efforts regarding the protection of women. It has established the Unit of Combating Violence Against Women and Children, at the Ministry of Justice, pursuant to the Council of Ministers' Decision No. 537 of 1 November 2005. In consultation with the United Nations Mission in Sudan, a State Plan to Combat Violence Against Women was elaborated and its implementation began in December 2005. The Plan seeks to raise awareness of women's rights and the means to protect those rights, in addition to enactment by the State of the necessary legislation designed to facilitate and streamline measures relating to the protection of women.

160. State commissions to reduce violence against women were also established in all the states of Darfur, comprising in their membership official state organs, including the governor, police and health authorities, civil society organizations, a representative of the United Nations Mission in Sudan and a representative of the Forces of the African Union. These commissions have already started their work with considerable success.

Article 4

161. Following the promulgation of the present Constitution of Sudan in 2005, Sudan has entered a new phase in the march of its government, based on political pluralism, the rule of law and guaranteeing human rights and fundamental freedoms even during periods of extraordinary circumstances that require the imposition of the state of emergency.

162. Part XIV (arts. 210-213) of the Constitution regulates the declaration of the state of emergency, whereby the President of the Republic, with the consent of the First Vice-President, may, upon the occurrence or imminence of any danger, whether it is war, invasion, blockade, natural disaster or epidemics, as may threaten the country, or any part thereof or the safety or economy of the same, declare the state of emergency in the country, or in any part thereof, in accordance with the Constitution and the law.

163. To provide adequate guarantees for the exercise of the prerogative to declare a state of emergency, the Constitution requires that the declaration of a state of emergency should be submitted to the National Legislature within 15 days of the issuance of the declaration. When the National Legislature is not in session, an extraordinary meeting should be convoked. When the National Legislature approves the declaration of a state of emergency, there should continue the effect of any laws, exceptional orders or measures that may have been issued or taken by the President of the Republic pursuant to the state of emergency.

164. Under article 212 of the Constitution, the President of the Republic, with the consent of the First Vice-President, may during the state of emergency take, through a law or an exceptional order, the following measures:

- (i) To dissolve or suspend any of the State organs or suspend such powers, as may be conferred upon the states under the Constitution and to assume himself, with the consent of the First Vice-President, the functions of such organs and exercise the powers or prescribe the manner in which the affairs of the state or states concerned may be managed;
- (ii) To issue any such measures as deemed necessary to address the state of emergency, which would have the force of law;
- (iii) To suspend part, or all, of the rights provided for in Part Two (the Bill of Rights) of the Constitution. However, there should not be infringement on the right to life, freedom from slavery, torture, the right of non-discrimination on the basis of race, sex or religious creed, the right to litigation or the right to fair trial.

165. Article 212 of the Constitution provides that the duration of the measures relating to the state of emergency expires in the following cases:

- (a) Lapse of 30 days as from the date of issuance of the declaration if the National Legislature does not approve, by a resolution, the extension of its duration;
- (b) Lapse of the duration approved by the National Legislature; and
- (c) Issuance of a declaration by the President of the Republic with the consent of the First Vice-President lifting the state of emergency.

166. It follows from above that the present Constitution grants the President of the Republic, with the consent of the First Vice-President, the right to take measures derogating from Sudan's obligations under the International Covenant on Civil and Political Rights while putting in place adequate guarantees preventing those measures from being incompatible with Sudan's other obligations under international law, and ensuring that they would not imply discrimination based

only on race, colour, gender or language. The Constitution requires that those measures be as limited as possible. Thus, the Constitution is consistent with the requirements of article 4 (1) of the Covenant. It also provides for exceptions from those emergency measures, i.e. no infringement on the right to life, sanctity from slavery, sanctity from torture, the right of non-discrimination on the basis of race, sex, religious creed, the right to litigation or the right to fair trial.

167. Practical experience, including during the lifetime of the Constitution of the Republic of the Sudan for 1998, has shown that at the time when the state of emergency was in effect, including before the preparation of the present report, requirements spelt out in paragraph 165 above were fulfilled. When the President of the Republic declared the state of emergency throughout the country pursuant to a constitutional decree issued on 11 December 1999, against the background of an escalating conflict between him and the head of the legislative authority and the intensification of the war waged by forces of rebellion, supported by foreign circles, he so acted out of his constitutional responsibility to safeguard the security of the country in the face of domestic and foreign threats, on the basis of articles 43 and 131 of the Constitution of 1998. The Decree limited the duration of the state of emergency to three months.

168. On 11 December 1999, the President of the Republic, basing himself on the republican decree declaring the state of emergency and pursuant to article 131 of the Constitution, issued another republican decree suspending only articles 56, 57, 59 and 60 (2) and (3) of the Constitution of 1998. Those articles are not related to Part Two of the Constitution, dealing with rights and freedoms. Consequently, the declaration of the state of emergency did not affect public freedoms and rights.

169. At the time of declaration of the state of emergency, the National Assembly (Parliament) did not exist: it was dissolved for having fulfilled its term under article 72 of the Constitution. Therefore, it was not possible to submit the declaration of the state of emergency to it pursuant to article 131 (2) of the Constitution of 1998.

170. Upon the expiry of the three-month period fixed in the declaration of the state of emergency, the President of the Republic, in the absence of Parliament and basing himself on the provisions of articles 43 (d) and 31 (1) of the Constitution, issued a constitutional decree extending the state of emergency till 31 December 2000.

171. By 31 December 2000, the President of the Republic, basing himself on articles 43 (d) and 31 (1) of the Constitution, issued another constitutional decree (No. 97) extending till 31 December 2001 the declared state of emergency applicable throughout Sudan, together with the accompanying measures taken pursuant to it.

172. Before the expiration of the validity of the state of emergency, referred to in paragraph 79 above, general elections were held for the purpose of electing a new President of the Republic and a new National Assembly (Parliament). The elections were characterized by fairness, impartiality and equal opportunity. They were observed by international, regional and local organizations and resulted in the re-election of the current president of the Republic by the majority of votes and the election of a new National Assembly (Parliament).

173. The Presidential Decree No. 97 of 2000, as mentioned in paragraph 79 above, was submitted to the National Assembly (Parliament) at its first session, in accordance with article 133 of the Constitution. The Assembly issued on 6 June 2001 its decision approving the extension for one year, with effect from the date of the Presidential Decree, of the validity of the state of emergency throughout the country and the accompanying measures taken pursuant to it.

174. In view of the continuation of war in the south, at the time, the threats of armed pillage in the states of Darfur and Kordofan, the threat to oil reserves that are indispensable for economic development, in addition to serious global changes imposed by exceptional circumstances requiring caution and circumspection, the National Assembly (Parliament) renewed, during its second session held in December 2001, the prorogation of the emergency state for one year, starting from 1 January on the understanding that it would be lifted as soon as reasons justifying it were no longer valid.

175. In fulfilment of its commitments, in accordance with paragraph 3 of article 4 of the Covenant, Sudan informed the States parties to the Covenant, of the imposition of the state of emergency, via a letter dated 17 August 2001, sent by its Permanent Representative in New York, to the Secretary-General of the United Nations informing him that measures taken under the Declaration of the State of Emergency, are not contrary to Sudan's commitment under the Covenant and would not imply any discrimination on any ground such as ethnic origin, colour, sex or language.

176. The state of emergency was lifted immediately after the signature of the Comprehensive Peace Treaty on a decision taken by the President in July 2005, throughout the Sudan except in three states in the Darfur Region and in eastern Sudan due to instability and hostilities in those regions.

Article 5

177. Sudan is one of the first countries to incorporate in its Constitution and other legislation, the rights and freedoms enshrined in the International Covenant on Civil and Political Rights. Thus the constitutional system in Sudan recognizes that there is no provision in that Covenant that may be interpreted as implying any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized therein or at their limitation to a greater extent than is provided in it.

178. Sudan does not accept, either, to impose any restriction or derogation from any of the human rights recognized or existing in it pursuant to law or regulations on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent. In witness thereof article 27 (4) of its Constitution provides that "legislation regulates rights and freedoms embodied in this document and does not confiscate or diminish them".

179. Guarantees by the Constitutional System in Sudan include the establishment of an independent Constitutional Court whose mandate is to protect sacred rights, freedoms. The system gives each injured individual, who has exhausted all his executive and administrative remedies, the right to appeal to the Constitutional Court to seek protection of his sacred freedoms and rights, even in cases when those rights, freedoms and sanctities had been violated by the

upper echelons of the Executive Authority, whether by the President of the State or by the First Vice-President. The Court may, then, exercise its prerogatives in order to repeal any law or ordinance that infringes the Constitution and requite and redress the person who makes the appeal and compensate him.

Article 6

180. The Constitution stresses the inalienable right of each individual to life, dignity and personal safety. It protects such a right and no one shall be arbitrarily deprived of his life (article 28 of the Constitution).

181. Lawmakers in Sudan, as in many countries of the world, see no reason for abolishing the death penalty; however this sentence is imposed for the most serious crimes that might jeopardize the security of society, such as first-degree murder, drug dealing and high treason. For these reasons article 33 (2) of the Constitution provides that the death penalty may not be imposed except as chastisement or punishment for the most serious crimes in accordance with law.

182. In order to limit the number of cases where the death penalty is imposed, article 33 (2) of the Constitution provides that the death sentence shall not be imposed for crimes committed by persons less than 18 years of age, or on those above the age of 70 except when they have committed crimes of *hudud* or *qisas*.

183. Article 33 (2) of the Constitution prohibits the execution of capital punishment on pregnant or lactating women, except two years after giving birth.

184. Article 34 of the Constitution provides that no one shall be incriminated or punished for any act except in accordance with the provisions of a previous law that incriminates or punishes such an act. Article 4 of the Penal Code of 1999 (annex 5) provides that the Penal Code shall not be applied retroactively. The law does not breach the provisions of this Covenant or the Convention on the Prevention and Punishment of the Crime of Genocide.

185. The Government of the Sudan is totally aware that no text in article 6 of this Covenant allows Sudan, being a party to this Covenant, to shirk its responsibility to abide by the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide, when taking the lives of people is deemed a crime of genocide.

186. Lawmakers have subjected the procedure of rendering the death sentence to strict controls in order to scrupulously guarantee the administration of justice. The death penalty may be appealed against before higher courts. The sentence must be submitted to the High Court for confirmation. The President of the State then shall corroborate it. He may, if he refuses to confirm it, replace it with another kind of punishment permissible by law (article 91 of the Penal Code of 1999). Annex 2 includes statistics on cases where the death sentence was commuted.

187. The condemned has the right to appeal to the President for clemency, in accordance with article 211 of the Penal Code of 1999.

188. The death penalty may not be carried out in case of homicide if the next of kin of the victim accept to forgive the perpetrator in exchange of blood money or without it.

189. Articles 33 (2) and (3) of the Constitution do not allow the carrying out of the death penalty for certain groups of people. For instance it states that the death penalty shall not be carried out on individuals less than 18 years of age or on pregnant or lactating women except two years after giving birth. The death penalty may not be imposed on persons above the age of 70 except in crimes of *qisas* or *hudud*.

190. As the Sudanese people are inherently peaceful, in general, crimes of murder are very rare and cases of the execution of the death penalty are less than in other societies. Annex 2 contains statistics on death sentences issued against those found guilty of capital crime and on confirmations of those sentences and executions during 1980-1999, as well as statistics on executions carried out during 1981, 1982, 2002 and 2003. It should be noted that there were only 52 executions carried out in 2005, none of them on women.

191. Among factors negatively affecting guarantee of the right to life is the continuation of the civil war in the south of the country. For this reason, the Government has made systematic and continuous efforts to achieve peace and put an end to hostilities. War has, indeed, been stopped and a comprehensive peace treaty has been signed with the Sudan People's Liberation Movement in Nairobi, in January 2005, however war is still going on with the rebels in Western Sudan (the states of Darfur). The Government has ceaselessly made strenuous efforts to achieve peace and put an end to the bloodbath as we shall see in detail in another chapter.

192. In case of extralegal killings, the Government exerts itself in order to prevent and combat such acts by chastising the perpetrators.

Article 7

193. Lawmakers in Sudan have always been concerned with the question of torture and inhuman or degrading treatment. Article 33 of the Constitution stipulates that no one shall be subjected to torture, cruel, inhuman or degrading treatment.

194. The Criminal Code, 1991 (annex 15), asserts that all detainees in custody pending enquiries, shall be treated in a way that preserves their dignity and protects them from physical and mental maltreatment. It enjoins providing them with appropriate medical care (art. 83).

195. The 1992 Act on Prison Regulation and Treatment of Prisoners (annex 16), stipulates that those who are waiting for trial shall be segregated from convicted persons. They shall be treated in accordance with their status as people not yet convicted. They, consequently, shall be allowed to wear their own clothes, and to obtain through their families the food they like to eat, and are allowed to meet with their lawyers and other visitors in social and professional centres in penal institutions. They shall be kept, pending investigations, in places specially prepared for them where they are segregated from convicted persons (articles 9 and 4 of the Criminal Code, 1991 (annex 5)).

196. The 1996 Regulations for the Treatment of Detainees in Custody of the Internal Security Organ contain detailed provisions to ensure dignified and humanitarian treatment of detainees. They provide for a prohibition of moral or physical maltreatment.

197. The Juvenile Welfare Act of 1983 (annex 17) and the Criminal Code, 1991, stipulates that delinquent minors are to be accorded special treatment conducive to their reformation and social rehabilitation. They are placed in reformatories.

198. The Criminal Code, 1991, punishes any official who contravenes the law and abuses any individual (art. 89); it also punishes all acts of abuse of power when bringing any person to justice or when remanding him into custody (art. 90). The same article punishes any person who inflicts torture on a prisoner, with up to three years' imprisonment in addition to the payment of a fine and payment of damages. The amended Act on National Security, 2001 (annex 6), in article 47, punishes those who inflict torture with up to 10 years' imprisonment.

199. The 1994 Law on Evidence (annex 18), bans the acceptance of evidence collected through torture (art. 9 (a)).

200. As mild corporal punishment of schoolchildren is one of the socially accepted practices in many countries, including Sudan, with the aim of reforming children and inciting them to mend their ways, educators have always sought to impose strict controls on it. Consequently, the 1992 School Regulations governing basic education prohibit flogging, in general, and allows it only in extreme circumstances. Only four mild lashes may be given, and only boys may receive such treatment out of sight of the rest of schoolchildren and after discussing the matter with the school head, and taking into consideration the boy's health status. The Regulations also ban collective punishment, humiliation, caning, kicking, slapping the face and hitting the head.

201. The 174 Law on Regulation of Asylum (annex 19) totally prohibits turning back refugees and sending them back to a country or countries where they might be subjected to torture. The Law considers international conventions ratified by Sudan in the area of asylum part of Sudanese legislation (art. 7).

202. Prohibition of torture is total and shall not be suspended even when a state of emergency is declared. Studies are under way with the intention of ratifying the Convention against Torture (CAT). It is noteworthy that Sudan had signed that Convention since 1986. Serious discussions are being held in symposia and workshops to refer the Convention to civil society and the legal community in the country.

203. Sudan has never throughout its history carried out scientific experiments on human beings.

Article 8

204. Sudan's legislation, including the Constitution, bans slavery and deems it a crime. Article 30 (1), of the Constitution prohibits slavery and all forms of trafficking in persons as well as forced labour.

205. Sudan has also ratified the 1926 Slavery Convention and acceded to the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery.

206. Hard labour is not enforced as a punishment as is the case in other countries. Moreover, the accused who awaits trial is not exploited in any kind of work (article 33 of the Penal Code and article 23 of Prisons and Treatment of Prisoners Act).
207. Although Sudan does not face any kind of racial discrimination, it has, by way of codifying the International Convention on the Elimination of All Forms of Discrimination, adopted by the General Assembly of the United Nations, and entered into force on 4 January 1966 to which Sudan acceded. The 1991 Penal Code defines the crime of advocating racial ideas and punishes the culprits with up to two years' imprisonment or with paying a fine or both (article 64 of the Criminal Code).
208. The Constitution stipulates that prohibition of slavery is absolute and shall not be suspended even in emergencies (article 211 (a) of the Constitution).
209. The Penal Code, 1991 (annex 5) prohibits the perpetration of crimes similar to slavery such as allurement (161), abduction (162), forced labour (163), unlawful custody (164), unlawful detention (165) and imposes heavy punishment on perpetrators in the form of imprisonment or fine or both. The Penal Code imposes a heavier punishment when unlawful detentions occur with the intention of squeezing a confession out of a detainee or coerce him into payment of money or doing illegal things that put his life into jeopardy. The punishment is imprisonment for a period of up to three years accompanied or not by paying a fine.
210. The State strives to combat tribal customs that resemble slavery or forced labour, and which are a result of the war in the south. It has established a Committee for the Elimination of Abduction of Women and Children (CEAWC) on 15 May 1999 by decision of the Ministry of Justice. The Committee was granted an extensive authority to enable it to carry out its tasks. The State organs have provided it with the necessary guidance and financed its work.
211. The Committee's purview extends to the state of Southern Darfur, West Kordofan, North and Western Bahr Al Ghazal, which are regions torn by war and a fertile soil for the spread of these phenomena.
212. The Committee for the Elimination of Abduction of Women and Children, whether single handed or in cooperation with the international community represented by the European Union, UNICEF, Save The Children Fund in Britain and Sweden, and other national organizations, has succeeded in returning abducted individuals to their families whether in government-controlled areas or areas controlled by the rebellion movement, well before the signing of The Comprehensive Peace Treaty.
213. One thousand four hundred and ninety-seven cases out of 3,580 documented cases in 1999-2004 have been consolidated, with funds provided by foreign organizations. Three thousand and fifty-four cases out of 10,937 documented cases have been consolidated with national funds in the period from March 2004 to September 2005.
214. CEAWC is now involved in documenting and consolidating the remaining cases and is intent on closing the dossier using the remaining government funds.

Article 9

215. Lawmakers in Sudan recognize that the right of man to be free and personally secure is one of the fundamental essential human rights, and that violation of those rights entails the violation of other rights. Article 30 of the Constitution stipulates that: “Everyone is free and shall not be arrested, detained or imprisoned; and shall not be deprived of his freedom; his freedom shall not be restricted except in accordance with the law which shall prescribe the charge.” Under this constitutional provision, every person in Sudan is free and is not to be arrested, detained or imprisoned except in accordance with the law.

216. Sudan’s legislation provides for the adoption of certain principles and guarantees related to freedom in recognition of the provisions of article 9 of the International Covenant on Civil and Political Rights, as follows:

(a) Anyone who is arrested shall be informed without delay of the reasons of his arrest as well as of the charges brought against him (article 34 (2) of the Constitution);

(b) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge (article 34 (5) of the Constitution);

(c) Anyone arrested shall be informed of the charges brought against him (article 34 (2) of the Constitution).

217. The Penal Code, 1991, includes a battery of guarantees related to arrest and treatment of detainees (arts. 132-137). They complement the rights and guarantees stipulated in article 9 of the International Covenant on Civil and Political Rights. They also represent, in their entirety, what is called the principle of legality. This implies the assumption of innocence, non-retroactivity of penal laws, due process of law, right to bail, right to be assisted by a barrister or lawyer, right to appeal, the convocation of character witnesses, the right to challenge prosecuting witnesses, the right to be assisted with an interpreter, public hearings, etc.

218. Lawmakers were not content with providing for these rights. They had also taken certain measures including imposing strict controls on cases of detention. Detentions are restricted in number and are resorted to only when necessary and for periods of time required by investigation and the imperatives of due process of law (articles 79-82 of the Penal Code 1991).

219. After the promulgation of the previous Constitution, the National Security Act of 1999 was issued. That Act was replaced by the law on National Security Forces (Amended) of 2001 in harmony with the provisions of article 30 of the Constitution that was in force at the time.

220. As is known, there is a dialectic relation between the concepts of freedom and security. Certain regimes look for establishing security at the expense of freedom, whereas other regimes strive to expand the boundaries of freedom at the expense of security. However the National Security Law (Amended) of 2001 represents a middle course between the two concepts as it seeks to strike a balance between consolidating freedoms and safeguarding security.

221. One of the main amendments to that law is subjecting the prerogatives of the “Security Organs” in arresting and detaining individuals to judiciary controls. The law stipulates that the Constitutional Court may appoint a judge to whom the detainee may resort to appeal against

detention. The judge may issue the appropriate writs after enquiring into reasons of the detention. The law also has defined the maximum period of detention or arrest. Any member of the Security Organ appointed by the Director to investigate has the authority to arrest any person for not more than three days for investigation and interrogation reasons with a statement of accusation. If the three days are not sufficient for interrogating the detainee, the law grants the director of the Organ the authority to extend the period of detention for up to 30 days. The law also gives the Director the right, in accordance with the imperatives of National Security, to renew the detention for a period of time that shall not exceed another 30 days if the detainee is accused of a crime against the State and if there is proof and evidence for that accusation. In such a case the competent Public Prosecutor, who must be the head of a legal department appointed by the Minister of Justice, shall be informed of this. The law gives the National Security Council the right to extend the detention for a period of time not exceeding two months if the Director of the Organ refers to it any case for which it deems it necessary, for reasons of national security, to extend the detention. However the detainee shall be immediately set free after the expiry of two months.

222. The treatment of individuals in precautionary detention at the quarters of the Security Organ is governed by the National Security Forces Act (Amended) of 2001 and by the 1996 Regulations governing the treatment of detainees with the Internal Security Organ. Detainees are allowed to contact their families and others and to meet their visitors. The above-mentioned regulations allow the detainee to inform or contact his family or the entity he belongs to if this does not affect the course of investigations. The Regulations allow the detainee to file a complaint with the Director of the Organ at any time against the treatment meted out to him or the reasons for his staying at the detention centre or against non-respect of detention procedures. The competent officer must acknowledge receipt of the complaint and has to refer it immediately and without delay to the head of the Organ (art. 9). The detainee has the right to lodge a complaint directly with the competent judge who shall initiate the appropriate action to do him justice (art. 5).

223. In case this right is violated by official organs, the Penal Code (annex 5) provides for chastising those responsible for any illegal detention or arrest (arts. 89, 90, 164 and 165). The National Security Act also stipulates to punish anyone who abuses power including detaining people illegally, with up to 10 years' imprisonment (art. 47).

224. The Constitution guarantees to each wronged individual whose constitutional rights have been violated to take proceedings before the Constitutional Court, which has the right to do justice to the plaintiff and compensate him for damages (article 122 of the Constitution).

225. In addition to the Penal Procedures Law, the 1984 Civil Transactions Law (annex 4) guarantees just compensation for any unjustified damage incurred by the wronged individual, this includes damage caused by general staff (articles 162-163 of the Act).

226. There is evidence that the members of the Security Organs may stand trial and be severely punished in accordance with law; we can mention, here, the case of Lieutenant Tayeb Muhammad Abdel Rahim who stood trial and was convicted by the Penal Court in Bahri Shark in 1998 under article 130 of the Penal Code 1991. He was sentenced to death by that Court and the death sentence was confirmed by the High Court. He was executed at the Kawbar prison. The Security Organs not only stood trial, but legal proceedings were brought against them for

compensation, in a legal precedent (*Muhammad Hassan Abdel Aziz v. the Government of the Sudan Internal Security Organ*). The plaintiff was awarded 15 million Sudanese pounds in damages.

Article 10

227. Legal application of article 10 of the Covenant is enshrined in numerous laws and regulations including the 1997 rules regulating work in prisons and treatment of prisoners (annex 16). The rules treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person. The same applies to the National Security Act (Amended) of 2001, the rules governing treatment of detainees with the Internal Security Organ, 1992 and the law on regulation of prisons and treatment of prisoners. All these laws include detailed provisions that guarantee such treatment.

228. In accordance with the 1192 Law on Regulation of Prisons and Treatment of Prisoners, persons awaiting trial shall be segregated from convicted persons and shall be accorded treatment appropriate to their status as unconvicted persons. They, for example, are allowed to wear their own clothes and to obtain the kind of food they like to eat at their own expense; they also have the right to meet with their families, visitors and lawyers.

229. We can safely say that the controls and rules enshrined in legislation on Sudanese prisons are entirely compatible with those provided for treatment of prisoners all over the world.

230. Delinquent children are treated in accordance with the 1983 Child Welfare Act and the 1991 Penal Code with the aim of reforming and rehabilitating them in reformatories and social centres made for this purpose.

Article 11

231. All contractual obligations in Sudan are governed by the Civil Transactions Act of 1984 and any disputes arising from contractual obligations are settled in accordance with the Civil Procedures Act of 1983. Under article 244 (d) of this Act, no person may be imprisoned for failure to meet a contractual obligation.

Article 12

232. The Constitution guarantees the right of every citizen or alien to freedom of movement and the liberty to choose his/her residence in the country, and the right to leave the country and return thereto, as regulated by law (article 42 of the Constitution).

233. Article 43 (1) of the Constitution ensures the freedom of movement and the choice of the place of residence without any restrictions except for reasons of public health and safety as regulated by the law.

234. The Passports and Immigration Act of 1994 (annex 20) guarantees the right of every person who has legal residence in Sudan freedom of movement and choice of any residence in the country, as well as the right to leave the country any time of his/her choosing (arts. 10, 12 and 14).

235. Restrictions on the freedom of movement are not different from restrictions internationally recognized and considered necessary for the protection of security, public order, health and morality and national economy (article 20 of the Passports and Immigration Act of 1994). These restrictions are consistent with other rights recognized by the Covenant.
236. Every Sudanese has the right to leave Sudan and return thereto. Several political opposition elements have left the country on an exit visa, although the Government was aware of the possibility that they would engage in hostile activities abroad. Those opposition leaders include members of the opposing National Grouping who travelled to attend their meetings in Asmara and Mussawa and other places. Political opposition elements also return daily without being subject to any legal prosecution and without having any restrictions imposed on their departure once again; a case in point is Mr. Al-Sadeq Al-Mahdi, President of Umma party, and leaders of his party, and the return of Mr. Ahmed Al-Merghani, former Head of State, and others. They all move freely, whether they stay in the country or want to leave.
237. In Sudan there is no system to record movements of citizens within the country and the Sudanese legal system does not contain provisions for deporting Sudanese out of their country.
238. Women under 55 who want to travel to join their husbands abroad should prove the residence of the husband with documents issued by the Sudanese consulate in the relevant country. Other women who participate in scientific conferences or training seminars are exempt from such conditions. Recently, the President issued a decree disbanding the Committee on Travel of Women.
239. There are no lists of persons who are restricted from travelling for political reasons; every person may travel unless prohibited from leaving the country on legal grounds. On 18 August 2003 the Presidential Decree No. 251 of 2003 was issued to abolish all lists of names of people prohibited from travelling except for those prohibited by judicial order or by the Public Prosecutor's Office, in accordance with the law.
240. The Constitution bans state authorities to take any measures or enact any legislation that may impede interstate travel of persons, interstate commerce or the flow of goods and services between the states and prohibits levies or fees on interstate trade (paragraph 206 of the Constitution).

Article 13

241. There are no restrictions in Sudan on the entry of aliens, except for the requirement of a visa as internationally recognized. After entry into Sudan there are no restrictions of any sort, except for the requirement to obtain a resident's permit if the stay exceeds one month.
242. There are large numbers of foreigners who live in Sudan, mostly refugees. Sudan is one of the first countries to have signed the Geneva Convention on Asylum of 1951 and its Protocol of 1967. Sudan has also signed the African Agreement on Refugees.
243. To fulfil its obligations Sudan incorporated the above-mentioned instruments in a national law, Act Organizing Asylum of 1974 (annex 19), which is considered a comprehensive and flexible law organizing all matters related to asylum in Sudan.

244. The Sudanese Government continued to broaden the definition of a refugee, so that many refugees may be accepted for purely humanitarian reasons, such as in cases of famines and natural disasters. Consequently, Sudan is now burdened by more than 1 million refugees, mostly from Ethiopia, Eritrea, Chad and the Congo, who came to the Sudan in the 1960s and have remained since then, sharing livelihood with the Sudanese people in spite of the dearth of resources and the scarcity of international support. This policy has been consistently followed by Sudan until some dangerous situations evolved, most important of which are the conflicts in Darfur states which arose from the entry of those refugees who came with members of their families and with their traditions, diseases and weapons, causing what is known today as the Darfur crisis.

245. Sudan created its own commission for refugees to act as a formal channel for cooperation with the Office of the United Nations High Commissioner for Refugees in Geneva. The Sudanese Commission implements government policies that encourage voluntary repatriation. Sudan has adhered to its international and regional obligations towards refugees coming from some neighbouring countries, even at times when its territories were facing a direct military aggression from these same countries. As a result, both environment and development in Sudan suffered greatly.

246. Refugees, as foreign nationals, enjoy so many rights which are discussed in detail in the context of our discussion of the right to equality in this report.

247. Under the Act Organizing Asylum of 1974 and the Passports and Immigration Act of 1994, an alien living legally in Sudan may not be deported except by a legal decision.

248. The Sudanese legal system ensures that all persons in Sudan, including aliens, may have recourse to executive and administrative authorities, and a special court has been set up for the protection of their family interests. They also have schools run in accordance with their educational systems. They may also make a presentation to the Constitutional Court to protect their freedoms and rights guaranteed by the Constitution (article 35 of the Constitution).

249. With the cordial and tolerant nature of the Sudanese people, the country never experienced any xenophobic tendencies, and there had never been any mass deportation of any alien group except in accordance with international law, when for the first time in the history of Sudan the non-continuity clause was applied under a declaration by the High Commissioner for Refugees in 2003.

250. To apply this clause to Ethiopian refugees in accordance with international standards, committees were formed to interview the refugees and examine their situation on a case-by-case basis. Members of these committees received quality training by the Office of the High Commissioner for Refugees. Each case was thoroughly examined and recommendations were submitted to the High Commissioner with all supporting evidence and documents for final decision.

Article 14

251. For information on the judiciary system in Sudan, see paragraphs 64-67 and 92-94 of this report.

252. The Constitution guarantees the right to litigation for all persons (art. 35), and article 31 provides for equality among all persons before the law.

253. The Constitution entrusts the overall management of the national judiciary to an independent body which adjudicates disputes and takes its decisions in accordance with the Constitution and the law. This body is completely independent from both executive and legislative bodies and is effectively run by the National Judicial Service Commission (article 129 (1) of the Constitution) which is chaired by the Chief Justice (article 129 (2) of the Constitution). In implementation of this constitutional provision, the law of the National Judicial Service Commission of 2005 was enacted to give the Commission an independent budget approved by a decree of the President of the Republic at a recommendation from the Commission itself.

254. Judges are appointed, with due regard to competence, integrity and credibility, by a presidential decree upon a recommendation from the Commission (for the number and gender breakdown as of October 2004, see annex 20A). Terms of service, discipline and immunities of justices and judges are determined by law (article 130 (1) and (2) of the Constitution) and are disciplined by the Chief Justice and may only be removed by order of the President upon a recommendation of the Chief Justice and with the approval of the National Judicial Service Commission (article 131 of the Constitution).

255. In principle, all trials held under the Sudanese legal system, whether criminal or civil, are to be open and may be attended by the public and the media unless the court decides that the nature of the procedures requires their exclusion (article 68 of the Civil Procedures Act 1983 and article 133 of the Criminal Procedures Act 1991).

256. Under the Sudanese legal system, all judgements rendered in civil and criminal cases are handed in public except where the nature of the case requires otherwise (article 166 of the Criminal Procedures Act and article 102 of the Civil Procedures Act of 1983).

257. The current Sudanese Constitution adopts the principle of the presumption of innocence until guilt is proved legally (article 34 (1)), and article 4 (c) of the Criminal Procedures Act 1991 provides that a defendant is innocent until proved guilty.

258. The law provides that the accused has the right to be informed promptly of the reason for his arrest and the nature of the charge against him (article 69 of the Criminal Procedures Act 1991) so that such information is recorded in writing in the arrest writ.

259. The Constitution guarantees the right of every person to defend himself in person or through legal assistance of his choice, and when he cannot afford legal fees in serious offences, the State provides legal assistance (article 34 (6) of the Constitution). This is further reaffirmed in the Criminal Procedures Act 1991 which emphasizes the right of the defendant to defend himself or to be defended by a counsel, and makes it obligatory on the State as represented by

the Prosecutor General, to appoint a counsel at the expense of the State to defend any person who is accused of a crime whose penalty exceeds 10 years of imprisonment or is subject to capital punishment or amputation (article 135 of the Criminal Procedures Act of 1991). The Advocacy Law 1983 (annex 21) stipulates in article 31 that legal assistance is to be rendered in cases of insolvency or inability to pay fees.

260. In implementation of the law a department for legal aid was set up within the Ministry of Justice to extend legal assistance free of charge in both criminal cases and civil law suits. In 2003 assistance was extended by the Legal Aid Department in the Ministry of Justice in 431 criminal cases, 31 civil law suits, 19 sharia suits, 17 constitutional cases and 3 administrative appeals. In 2004 assistance was extended in 232 criminal cases, 53 civil law suits, 12 sharia suits and 21 constitutional cases.

261. Article 34 (3) of the Constitution ensures the right to fair and prompt trial while article 4 (c) of the Legal Procedures Act 1991 stipulates the right of the accused to fair and prompt investigation and trial.

262. The Criminal Procedures Act 1991 provides for the right of each party to a criminal case to examine witnesses of the other party either in person or through a counsel (art. 155), and this same right is guaranteed by article 91 of the Civil Procedures Act 1983 for parties to a law suit. On the matter of calling witnesses, the law provides for the right of the accused person to call his witnesses for defence under the same conditions applied for calling witnesses for the prosecution (article 153 of the Criminal Procedures Act). In civil law suits, article 91 of the Civil Procedures Act 1983 provides for the same right.

263. The Criminal Procedures Act 1991 guarantees the right of the accused person to be provided, free of charge, with a translator if he does not understand or speak the language used in the court or if he has a physical handicap that makes him unable to follow the procedure or the evidence; the court pays the cost of such an interpreter (art. 137).

264. The Criminal Procedures Act 1991 guarantees the right of the accused person not to be compelled to submit evidence against himself (art. 4 (d)).

265. In the Sudanese legal system, criminal procedures related to minors, as contained in the Penal Code and the Juvenile Protection Act, are to be applied in a manner that is appropriate for their age and conducive to their reform, re-education and rehabilitation. The Child Welfare Act of 1994 contains special provisions suitable for children. (See paragraph 331 of this report.)

266. According to the Criminal Procedures Act 1991, a person convicted of a crime has the right to appeal to a higher court against the conviction or the penalty. Articles 179 to 188 of this Act regulate procedures for review and appeal. Thus a convicted person may appeal to the Appeals Court and may later have recourse to the higher court. He may also appeal to the Constitutional Court against the law or in order to protect his constitutional rights that may be affected by the sentence. The extent to which this right has been exercised is evidenced by statistics on the proceedings of the Constitutional Court (annex 20B).

267. The table below shows the rate of cleared cases at the highest courts during 2004.

Rate of cleared cases during 2004

Specification	Year	2004		
	Percentage of cleared cases	Pending cases	Cleared cases	Circulating cases
Criminal cases	95	196	3 461	3 657
Civil cases	86	659	406	4 725
Family affairs cases	89	151	1 165	1 316
Total	90	1 006	8 692	9 698

Source: The Secretariat General of the Higher Judiciary Council, Department of Judicial Statistics and Research.

268. The Sudanese legal system ensures that no person may be tried again for an offence for which he has already been finally convicted or acquitted by a competent court (article 132 of the Criminal Procedures Act 1991).

269. The table below reflects the practical application in civil law suits which cover commercial cases and civil cases, including disputes over real estate. Figures in the following table indicate the level of application of this right during 2004.

Civil law suits during 2004

Specification	2004			
	Percentage of cleared cases	Pending cases	Cleared cases	Circulating cases
State				
Khartoum	88	4 685	33 784	38 479
El Gezira	98	85	4 261	4 346
White Nile	97	56	2 042	2 098
Sinnar	100	-	603	603
Blue Nile	100	-	375	375
Northern	98	67	2 840	2 907
Nahr Elnil	92	270	3 141	3 411
Red Sea	90	148	1 366	1 514
Kassala	97	29	1 109	1 138
El Gadarif	100	-	707	707
N. Kordofan	95	82	1 515	1 597
S. Kordofan	89	108	860	968
W. Kordofan	95	63	1 154	1 217
N. Darfur	88	94	712	806
S. Darfur	97	38	1 485	1 523
W. Darfur	95	17	302	319
Southern States	97	75	2 325	2 400
Total	91	5 882	58 581	64 408

Source: The Secretariat General of the Higher Judiciary Council, Department of Judicial Statistics and Research.

270. The number of criminal cases and the number of cases cleared during 2004 reflect the extent to which this right has been applied as shown by figures in the following table.

Criminal cases during 2004

Specification State	2004			
	Percentage of cleared cases	Pending cases	Cleared cases	Circulating cases
Khartoum	99.7	352	104 927	105 279
El Gezira	99.9	16	34 147	34 157
White Nile	99.6	42	11 909	11 951
Sinnar	99.9	3	11 419	11 422
Blue Nile	100	-	2 572	2 572
Northern	99.9	3	7 958	7 961
Nahr Elnil	98	160	9 427	9 587
Red Sea	99.9	4	9 535	9 539
Kassala	99.8	16	8 024	8 040
El Gadarif	99.7	26	9 611	9 610
N. Kordofan	99.6	34	8 916	8 950
S. Kordofan	96.6	116	3 317	3 427
W. Kordofan	99.4	28	5 495	5 523
N. Darfur	96.3	105	2 800	2 905
S. Darfur	99	37	9 778	9 815
W. Darfur	98.5	21	1 427	1 442
Southern States	98.7	61	4 925	4 986
Total	99.6	1 024	246 172	247 196

Source: The Secretariat General of the Higher Judiciary Council, Department of Judicial Statistics and Research.

271. Cases related to family affairs during 2004 are indicated in the following table.

Cases related to family affairs during 2004

Specification State	2004			
	Percentage of cleared cases %	Pending cases	Cleared cases	Circulating cases
Khartoum	99.5	170	35 941	36 111
El Gezira	99.9	6	9 520	9 526
White Nile	99.5	23	4 621	4 644
Sinnar	100	-	2 440	2 440
Blue Nile	100	-	993	993
Northern	99	28	2 690	2 718
Nahr Elnil	96.6	125	3 553	36 678
Red Sea	98	41	2 046	2 087
Kassala	99.8	6	3 682	3 688
El Gadarif	99.9	2	3 118	3 120
N. Kordofan	99.4	29	4 773	4 802
S. Kordofan	97	81	2 980	3 061
W. Kordofan	99.2	32	3 952	3 984
N. Darfur	96.1	110	2 694	2 804
S. Darfur	99.5	33	6 997	7 030
W. Darfur	98	54	2 432	2 486
Southern States	96	23	544	567
Total	99	763	92 976	126 737

Source: The Secretariat General of the Higher Judiciary Council, Department of Judicial Statistics and Research.

Article 15

272. Article 34 (4) of the Constitution provides that no person is to be held guilty of a criminal offence on account of any act or omission which did not constitute a criminal and punishable offence under a law that has been in existence prior to this Act. The Criminal Procedures Act 1991 stipulates that no person is to be held guilty or to be punished for an act unless an existing law incriminates and punishes this act. This is one of the fundamental principles which are to be observed in the application of the Criminal Procedures Act 1991 (art. 4).

273. It has been a practice in Sudan not to impose a heavier penalty than the penalty in force at the time of the commission of the offence. Thus article 4 (2) of the Criminal Code of 1991 provides that when a final judgement has not been passed, the provisions of the law that is more favourable to the accused are to be applied. Article 4 (3) of the Code also states that the failure to implement a *hudud* punishment before the law on *hudud* went into force would obviate the application of the penalty.

274. Sudan recognizes that nothing in this article would prejudice the trial and punishment of any person for an act that constitutes a crime at the time of commission under principles of public international law.

Article 16

275. The legal personality in civil transactions is acquired in Sudan under article 18 of the Civil Transactions Code 1984. The personality of the individual begins at the time of conception on condition that the person is born alive, and this personality ends with death. Articles 22-24 of the Code regulates civil responsibility whereas criminal responsibility is regulated by articles 8-18 of the Criminal Code.

Article 17

276. Article 37 of the Constitution guards the privacy of the individual in all matters, such as family, home and correspondence may not be violated save with a judicial warrant or in accordance with the law. The law also provides for the freedom and secrecy of communications and correspondence and prohibits their interception except with legal provisions.

277. The Penal Code of 1991 considers the violation of privacy as a crime, punishable by prison or fine or both under article 166.

278. Article 34 of the Telecommunications Code 2001 prohibits tapping conversations except with a judicial warrant or an order of the Prosecutor General.

279. The Constitution guarantees the protection of the inviolability of communications and privacy, and any person who claims that his communications and privacy have been violated may submit a complaint to the executive and administrative authorities. After exhausting this course, he has the right to make a presentation to the Constitutional Court to protect his privacy and the Court may then exercise its authority and order restitution or compensation (article 122 (d) of the Constitution).

Article 18

280. Sudan is a multiracial, multicultural and multireligious country in which Muslims constitute the majority of the population while Christianity and traditional religions have a large following. This fact has been confirmed in the first article of the Constitution that stipulates that “the Republic of the Sudan is a sovereign, democratic, decentralized, multicultural, multiracial, multi-ethnic, multireligious and multilingual State”.

281. The Constitution provides in clear terms for the right of every person to the freedom of creed and worship which entails the right to manifest his religion or creed by way of worship, education or practice or performance of rites or ceremonies. No one shall be coerced to adopt such faith as he does not believe in, nor to practice rites or services to which he does not voluntarily consent, subject to requirements of law and public order (art. 38).

282. Prior to the Interim Constitution of 2005, this right was confirmed in the Fourteenth Constitutional Decree (Implementation of the Peace Agreement 1997), which prohibits in article 3 of Chapter 2 the promulgation of any legislation which violates fundamental rights including the freedom of belief.

283. Although the percentage of Muslims in Southern Sudan is higher than the percentage of Christians, the lawmakers deemed, to ensure religious freedom, that the 10 Southern States should be exempt from the application of criminal laws derived from Islamic sharia (article 5 (3) of the Criminal Code). The Constitution also took this point into consideration in article 5 (2) which reads: “Nationally enacted legislation applicable to Southern Sudan and/or states of Southern Sudan shall have as its source of legislation popular consensus, the values and the customs of the people of the Sudan, including their traditions and religious beliefs, having regard to the Sudan’s diversity.”

284. The Constitution did not require belief in any given religion as a requirement to hold high-level posts in the State, including the Presidency of the Republic (see article 54 (1) of the Constitution).

285. According to article 7 (1) of the Constitution, citizenship - not religion, ethnic origin or colour - is the basis for equal rights and duties for all Sudanese. In evidence, identity cards of citizens does not show the religion of the holder of the card.

286. Non-Muslims enjoy full rights to educate their children in their own culture. Article 6 of the Constitution establishes the right of any community or group of citizens to maintain their own culture, language, or religion and to rear their children in accordance with their particular identity, and this identity may not be obliterated by coercion. In Sudan there are 88 television stations and 17 radio stations that contribute to the development of local cultures and languages.

287. Religious tolerance in Sudan is a fact, an evidence of which is the presence of churches and social and educational institutions owned by more than 10 Christian denominations. Annex 7 contains statistics collected by the Department of Churches in the Ministry of Social Planning, showing the number of churches in various states of Sudan, their types, their assets and their educational, service and social institutions.

Article 19

288. The Constitution pays special attention to the freedom of expression as one of the fundamental freedoms closely related to freedom of creed and is a feature of a modern democratic State. Thus article 39 (1) ensures the right of every citizen to the freedom of expression, reception of information, publication, and access to the press without prejudice to public order, safety and morals.

289. Since absolute freedom may turn into anarchy, the Constitution, in conformity with article 19, paragraph 2 of the Covenant, restricted the exercise of the freedom of expression by requiring that this freedom be exercised in accordance with the law, without prejudice to public order, safety and morals (article 39 (1), (2) and (3) of the Constitution).

290. An important relevant legislation that regulates the freedom of expression is the Journalism and Press Publications Act of 2004 (annex 22). This Act regulates journalistic practices and provides for extensive freedom of expression and receiving information. The court assigns supervision of newspapers to a council independent of the executive authority (article 5 (1) of the Act), which issues licences to newspapers and examines complaints of alleged damage caused by newspaper articles (article 9 of the Code).

291. One salient feature of the Journalism and Press Publications Act is that two thirds of the members of the National Council are elected and any decision is taken either unanimously or with a majority of members present and voting (art. 17 (3)), and the Government has no authority to administratively stop the publication of any newspapers or withdraw its licence. This is an exclusive power of both the Council and the judiciary (arts. 36 and 37). Just like an ordinary person, the Government can only complain to the Council if it is offended by any news item. Article 28 (d) of the Act provides immunity to journalists from being arrested on any charge related to the exercise of their journalistic work, as well as the right to protect his own sources; it also protects journalists from dismissal except after informing the General Federation of Journalists and exhausting mediation procedures (art. 28).

292. The Journalism and Press Publications Act of 2004 seeks in essence to establish, as a substitute to government intervention in the publication of news, self-supervision by journalists through their own council, whose members include professional journalists. Under this Act, the Council is the only organ that examines and supervises press activity, and any person who suffers any damage as a result of the decisions of the Council may present his case to the courts (art. 38).

293. The law prohibits exposing any journalist to an illegal act that may influence his fairness, integrity or commitment to his duties. The law further safeguards the right of a journalist to protect his sources of information and ensures that journalists may not be arrested without prior notification to the General Federation of Journalists. Article 28 of the Act makes it obligatory on public organs to provide journalists with all information, except for confidential or classified information. While protecting journalists, the Act requires journalists to observe truth, integrity and commitment to the values of professional behaviour, and not to publish any secret information that relates to national security.

294. In confirmation of the principle of equality in the use of mass media, the General Elections Act of 1998 stipulates that the Electoral Commission has the duty to present all candidates fairly to the electorate and in public and mass media (article 5 (f) of the Act).

295. An examination of Sudanese press at present will not miss the huge number of press publications and the wide margin of freedom that allows the press to severely criticize Government policy and measures on many points. This freedom is confirmed by leaders of opposition political parties and reports of international organizations active in the field of human rights. It is also noteworthy that Internet cafés have become so prevalent in Sudan and their numbers grow sharply. The State has also abolished customs on computers, and computer shops spread throughout the country.

296. Today, there are 18 political daily newspapers, 5 social dailies, and 8 sports dailies, in addition to many specialized journals in various fields such as health, law, the arts and others.

297. The following table reflects the variety of newspapers and magazines in Sudan during 2004.

Table 6
Number of newspapers and other publications for the year 2004

Specification					
Newspapers:	-	-	-	14	14
Political					
Social	-	-	3	2	5
Sports	-	-	-	8	8
Total	-	-	3	24	27
Publications:	-	-	-	-	-
Economic					
Cultural	3	2	-	-	5
Scientific	1	2	-	-	3
General	3	4	1	-	8
Religious	-	-	-	-	-
Total	7	8	1	-	16

Source: The National Council for Press and Publications.

298. There are also eight Internet service providers (ISPs) which provide free access to the Internet and work in the state of Khartoum and other states. The Telecommunications Code of 2001 (annex 23) allows direct access to Internet through satellite, and this has become the preferred means of access for a large number of commercial companies and business entities.

299. Sudanese law does not prohibit the installation of private radio or television broadcasting stations. Today there are three private radio stations and one private television station. Furthermore, each state of Sudan has its own local broadcasting service.

Article 20

300. Article 17 of the Constitution defines the objectives of Sudanese foreign policy and the duty of the State to direct its foreign policy to “non-interference in the affairs of other States, promotion of good-neighbourliness and neutral cooperation with all neighbours and maintaining just and honourable relations with other countries”. In this spirit, the Constitution requires that a declaration of war shall be made by the President, with the consent of the First Vice-President; such a declaration shall be legally enforceable upon approval by the national legislature (art. 213).

301. The Penal Code of 1991 punishes, by imprisonment or fine or both, any person who incites hatred, denigration or hostility on grounds of ethnic origin, colour or language, as an act that endangers public peace.

302. The State endeavours to improve its relations with all its neighbours in spite of the invasion that has taken place, as well as with other militant tribes and political parties.

Article 21

303. The Constitution establishes the right to peaceful assembly in article 40 (1) and this right is regulated by the law.

304. Various laws elaborate the exercise of the right to peaceful assembly which is established in the Constitution in general terms. The law prohibits an assembly if it constitutes a threat to national security or public safety or public order or public health or morals or infringes the rights and freedoms of others. This restriction conforms to the restrictions contained in article 21 of the Covenant (articles 124-128 of the Criminal Procedures Act). These provisions go back to the time of British colonialism.

Article 22

305. The Constitution ensures the right of citizens to establish trade unions and professional, social and economic associations, stating that the law shall regulate the exercise of this right (article 40 (1) of the Constitution).

306. According to the Trade Union Code of 2001 (annex 24), workers have the right to establish trade unions and to join them in order to defend their rights and interests and raise their cultural, economic and social standards. These unions may join any regional or international federation (article 9 of the Code). Article 16 of the Code prohibits any action to deprive a worker from joining an appropriate union, and restricts procedures for dismissal from the union, while ensuring that such dismissal may be appealed before the general assembly (art. 22). Article 28 provides that supervision of trade union elections shall be undertaken by neutral legal committees. Statistics published by the registry of trade unions show that Sudan has 22 general trade unions, 300 syndical committees and 1,500 syndical subcommittees.

307. Voluntary organizations and societies may be freely formed and may be registered by following simplified procedures under the Act Regulating Humanitarian Voluntary Action of 2006 (annex 25) and its by-laws.

308. The Act Regulating Humanitarian Voluntary Action of 2006 (annex 25) notably forbids all registered organizations to practice any discrimination on grounds of colour, race, origin, religion or belief in the course of their activities, and grants voluntary organizations and civil society entities some privileges such as exemption from taxes and customs.

309. The Constitution provides for the right of citizens to form political organizations without any restrictions except democracy and *shura* (consultation) in the leadership of the organization (art. 40 (1)), in order to ensure rational democratic practices.

310. To regulate the exercise of the right to political association, the Law on Political Organizations and Parties of 2001 (annex 26) was enacted, according to which 100 citizens or more, who are qualified to vote under that law, may form a political organization or party and apply for its registration in accordance with the Law (art. 5).

311. The Law provides for the right of each citizen to belong to any political party or organization and to join more than one such entity, but excludes from this right professionally neutral (non-partisan) categories such as judges, legal advisers and regular armed forces.

312. The Law requires each political organization or party to have statutes that conform to the Constitution and the law and which contain rules that govern its organizational activities and administrative and financial matters and political principles and objectives that pertain to the organization or the party (article 7 of the Law).

313. Article 8 of the Law assigns the task of registration of political organizations and parties to a registrar appointed by the President of the Republic, with due regard to competence and experience.

314. Article 11 of the Law elaborates procedures for the registration of political organizations and parties by the Registrar. Article 28 assigns the task of supervising elections of syndical organizations to neutral legal committees. Statistics established by the Public Registrar of Trade Unions show that there are in Sudan 22 unions, 300 syndical committees and 1,500 subcommittees.

315. Article 40 (3) specifies the following conditions for members of political parties to work on State or federal levels, and these conditions emanate only from the general duties of any citizen towards the State:

- (a) That membership be open to all Sudanese irrespective of religion, ethnic origin, sex or place of birth;
- (b) That the party has a programme that conforms to the Constitution;
- (c) That the party has a democratically elected leadership and institutions; and
- (d) That the party has disclosed and transparent sources of funding.

316. Article 15 of the Law excludes persons who have been convicted of certain crimes from holding leadership posts in political organizations and parties for a period of seven years as of the date of the conviction, unless they have been covered by an amnesty decree.

317. To ensure legal and reasonable practice, the Law obligates every organization or party to publish an annual report indicating any amendments to its status, names of its leaders and its income and expenditure. A copy of this report is deposited with the registrar.

318. To ensure freedom of organizations and to expand political participation, the Law does not require registration as a precondition to engage in political activity: any political organization or party that has not been registered yet can still engage in political activity in Sudan after a written notification to the Registrar. The political organization or party, however, can only compete in elections after registration. To date, Sudan has 23 registered political parties and 46 political parties that have notified the Registrar that they have started their political activity. All these parties conduct their activities in full freedom and without any restrictions.

319. It is noteworthy that the State has contributed much to the implementation of the Law; it has thus allowed even those parties that are not registered and that have not notified the Registrar of their formation to carry out their political activity in full freedom. A few examples include the Umma party, led by Mr Al-Sadeq Al-Mehdi, former Prime Minister, and the Communist party, as well as other parties and organizations.

320. Under the comprehensive peace agreement signed in January 2005 and the Interim Constitution of 2005, political life in Sudan underwent a great measure of liberalization and the ruling party (the National Party) adopted a policy of participation in the administration of the State and in political life, and there has been an increase in the number of active political parties, both registered and notified.

Article 23

321. The family is the microcosmic unit of the society, and its welfare and protection are a solid safeguard of a strong and healthy society. The Constitution therefore makes it a duty of the State to foster the family institution, to facilitate marriage and to foster policies in respect of offspring and child education, to care for pregnant women and children, to liberate women from injustice in all walks of life, and to promote the role of women in family and public life.

322. These principles have been codified and specified in article 15 (1) of the Constitution which stipulates that the family is the natural and fundamental group unit of society and is entitled to the protection of law, and recognizes the right of men and women to marry and to found a family according to their respective family laws. It establishes that free and full consent of the intending spouses shall be a condition for any marriage.

323. Furthermore, Sudanese laws recognize the right of men and women of marriageable age to enter into marriage and to found a family. Marriage is thus encouraged by the Personal Status Code for Muslims, but the right of a person to marry is restricted by reaching age 18 and by the requirement of explicit consent.

324. The Personal Status Code for Muslims of 1991 regulates all matters related to the family from the moment of its formation, during marriage and at its dissolution, as well as the consequences of such dissolution. The Personal Status Code for non-Muslims of 1901 and a collection of social and tribal customs in some regions of Sudan regulate these matters for non-Muslims.

325. Under the Personal Status Code for Muslims of 1991 (annex 3), no woman shall be coerced into marriage without her consent (art. 34 (1)); and the same text appears in the Personal Status Code for non-Muslims.

326. The Personal Status Code for Muslims ensures the equality of both spouses in duties and obligations at marriage, during marriage and at its dissolution, with due regard to the appropriate rights and duties of each.

Article 24

327. Article 32 (5) of the Constitution stipulates that the State shall protect the rights of a child as provided for in the international and regional conventions ratified by Sudan: these include the Convention on the Rights of the Child of 1998 and the African Convention on the Rights of the Child.

328. Sudan was one of the first countries to accede to the Convention on the Rights of the Child of 1998. The Convention was ratified by law on 24 July 1999 and has thus become an integral part of national legislation, in accordance with article 27 (3) of the Constitution. In 2005 Sudan ratified the Convention on the Sale of Children, Child Prostitution and Child Pornography.

329. Paragraph 15 of the Interim Constitution of 2005 makes it a duty on the State to protect and safeguard the family and to care for children and mothers.

330. In Part Two the Constitution guarantees the rights of the child to enjoy fundamental freedoms and rights contained therein, such as the right to life, freedom, citizenship, movement, religion, thought and expression, etc.

331. The Constitution prohibits discrimination on grounds of race, gender, religion or economic status. This means that the same rights are also guaranteed for children without any discrimination.

332. Recently a Child Welfare Act was promulgated in 2004 to extend far-reaching legal protection to children. Article 70 of the Act provides for the creation of a special section in the office of the public prosecutor for children in each state, with the task of supervising investigations related to children by prosecutors who have experience in child affairs. Article 71 of the Act further creates a special court for children in each state that is composed of a first instance court judge and two members who have experience in child affairs. The Act also establishes special procedures that apply to children in respect of trials, defence and penalties. The law prohibits the application of capital punishment on any child (articles 73, 74, 67 and 84 of the Child Welfare Act). (See also paragraphs 152 and 155-159 of this report.)

333. In addition to domestic laws, the State also endeavoured to protect children through international law by concluding bilateral agreements with some countries to combat the exploitation of children in dangerous work, especially in horse (and camel) races. Thus, agreements were concluded with Qatar and the United Arab Emirates in 2006 to eliminate the use of children in such races, to apply more stringent criteria for issuing entry or residence visas for unaccompanied children and to ensure that relatives of the child are present at the time an entry or exit visa is issued for the child.

334. Another aspect of the care given by the State to children is the constitutional provision in article 13 (1) (b) on free and compulsory education in the primary stage which begins at age 6.

335. Registration of births is obligatory under the Civil Register Code of 2001 which requires in article 28 (1) that any birth be registered within 15 days of the date of birth. This registration is completed free of charge at hospitals and health centres.

336. Article 7 (2) of the Constitution stipulates that “every person born to a Sudanese mother or father shall have an inalienable right to enjoy Sudanese nationality and citizenship”. Thus the Constitution establishes Sudanese nationality to a child through either father or mother, while the Sudanese Nationality Act of 1994 (annex 11) regulates in article 7 the acquisition of Sudanese nationality upon residence in Sudan for five years.

Article 25

337. Article 34 (1) of the Constitution guarantees the equality of all citizens and eligibility to public office without discrimination.

338. In article 23 (f) the Constitution specifies that participation in general elections and referendums provided for in the Constitution is one of the obligations of citizens.

339. Article 41 (2) of the Constitution ensures the right of every Sudanese to stand for elections and be elected for political and legislative office if he meets the requirements specified in the Constitution and the law. The General Elections Act of 1998 (annex 27) is now in force, covering the elections for public posts including the President of the Republic, state governors and members of representative bodies (articles 37 and 68 of the Constitution). These requirements relate to citizenship, age and soundness of mind, and do not constitute a discrimination on grounds of race, gender or financial means. The last presidential elections were held in 2000 in which 8,153,273 voters participated.

340. Under the Public Service Act of 1995 (annex 13) selection for public posts is done on the basis of objective and established criteria and through fair and equitable competition. The same conditions apply to promotion to higher posts (articles 18 and 35 of the Act). Both practice and procedures for appointments in government posts in the state of Khartoum are a case in point (annex 29A).

341. For the protection of employees in public service, article 139 (1) of the Constitution provides for the creation of a National Employees’ Justice Chamber to consider and determine the grievances by national public service employees, without prejudice to their right to resort to courts. The Chamber is established by law and its members are selected on the basis of competence, experience, fairness and neutrality.

342. In Sudan no one is politically isolated or deprived of civil rights because of a political position or insolvency.

Article 26

343. The Constitution guarantees the principle of equality before the law for all persons living in Sudan, whether nationals or non-nationals, without any discrimination on grounds of race, gender, ethnic origin, language or religion (art. 31); and it further specifies that the right to litigate shall be guaranteed for all persons and no one shall be denied the right to sue (art. 35).

344. A living evidence that confirms the principle of equality before the law is the constitutional obligation on all State organs to submit to the law (art. 27) and to implement judicial decisions (art. 123 (5)).

Article 27

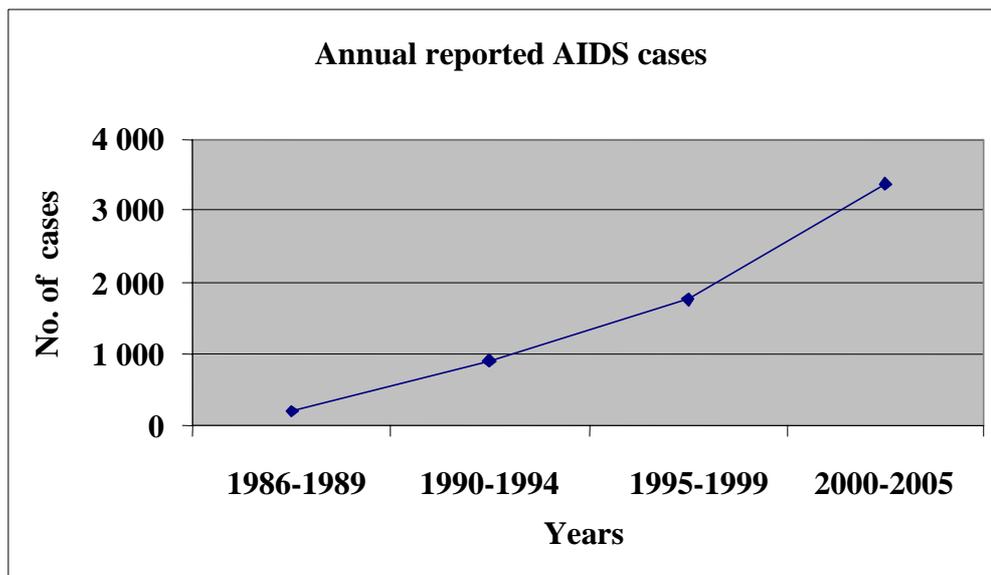
345. Sudan is a multi-ethnic, multicultural and multireligious country where Islam is the religion of the majority of the population and Christianity and traditional beliefs have a large following. Arabic and English are the official languages in the national Government and higher education. The Government encourages the development of other local and foreign languages. Every person in Sudan has the right to the freedom of conscience and religion as well as the right to manifest, spread and observe the rights of his religion or faith. Any community or group has the right to preserve its own culture, language or religion (articles 6, 38 and 39 of the Constitution).

346. In application of these principles, each state in Sudan now has its own broadcasting service and television station and both can use the most common language in the state. There is also a large number of permanent and provisional Christian religious schools. For example, in Khartoum there are six Christian schools which provide education for all stages, from preschool (kindergarten) up to secondary schooling. There is also a sizeable number of provisional Christian schools (annex 7) both at refugee camps or in slum (squatter) areas. Places of worship are available in full freedom, and Christian employees of the Government begin their workday three hours late every Sunday. All religious holidays of all communities are recognized as official holidays under article 6 (h) of the Constitution.

V. EFFORTS OF THE STATE TO COMBAT HIV/AIDS

347. Sudan is the country with the largest area in Africa and has a demographic multiplicity of many races, languages and cultures. This fact, coupled with civil wars and wars with neighbouring countries, subsequent waves of displacement and migration, economic weakness and deterioration of services, including health services, have all made Sudan vulnerable to diseases and epidemics.

348. One of the dangerous epidemics that reached Sudan is HIV; the first case was recorded in 1986, after which the number of affected persons began to rise gradually to reach 250 recorded cases in 1997, then 511 cases in 1998 and 652 cases in 2000. Recorded cases leapt to 4,004 in 2001. The following diagram illustrates the evolution of the number of patients up to 2005.



349. When the first case of AIDS appeared in Sudan the Federal Ministry of Health initiated action to counter the disease. It formulated a National Programme to Combat AIDS, to work out and coordinate short-term and long-term plans of action to combat AIDS.

350. The initial Programme to Combat AIDS was established in 1989 but its implementation faced many obstacles. A substitute programme was worked out after awareness and commitment were created among the higher echelons of government and in the society as a whole. The new programme was approved by the Vice-President in June 2005. A high point in this programme was reached in January 2006 when Sudan hosted the 4th meeting of the Organization of African First Ladies to Combat AIDS.

351. An Executive Council of AIDS was established in 2001 under the Federal Minister of Health and with members from representatives of relevant ministries, some non-governmental and voluntary organizations and some religious personalities. The council seeks to strengthen the role of political and governmental forces in combating AIDS and assisting patients. For example, the State supplied the council with the amount of US\$ 768,300 to carry out its work in 2004.

352. In keeping with its commitment to protect human rights and in view of the suffering of AIDS patients, the State drafted a law to protect the human rights of AIDS patients. The most salient points in this draft is the right of AIDS patients and their relatives to receive full health and social care from the State, and their right to education, employment and social services without any discrimination because of their disease, and finally the right not to be separated from others in the workplace or in the society at large.

353. On the popular level, many voluntary and non-governmental organizations contributed to the efforts to combat AIDS and provide health care to patients and their relatives, and to public awareness campaigns among carriers and patients and among various sections of the society.

Within the framework of these efforts, the Sudan AIDS Network was formed in 1996 by seven international non-governmental organizations and two Sudanese organizations. The network received financial assistance from the United Nations which helped greatly to institutionalize the work of the Network.

354. In 2004, the Sudanese Foundation for the Welfare and Support of Patients was formed of executive members of the Government in addition to volunteers and advisers. The Foundation endeavours to mobilize political and financial support for the patients and to raise awareness of the incidence and prevention of AIDS, and of the treatment of patients. The Foundation carried out a number of activities in the capital city and in the states and opened 12 local offices in various states of the country.

355. In 2005, in cooperation with five non-governmental organizations, OKENDEN International, ACCORD, SFPA, SRCS and SCC, the State implemented a number of activities that relate to consultations and tests on AIDS. This work had a major influence on studies and on collection and analysis of information, as well as raising the awareness of executive organs, citizens and refugees on matters of AIDS.

356. Since religion is one of the most important factors that influence people, especially in Sudan, religious personalities were mobilized to deal with AIDS. Thus the Religious Consultative Council on AIDS was created in 2004 with members representing the Ministry of National Guidance and the Islamic University, in addition to some religious personalities. The Council organized a workshop for religious preachers to educate them on AIDS and prepare them to spread awareness in mosques and churches.

357. The Ministry of Education has also adopted a school course on AIDS that begins at primary schools and ends in secondary schools. The Ministry of Higher Education also carried out some activities in the universities to spread information on the incidence and prevention of AIDS as well as the treatment of patients.

358. The Ministry of the Interior launched a campaign among prison inmates for behavioural awareness. A similar effort was undertaken by the Ministry of Defence which organized a number of workshops for officers and soldiers to raise their awareness of AIDS and provided opportunities for treatment at the central military hospital.

359. The private sector also contributed to the efforts to combat and deal with AIDS by elaborating policies in two directions: to combat or stem the spread of AIDS and to deal with patients in the workplace within existing working conditions and internal regulations. The private sector also financed government activities in this area.

360. On the whole, AIDS is being dealt with on the basis of the constitutional right of citizens to health as formulated in article 46 of the Constitution: “the State shall promote public health, establish, rehabilitate, develop basic medical and diagnostic institutions, provide free primary health care and emergency services for all citizens”. The State also ensures that any AIDS patient shall enjoy all other rights and fulfil the duties of nationality as an ordinary citizen, but with the exception of the fact that he may be a factor in spreading AIDS.

361. Following are some of the features of public programmes implemented by the State in this respect:

- Public awareness campaigns on the nature and transmission of AIDS directed to all categories of citizens including displaced persons and refugees, men, women and children of all ages;
- Involvement of all sections of the State and the society, including public and private sectors, intergovernmental and non-governmental organizations, civil society entities and educational institutions at all levels;
- Definition of the legal status of AIDS patients and the enjoyment of their rights fully, in addition to providing both necessary medical care to the patients and information to their relatives;
- Collaboration with international and regional communities in matters of financing, studies and treatment.

362. The State has faced several financial difficulties in implementing its programmes in this respect, especially on the matter of providing medication to the patients and financing the public awareness campaign. The State is trying hard to overcome these difficulties, by allocating funds in the budget of the Federal Ministry of Health and in local budgets at the state level, as well as the involvement of all sections of the society. The following table shows the levels of funding in 2004 and 2005.

	Obligations (US \$)		Expenditure (US \$)		Amounts actually used	
	2004	2005	2004	2005	2004	2005
Government	368 300	400 000	368 300	400 000	368 300	400 000
Non-governmental organizations	432 059	708 508	406 259	695 145	835 777	921 305
National organizations	6 064	105 065	6 064	105 065	106 719	113 697
Others	150 000	459 176	94 000	194 000	118 000	186 826
United Nations agencies	836 977	2 283 067	398 721	1 689 376	641 721	1 594 065
GF R3		3 540 136		1 784 858		1 784 858
Total	1 793 400	7 495 952	1 273 344	4 868 444	2 070 517	5 000 751

363. After the implementation of measures described in paragraphs 359 and 360 above, the outcome of work in the area of public awareness campaigns was as follows:

	2004	2005	Total
Workshops and activities through the media	471	804	1 275
Activities of health education on AIDS	37 092	72 207	109 299
