

amnesty international

Sudan

14/8-03

Empty promises?

Human rights violations in government-controlled areas

Summary

AI Index: AFR 54/036/2003

The Machakos Protocol, signed on 20 July 2002 by the government of Sudan and the Sudan People's Liberation Movement / Army, the main armed opposition group in the south of the country, and promising a future peace agreement, gave a new hope to the people of Sudan. Today, peace negotiations are continuing under the auspices of the Inter-Governmental Authority on Development (IGAD, a regional grouping of Eastern African governments) and international mediators - in particular the United States, the United Kingdom and Norway - in order to find an end to a civil war in the southern Sudan which has lasted much of the past 45 years since Sudan's independence.

This Amnesty International report is primarily about human rights violations by government security forces and the administration of justice in the areas under the control of the government of Sudan. It also looks at human rights violations in the context of the emerging conflict in the Darfur region, western Sudan. At present the Darfur region, as well as questions of justice and human rights are not being addressed adequately in the discussions at the peace negotiations and civil society both in north and south are not participating in these talks. However, the almost 45-years old conflict in the Sudan has been about questions of justice and discrimination. Unless such issues which affect all areas of Sudan are addressed comprehensively in peace talks, Amnesty International fears that the seeds of conflict will remain in the country.

In January 2003, Amnesty International delegates were allowed to visit Sudan for the first time in 13 years to do research on human rights issues. They welcomed the improvements made in terms of human rights promotion in Sudan and expressed their continuing concerns in meetings with many government officials. At the beginning of June, the organization expressed again its concerns in a memorandum to the Sudanese government and asked for its recommendations to be implemented. On 3 July, the Sudanese Government sent Amnesty International copies of four recent judicial decisions. Where relevant these are referred to in this document. However the Sudanese government has not responded to the substantial issues or the cases of individuals highlighted by Amnesty International in the

memorandum. The organization is now publishing this report to highlight the continuing existence of human rights violations in government-controlled areas, despite promises by the Sudanese authorities.

This document details human rights violations in government-controlled areas of Sudan such as incommunicado detention, torture, unfair trials, restrictions on freedoms of expression and assembly, restrictions on women's rights, harassment of human rights defenders and representatives of the civil society in northern Sudan and above all, the impunity enjoyed by the Sudanese security services.

Amnesty International past reports have documented the grave human rights abuses committed in the context of the conflict in southern Sudan, both by government and government-allied forces and SPLA forces. The organization has frequently raised its concerns with both protagonists of the civil war. However grave the human rights abuses committed by the SPLA and other armed opposition groups in Sudan, they cannot justify the breaches by the Sudanese government of the international and regional human rights treaties it is bound to respect. By failing to make accountable for their abuses its armed forces and its security forces, the Sudanese government has shown that these actions are condoned or even encouraged.

Amnesty International calls on the Sudanese government to implement all the recommendations set out in this report and to comply with its obligations under international human rights and humanitarian law. The organization further calls on the mediators in the Sudan peace process to make human rights for all Sudanese a core component of the future of Sudan.

This report summarizes a 44 page document (21,662 words): *Sudan: Empty promises? Human rights violations in government-controlled areas* (AI Index: AFR 54/036/2003) issued by Amnesty International on 16 July. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

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amnesty international

SUDAN

Empty promises? Human rights violations in government-controlled areas



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Sudan:

Empty promises?

Human rights violations in government-controlled areas

1. Introduction

The Machakos Protocol, signed on 20 July 2002 by the government of Sudan and the Sudan People's Liberation Movement / Army (SPLM/A, "Movement" referring to the political wing of the main armed opposition group in the south of the country, "Army" to its military force) and promising a future peace agreement, gave a new hope to the people of Sudan. Today, peace negotiations are continuing under the auspices of the Inter-Governmental Authority on Development (IGAD, a regional grouping of Eastern African governments) and international mediators - in particular the United States, the United Kingdom and Norway - in order to find an end to a civil war in the southern Sudan which has lasted much of the past 45 years since Sudan's independence. Over the past 20 years an estimated two million people have been killed and 4.5 million displaced by the conflict and conflict-induced famines. The vast majority of these have been civilians and southerners.

The Machakos Protocol agreed to the principle of a vote of self-determination for the south after an interim six-year period from the signing of any final agreement. The peace talks between the government of Sudan and the SPLM/A are now focussing on three broad areas of discussion: power-sharing, wealth-sharing and the border areas of Abyei, the Nuba Mountains and Southern Blue Nile where they have also fought.

This Amnesty International report is primarily about human rights violations by government security forces and the administration of justice in the areas under the control of the government of Sudan. At present questions of justice and human rights are not being addressed adequately in the discussions at the peace negotiations and civil society both in north and south are not participating in these talks. But the almost 45-years old conflict in the Sudan has been about questions of justice and discrimination: Sudanese people have been yearning for not just their civil and political rights which are the focus of this report, but also their economic, social and cultural rights, including the rights to adequate housing, to work, to health, to education. Discrimination in Sudan affects southerners and others from the border areas but also people from the north, the west and the east. Discrimination affects mostly the poor and the internally displaced, the majority of whom are women - more than half the adult population of Sudan.

Another war is emerging in Darfur, western Sudan, where an armed opposition group, the Sudan Liberation Army (SLA) was formed in February 2003. This group claims it has

taken up arms because of the underdevelopment and marginalisation and the government's perceived failure to protect people from human rights abuses in the region. The government has responded to the deteriorating situation in Darfur by violating human rights and at the end of March 2003 decided to employ military force to resolve the crisis. Amnesty International fears that unless issues regarding justice and discrimination in all areas of Sudan are addressed comprehensively in peace talks, the seeds of conflict will remain in the country. A durable peace in Sudan will only be achieved if the human rights of all are not only enshrined in law, but also respected in practice.

The military leadership of Sudan remains under Major General Omer Hassan al-Beshir, who seized power by a coup d'état in June 1989 from a government which was apparently moving towards peace talks with the south. In northern Sudan there have been positive changes since the early 1990s when, as one Amnesty International report stated, "Virtually all sectors of Sudanese society in all parts of the country have experienced the persistent and gross violations of human rights" and "political opposition has been forced underground"¹. The number of political detainees seems to have decreased, though they now include supporters of the Popular National Congress of Hassan al-Turabi, formerly considered as the ideological power behind the Beshir government. Torture appears to be less systematic. Some human rights organizations which document Sudanese government human rights violations are allowed to operate. There is more freedom to comment by newspapers since censorship was lifted in December 2001 and many former political opponents forced to seek asylum outside the Sudan have returned, either permanently or on visits.

In addition, the Sudanese Government has made numerous gestures towards human rights promotion. There is a technical mission of the UN High Commissioner for Human Rights in the capital Khartoum. There is a Committee for the Eradication of the Abduction of Women and Children, an Advisory Centre for Human Rights, a Human Rights Committee in the Parliament, and Human Rights Departments in the Ministries of Justice and Foreign Affairs. There have been statements by members of the government about bringing Sudanese laws into conformity with international laws and some members of the National Security forces have participated in trainings on human rights.

Yet, with the important advances in human rights promotion in northern Sudan, and the internationally sponsored agreements on the issue of protection of civilians in most of the south, it is still true to say that "virtually every kind of human rights violation of concern to Amnesty International has been perpetrated by a political and security establishment that behaves as if it is unaccountable"². The scale and the gravity of the human rights violations in northern Sudan may have diminished, but not the continuing existence of human rights violations and the impunity from which the perpetrators have benefited.

The National Security Forces Act allows the security forces to detain scores of Sudanese for political reasons for up to nine months without charge or trial and without the

¹ Amnesty International Annual Report, *Sudan*, 1995

² Amnesty International, *The tears of orphans: no future without human rights*, January 1995 (AI index: AFR 54/02/95)

right to have contact with the outside world. Under the same Act the security forces have immunity for actions, including torture or ill-treatment, they carry out in their professional capacity. Hundreds of Sudanese are sentenced every year to cruel, inhuman or degrading punishment -floggings, limb amputations and the death penalty- in trials which are often summary and grossly unfair. The freedom of expression of journalists is controlled and limited by surveillance, suspension and other sanctions and public meetings may be raided or banned. Demonstrations are often dealt with by excessive use of force, which has resulted in people being killed.

The lack of accountability of the security forces is enshrined in Sudanese law which allows prolonged incommunicado detention and offers them impunity for their actions. Sudanese laws can also allow confessions which may have been extracted under duress to stand in trials.

2. Background: Human Rights Abuses in Armed Conflict and the Peace Process

Since the independence of Sudan in 1957, the country has enjoyed only 11 years of peace; an earlier war in the south, and border areas between north and south, was ended by the Addis Ababa agreement of 1973 which gave the south regional self-government. War broke out again in 1983. A number of moves towards a peace process have taken place and failed: in 1989 under Prime Minister Sadiq al-Mahdi, before Major-General Omar Hassan El-Beshir's coup d'Etat; in 1997 when a declaration of principles was signed but nothing was done to implement it. Talks which continued under various mediators - Nigeria, Libya, Egypt and IGAD - appeared to lead nowhere.

Both sides of the conflict in southern Sudan have committed human rights abuses and violations of international humanitarian law by killing, wounding and torturing civilians, abducting civilians, including women and children, recruiting children into armed forces, attacking villages and destroying property and crops, forcing millions of people to become internally displaced or refugees. The grave human rights abuses carried out by forces of the SPLA and militia allied to it - extrajudicial executions, killings of civilians, rape, abductions, looting and forced displacement - have been documented by Amnesty International. They are not the subject of this report. However grave the violations of international humanitarian law by the SPLA and armed groups allied to it, they can never excuse or be used as justification for breaches by a government of the international and regional human rights treaties it is bound to respect.

The breaches of international humanitarian law which have caused so much suffering are the result of a lack of accountability of the security forces. The government army, the Popular Defence Forces -a government paramilitary force- and northern and southern militias supported by the Sudanese government have killed civilians, raped and abducted women, kidnapped and recruited children and destroyed homes and property. By failing to investigate

or bring the suspected perpetrators of such abuses to justice the government has shown that these actions are condoned and even encouraged.

In 2001, the United States increased its involvement in the peace process in the Sudan by appointing former Senator John Danforth as the US Special Envoy for Peace in Sudan. He proposed four tests to the government of Sudan and the SPLA of their commitment to peace, to which both sides agreed to. As a result, an internationally monitored ceasefire in the Nuba Mountains was agreed in January 2002 and since has been renewed at six-monthly intervals. In March 2002 the government and the SPLM signed a commitment, to be monitored by an international team, not to attack civilian and civilian objects. An international commission of experts was set up to investigate slavery in Sudan and released a report with recommendations in May 2002. In addition, both sides agreed to allow humanitarian organizations to carry out medical programs in "zones of tranquillity".

In June 2002, more serious peace talks began under the auspices of IGAD, led by Kenya and international mediators in Machakos, Kenya and on 20 July, the Machakos Protocol was signed. However, the peace process halted when the SPLA captured the town of Torit in Equatoria Province on 1 September, and the government banned humanitarian relief flights to Equatoria. The peace process restarted after the government recaptured Torit in October. On 15 October, both parties signed the "Memorandum of Understanding on the Cessation of Hostilities", a ceasefire agreement. In November, for the first time in 20 years, as one human rights group monitoring the war reported, a month passed with no news of a civilian being killed by either side.

However, in January 2003, the ceasefire broke down due to renewed military activity in the oil provinces of the Upper Nile (or Unity/*Wahda* Province) south of Bentiu. The attacks were carried out by the Sudanese army and southern militias allied to it against towns and villages, particularly those along a road being constructed by the Sudanese government between Bentiu and Adok. These attacks were preceded by forced recruitment of young men in Khartoum in late 2002 and of men and children in Bentiu. The Civilian Protection and Monitoring Team (CPMT), mandated to monitor the agreement not to attack civilians, reported the displacement of people following these attacks, as well as forced recruitment of men and children and the abductions of women for labour and other purposes by government and allied forces.

On 4 February 2003, an Addendum to the ceasefire agreement established the Verification and Monitoring Team (VMT), composed of international monitors and representatives of the Sudanese government and the SPLM/A. Its mandate is to investigate ceasefire violations and troop movements of both parties and monitor the return of civilians displaced since October 2002. It aimed to have permanent presence in different locations of southern Sudan by June. In March 2003, the CPMT was unable to carry out further comprehensive investigations, reportedly because of a lack of cooperation by the government on security issues. In June, it investigated and reported the killings of some 30 civilians and destruction of civilian property by government-allied militia in Eastern Upper Nile and confirmed that in September 2002, SPLA forces abducted 48 civilians and looted their property north of Abyei.

3. International Human Rights and Humanitarian Law Standards

Sudan is a State Party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights. Both these treaties were ratified in 1986. Sudan has also ratified or acceded to: the Convention relating to the Status of Refugees (1974); the International Convention on the Elimination of All Forms of Racial Discrimination (1977); the Convention on the Rights of the Child (1990); and the African Charter on Human and Peoples' Rights (1986). Sudan is a High Contracting Party to the Geneva Conventions of 12 August 1949, which it acceded to in 1957. It is therefore bound to apply the provisions of these treaties.

In addition, Sudan has signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1986); though it has not yet ratified the treaty it is obligated under international law not to take any action which would defeat its object and purpose.

The African Charter on Human and People's Rights, like many of the above outlined treaties, proclaims the entitlement of respect for life and personal integrity, prohibits slavery, torture, cruel, inhuman or degrading punishment or treatment and enshrines the rights to freedom of expression, association and assembly. Article 6 of the Charter states that "no one may be arbitrarily arrested or detained". Article 7 says that "Every individual shall have the right to have his cause heard". This includes the presumption of innocence and "the right to defence, including the right to be defended by counsel of his choice".

These treaties, with other international standards drawn up by the United Nations or the African Union, lay down standards of conduct to which all states parties to them are bound to uphold. They guarantee, among others, the right to life, the right not to be tortured or suffer cruel, inhuman or degrading treatment or punishment, the prohibition of slavery and the right to recognition as a person before the law. These standards may not be derogated from even in "time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed" (ICCPR, Article 4). The African Charter does not allow states parties to derogate from their treaty obligations, even during armed conflict (*Commission Nationale des Droits de l'Homme et des Libertés vs. Chad*, African Comm. Hum. & Peoples' Rights, Comm. No. 74/92).

International humanitarian law, embodied mainly in the four Geneva Conventions of 1949 and the two Additional Protocols of 1977, regulates situations of armed conflict. It does not replace international human rights law, which is applicable in both peace and war, although it permits the suspension of certain rights in times of public emergency. Nevertheless, human rights law is considered to play an important complementary role to international humanitarian law, since it offers additional protection for individual rights. The four Geneva Conventions contain certain minimum guarantees for the treatment of the civilian population, and is applicable to all parties in an internal armed conflict. Its provisions forbid attacks on non-combatants (including soldiers who have laid down arms and those placed *hors de combat* by sickness, wounds or detention); torture and cruel treatment; the

taking of hostages and the passing of sentences and the carrying out of executions except by properly constituted courts affording all the judicial guarantees which are recognized as indispensable by the nations of the world. Common Article 3 is supplemented by the Additional Protocol to the Geneva Conventions relating to the Protection of Victims of International and Non-International Armed Conflicts. Sudan has not ratified these protocols, but many of their provisions have the status of customary laws, having been developed through practices, resolutions *opinio juris* and more flexible interpretations of the current legal framework; and as such remain binding on all states. For example articles of Additional Protocol II include the prohibition on making civilians the object of attack (Article 13); the prohibition on destruction of articles essential to the survival of the civilian population and the use of starvation (Article 14); and the forced displacement of civilians (unless the security of the civilians involved or imperative military reasons so demand) (Article 17).

4. Amnesty International's Work

Until 1989, Amnesty International delegates made a number of visits to Sudan, to carry out research and to raise the organization's concerns about the human rights record of the government. After a visit by the then Amnesty International Secretary General to meet members of the Sudanese government and raise human rights concerns with them, Amnesty International was not allowed to visit Sudan for 13 years. During this time the organization continued to publish reports on Sudan, including *Sudan: The tears of orphans: No future without human rights* (AI Index: AFR 54/02/95, January 1995) and *Sudan: The human price of oil* (AI Index: AFR 54/01/00, May 2000). It also continued to raise concerns with members of the Sudanese government in person, through letters and in public appeals. The organization has also visited areas under the control of the SPLM/A in south Sudan where its delegates have investigated human rights abuses in the context of the armed conflict carried out by the forces of the government of Sudan and by the SPLM/A and by militias allied to both sides. Amnesty International has frequently raised human rights concerns with leaders of the SPLM/A and with leaders of independent or allied militias.

In January 2003 Amnesty International delegates were allowed to visit Sudan and meet victims of human rights violations, human rights activists, and members of political parties, students and other representatives of civil society. They had meetings with many government officials, including the Minister of Justice and the Minister of Information. They also visited El-Fashir in Darfur where they met the Governor (*Wali*) of North Darfur, members of the Judiciary and the Chief of Police. Concerns about the administration of justice, incommunicado detention, restrictions of the rights to freedoms of expression, association and assembly were raised in these meetings, as well as many of the cases presented in this report. Both Ministers stated that they had no control over the actions of the security forces. Despite repeated requests by Amnesty International delegates to meet with the security forces, no such meeting was accorded to them.

The organization also raised issues relating to reports of forced recruitment of men and children into government armed forces in Khartoum and Bentiu, and the difficult

humanitarian situation of internally displaced persons in the capital and called for the conditions of return for the displaced persons to be included in the peace talks.

At the beginning of June 2003, Amnesty International expressed its concerns again in a memorandum to the Sudanese government and asked for its recommendations to be implemented. On 3 July, the Sudanese Government sent Amnesty International copies of four recent judicial decisions³. Where relevant these are referred to in this document. However the Sudanese government has not responded to the substantial issues or the cases of individuals highlighted by Amnesty International in the memorandum.

The organization is now publishing this report to highlight the continuing existence of human rights violations in areas under control of the government, despite commitments and promises by the authorities. Amnesty International urges the Sudanese government to implement all its recommendations. The organisation further calls on the mediators in the peace process to make human rights for all Sudanese a central component of the future of Sudan.

5. Prolonged Incommunicado Detention

The security forces, now called the National Security Agency (NSA), are distinct from the army and police forces. Their mandate seems to be about anything regarded as a threat to the Sudanese Government. The National Security Agency (*al-amn al-watani*) includes internal security (*al-amn al-dakhili*) and external or military security (*al-amn al-khariji* or *al-amn al-askari*), also known as intelligence (the *mukhabarat*). Security officers normally do not wear uniform. Many security officers have positions in government bodies⁴.

The practice of political detention by the security forces shows a pattern of violation of nearly every human rights standard governing arrest and detention. International human rights standards, including the ICCPR and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted unanimously by the UN General Assembly on 9 December 1988, lay down the following guarantees, among others, to all people arrested or detained:

- The right not to be arbitrarily arrested;
- The right to be informed of the reasons for arrest;

³ These are: Decision (3) 2003 of the Minister of Justice, establishing the Prosecuting Bureau for Combating Terrorism, issued on 14 June 2003; Decision (14) 2003, establishing an Investigation Committee on the events of El Jakhees Village, issued on 5 June 2003; Decision (9) 2003 of the Governor of South Darfur State revoking Special Courts in the said State; and Decision of the Chief Justice establishing new Special Criminal Courts, issued on 31 March 2003.

⁴ Amnesty International delegates were told for instance by the governmental Advisory Council on Human Rights (ACHR) that it included security officers as its members.

- The right of access to lawyers, families, doctors, a judicial official, and if the detainee is a foreign natural, to consular staff or a competent international organization;
- The right to have families informed of arrest or place of detention;
- The right to be brought promptly before a judge or other judicial official;
- The right to challenge the lawfulness of detention;
- The right to be treated humanely.

Political detainees in the hands of the security forces include prisoners of conscience, arrested simply for voicing non-violent opinions, and others arbitrarily arrested, sometimes on political grounds. Detainees are frequently not told of any charges against them and may only guess at the reasons for their arrest from the questions during interrogation. Lawyers are almost invariably forbidden access for the whole period of detention by the security forces. Families are generally not informed and, unless they have witnessed or been told of the arrest, may only find out from a visitor or released detainee where their relative is; even when relatives find the place where the detainee is confined, they may not be allowed to see him for several months. While held under the National Security Forces Act, the detainee has no access to a judge and, except in Darfur where there are Special Courts and Specialized Criminal Courts, political detainees are not normally brought to trial. Court challenges against the lawfulness of detention are never successful. Detainees who may have been beaten or otherwise ill-treated immediately after arrest, are sometimes held in isolation for days; others are held in overcrowded rooms where they are almost invariably not allowed books, newspapers or writing materials.

Incommunicado detention means in practice that no one (apart, presumably, from the NSA) knows even the names and number of those arrested on political grounds. Families have visited police stations and detention centres of different offices of the security forces, not knowing where their relatives are kept. Sometimes every detention centre denies holding their relatives, who are then reported "disappeared" until eventually the family is contacted by the security forces, the detainee is allowed to phone, or someone released from detention reports who is being held. Sudanese human rights organizations and political parties can only attempt to make up incomplete lists of political prisoners from the families' reports and the names remembered by released detainees.

The Sudanese Constitution of 1999 declares the freedom of the individual from arbitrary arrest:

"A human being is free. He shall neither be arrested, detained, nor confined, save by such law that shall require stating the charge, the duration of detention, facilitation of release and respect for dignity in treatment". (Article 30).

The 1991 Criminal Procedure Code (CPC) also contains safeguards against arbitrary detention. According to the CPC except in specific circumstances (such as when caught committing a crime), a detainee must be arrested by warrant signed by a prosecutor or judge

giving reasons for the arrest and the detainee must read the warrant (CPC, Articles 69 and 72). If anyone is arrested without warrant (e.g. when caught in the act) the prosecutor or judge must be informed of the arrest within 24 hours, which can only be renewed by a judge, initially for three days, then weekly for two weeks (CPC, Articles 77 and 79). At that point the detainee must be charged or released; even if charged a superior judge must continue to renew detention every two weeks (CPC, Article 79). The attorney general's office (prosecutor's office, *niyaba*) "must make a daily round of all detention rooms, review the arrest record, make sure that all procedures are properly carried out and that those arrested are treated according to the law" (CPC, Article 81). The accused must be treated with dignity, he has the right to see a lawyer, to inform and normally to meet his family, and he may not be removed without authorization and may receive food, clothes and books (CPC, Article 83).

However, the freedom of the human being laid down in the constitution, the safeguards of the Criminal Procedure Code, and the international human rights standards ratified by the Sudanese Government are negated by the National Security Forces Act which allows the security forces to detain anyone incommunicado without charge and without access to a prosecutor or a judge for up to nine months.

Article 31 of the National Security Forces Act of 1999, amended in July 2001, increased the length of incommunicado detention without charge or trial from a maximum of 63 days to a maximum of nine months. The amended Article 31(a) allows the security forces to arrest and to keep a detainee in incommunicado detention initially for three days renewable for 30 days. If it is suspected that the accused has committed crimes against the state, this can be renewed for a further month by the director of the security forces and by a further two months if the national security council agree. Article 31(b) allows the director of the NSA "*in circumstances which lead to panic in society and threaten the peace and security of citizens, namely, armed robbery, or religious or racial discord*" to detain a person for three months, renewable once by the director and a further time with the consent of the council.

Article 32 of the Act states that the detainee should be informed of the reasons for his detention, and should have the right to inform and communicate with his family "*if it does not prejudice the progress of the interrogation*" and should not be hurt "*physically or morally*". It also states that an attorney from the prosecutor's office (*niyaba*) should inspect places of detention (Article 32(5)). However, these safeguards, apart from being limited, are consistently ignored. Article 33(b) of the National Security Forces Act allows almost complete immunity to officers of the national security for any actions: "*No civil or criminal proceedings shall be instituted for any act connected with the official work of the member save upon the approval of the director.*"

Article 31 of the National Security Forces Act has been used to detain many arbitrarily, including students or even children, for reasons which may not be regarded as "*crimes against the state*". The phrase, "*circumstances which lead to panic in society and threaten the peace and security of citizens*", in Article 31(b) is so vague that it could cover many non-violent activities. The detainees currently held in Kober Prison's special wing fall into several groups, not all of them political: members or supporters of opposition political groups or parties, such as the Popular Congress; students held apparently because they are

believed to be leaders of student movements; some accused of embezzling large sums of money or involvement in drugs; human rights defenders and others held purely for expressing non violent opinions; those held apparently not for anything they have personally done but in place of members of their families; and individuals whose reasons for their detention remain obscure. Lawyers representing some of those detained for economic offences who are held without charge or trial at Kober Prison's special section believe they may be held in order to extort money from them or their relatives.

Typically, those arrested by the internal branch of the security forces in the Sudanese capital - the three towns of Khartoum, Khartoum North and Omdurman - are taken to the centre of the security forces near the Farouk Cemetery in the Imarat area of Khartoum for interrogation. They are then transferred to a special security wing in Kober Prison which is separate from other parts of the prison. It is directly administered by the security forces and not by the prison administration and the names of those arrested are not on the Kober Prison list. Kober Prison probably contains most of those detained by the security forces in Khartoum Province, though members of opposition movements are arrested outside Khartoum and held, usually for short periods, in provincial prisons such as Wad Medani or Port Sudan. Detainees are not normally ill-treated but are frequently held in overcrowded and degrading conditions, without mattresses, books, newspapers or writing materials. Contacts with the outside world, if allowed at all for the detainees, are short (typically 15-20 minutes) and security guards listen to the conversation. The guards of the security forces at the political section decide whether to allow or refuse a visit; sometimes families with the right connection can obtain this authorization. Previously leaders of human rights groups have also been detained in Kober Prison.

Since none of those detained has been charged or brought before a magistrate, let alone brought to trial, in relation to any alleged offence, Amnesty International considers that all those held by the national security forces under Article 31 of the National Security Forces Act to have been arbitrarily detained.

5.1. Cases of Detainees

One child who apparently remains arbitrarily detained incommunicado is **Ahmed Makwai**, a Dinka, from Babanusa, aged 16. He was reportedly arrested in Babanusa in August 2002 and brought on 1 September to Rubkona and then to Kober Prison. It is not known why he was arrested, but it may have been in place of his father, said to be a supporter of the Popular Congress. His detention was only confirmed after four months because of the release of students who shared a cell with him. As one said, "He was doing his school certificate when he was arrested, but he was really a child - he loved to play games like five stones in the cell...." The arbitrary detention of Ahmed Makwai breaches fundamental guarantees of human rights and international humanitarian law, including the principle that no one can be punished for an offence he has not personally committed. Moreover, Article 37 of the Convention on the Rights of the Child, ratified by the Sudan, states that "*no child shall be deprived of his or her liberty unlawfully or arbitrarily*", and requires that children should be

treated in a manner which takes into account their age as well as their right – like all detainees – to visits of family and lawyers.

Others apparently arrested in place of members of their families by the National Security forces were three brothers, **Al-Shafi' al-Tayeb Yusuf**, aged 27, a teacher, **Hashem**, aged 23, fourth year student in mathematics, and **Khidder**, aged 20, a student of engineering at Sudan University. The brothers were arrested at around 2am on 29 November 2002 by members of the security forces who searched their family home in the Kalakla suburb of Khartoum looking for their brother **Lenin al-Tayeb Yusuf**, an activist in the Democratic Front (an alliance of communists and other democracy activists). They were taken to a National Security centre in Khartoum, where they were beaten, slapped and kicked from 2am to 4am and then taken to another National Security forces station near the military headquarters. They were transferred around 9pm to the political section of Kober Prison. On 16 December **Khidder al-Tayeb Yusuf** was released without charge and on 15 January 2003 **Hashem al-Tayeb Yusuf** was released. **Al-Shafi' al-Tayeb Yusuf** was released on 5 May 2003, also without charge, 11 days after the arrest of **Lenin al-Tayeb Yusuf** on 24 April 2003. Another student, **al-Sha'rani Mohammad**, from al-Kalakla in Khartoum, was also arrested on 29 November 2002 in order to persuade his brother **al-Shafi' Mohammad**, a third year medical student at Khartoum University, to give himself up.

Salah Mohammad Ibrahim from the Rizeiqat ethnic group in Darfur was arrested on 9 July 2002 in Khartoum. He was held incommunicado and had his first contact with the outside world only after six months on 4 January 2003, when he was allowed to meet a relative – who had visited the prison to request a visit many times before – for about 15 minutes in the presence of security guards. His arrest may have had some connection with his travel to areas of Bahr El-Ghazal under the control of the SRLA. In May 2003, more than nine months after his arrest, he remains in detention without charge or trial.

Many other students, arrested after demonstrations in Khartoum University in October 2002, were released after three months in detention without charge or trial. They had no access to lawyers, families and others during their detention.

The failure to give access to the outside world, or even to inform families of a person's detention, means that some families report the detainee as "disappeared" or fear that he may have been killed. **Nazar Mohammad Hamza**, a student at the Faculty of Education of Khartoum University reportedly disappeared on 2 November 2002 after the riot police attacked the university. His family had no idea where he was, and he was reported as "disappeared" by a number of human rights organizations until a cousin, **Faisal**, was released from detention in December and reported that he had seen him in Kober Prison. He was eventually released without charge in January 2003.

Following further student protests in March 2003 at Bakht Er Ruda University in Ed-Dueim, south of Khartoum and in El-Nilein University in Khartoum, the following students were also arrested by the security forces and are still reportedly detained: **Hassan Ali**, **Mohamed Siddig**, **Mohamed al Mustafa Hashem** and **Omar al-Amin** from Bakht Er Ruda;

Borsol Mayo, Mohamed El Wasila Abas, Adam Gorashi Bank and Abas el Tigani from Al-Nilein.

Yusuf Mohammad Saleh Libis, an engineer aged 39, a supporter of the Popular Congress, was arrested at the beginning of February 2002 and taken to the offices of the security forces in Khartoum. His family, in spite of repeated requests to the security offices, was given no information about his whereabouts and started to think he must be dead. It was not until the beginning of April that another released prisoner told them where he was. He had been interrogated for 12 days and reportedly deprived of sleep, then kept in solitary confinement for several weeks before being transferred to Kober Prison. His wife is now allowed to visit. His 70-year-old mother was allowed to see him two or three times after he had been held incommunicado for three months, but then was forbidden to visit him as she only spoke Zaghawa, not Arabic, which the security service guards monitoring conversation during the visit could not speak.

In November, with the expiration of the nine months' period allowed for detention under Article 31 of the National Security Forces Act, Yusuf Mohammad Saleh Libis was released but five days later he was rearrested under the same article of the National Security Forces Act and remains in detention.

More than two years after his arrest, **Dr Hassan al-Turabi**, former speaker of the Sudan parliament and leading ideologue of the "salvation" government from 1989-99 when he split from the government remains under house arrest without trial long after his release had been ordered by the Sudan's highest court. He and three other leading supporters were arrested on 21 February 2001, two days after he had signed a memorandum of understanding with the SPLM/A. The memorandum of understanding stated that both parties would work together to establish a peaceful resolution of the conflict in Sudan. Hassan al-Turabi was charged with various offences under the Penal Code (PC), mostly connected with the SPLA agreement: criminal conspiracy (PC Article 24); undermining the constitutional system (PC, Article 50); waging war against the state (PC, Article 51); and calling for forcible opposition to public authority (PC, Article 63). Offences under Articles 50 and 51 are punishable by death. His lawyers made an appeal, while he remained in detention. For the first six months of his detention he was reportedly allowed to see his lawyers only twice for short periods; since then he has only had access to his family. He was initially held in the special security section of Kober Prison, but moved to house arrest in a government house in May 2001. His initial appeal under Article 31(1) of the National Security Forces Act and his request for his release on bail was heard before the Constitutional Court. Meanwhile others from his party who had been arrested at the same time as him had been released without having been brought to trial. On 21 October 2001 the Constitutional Court ordered his release. However, he was rearrested again under Article 31 before he had even left the confinement of the security forces. His lawyers appealed against his confinement arguing that, since Hassan al-Turabi was already detained, he had not therefore committed the offences against the state described under Article 31(1)(e) and could not be detained for a further period on the basis of old accusations. In July 2002 after he had spent nine months in detention, the case was brought again to the Constitutional Court which ruled that he should be released. At that point the President of the

Republic issued an emergency decree under Article 15 of the 1998 State of Emergency Act ordering the continued detention of Hassan al-Turabi for one year, renewable.

5.2 Detention under Military Intelligence

The names of some of the detainees held in the political section of Kober Prison are known because many of them are arrested for belonging to known organizations, opposition political parties or student groups. In addition, those who are released give information about others they have seen in detention. However, it is almost impossible for human rights organizations to find out the names of those held for prolonged periods in the military security centres and in other detention centres run by military or security forces around the country. Individuals are arrested, and held in prolonged incommunicado detention without families being informed of their place of detention. It is presumed that they are held because of suspected contact with the SPLA, but the reasons for their arrest remain as secret as their place of detention. Often only their immediate families know that they have been arrested and they may not know about the existence of human rights organizations or be unwilling to contact them.

Military intelligence arrested **nine people, eight Dinkas and one other**, in Aweil on 20 October 2002, who were then taken to Khartoum in a military plane and held in incommunicado detention in the General Army Headquarters in Khartoum North until 12 December when, after 53 days in incommunicado detention, they were released without charge. The eight Dinkas, including **Garang Wek Atheny**, reportedly advisor to the Governor of Northern Bahr al-Ghazal, were senior civil servants; no reason is known to have been given for their arrest and incommunicado detention. The ninth individual, **Ahmad Labuo**, was said to be a northern merchant who protested at Aweil Airport about the arrest of the eight Dinka men and was subsequently arrested together with them.

In January 2003, Amnesty International was given a list of nine detainees said to be held by military intelligence. Amnesty International sent this list to the Sudanese Minister of Justice with copies to the Advisory Council for Human Rights and the Human Rights Committee of the National Assembly asking for them to be charged with a criminal offence or immediately released. No answer was received. The names of those said to be detained included: **James Kon Koc**, Dinka from Gogrial, arrested in Gogrial; **Kuot Majok Ajing**, Dinka from Aweil, arrested in Eastern Sudan; **Majok Akot Lual**, Dinka from Aweil, arrested in Eastern Sudan; **James Madhal**, Dinka from Aweil, arrested in Eastern Sudan; **Mayor Mapuor**, Dinka from Rumbek, arrested in Eastern Sudan; **James Jiel**, Dinka from Rumbek, arrested in Eastern Sudan; and **Fartak Yahya Fartak**, Fertit, arrested in Bentiu. The organization received no response to its letter. The dates of their arrest are not known.

There is a last group of political detainees about whom even less is known. These are the suspected supporters and fighters of the SPLA or its militia allies in the south. After a war which has lasted for 20 years, no camps or prisons are known to exist which hold those captured in the fighting. No body or organization, national or international (such as the International Committee of the Red Cross (ICRC)) is known to have had access to members of armed opposition forces held by the Government of Sudan. The absence of any supporters of the SPLA captives has been remarked on by the United Nations (UN) Special Rapporteur

on the situation of human rights in the Sudan and in many previous reports by Amnesty International. Some detainees captured in the context of war may be held by military security. Some of those captured may have been briefly detained and then released, or persuaded to join pro-government militias. However, there is not yet any evidence to suggest that the description of the situation by Amnesty International in 1995 has changed:

“There is almost no clear information about the fate of combatants captured in conflict zones. However, the war is notable for the lack of captured prisoners in detention. This appears to be because the government regularly executes captured combatants if they cannot be used for intelligence purposes. SPLA soldiers who give themselves up voluntarily to government forces appear to be at less risk of execution.”⁵

6. Torture

Incommunicado detention without access to the outside world and without any outside inspection provides the ideal conditions for torture to take place. In Sudan, where, in the years immediately after 1989, torture of political detainees was reported systematically, torture appeared to diminish from about 1997. In 2003, perhaps partly as a result of the growth of conflict in Darfur, reports of torture are increasing. Torture takes place particularly in detention centres under the control of national or military security where detainees remain cut off from the outside world. Reports of torture at the hands of the police are fewer, due not only to better access to police stations by lawyers and non-governmental organizations but also because beatings of the poor and the displaced go generally unreported.

According to consistent reports by victims, torture of political detainees carried out by members of the national security forces is generally in the form of beatings, by hoses or rods, including beating on the soles of the feet (*falaqa*) and kicking or jumping on the detainee. Some detainees have alleged that they were deprived of sleep for several days. A number of detainees have described being forced to stand with their hands up or do forced physical exercise (sometimes called the “rabbit jump”). Some detainees held by military security have reported being repeatedly burnt by cigarette butts and subjected to electric shocks. Torture is not systematic, but torture and cruel, inhuman or degrading treatment or punishment is certainly widespread. Mature members of Hassan al-Turabi’s Popular Congress arrested in 2001-2 did not report that they were tortured, while students (including members of the Popular Congress and leftists), other young people and, recently, those arrested in connection with troubles in Darfur, frequently report torture.

6.1 Beatings of Students

Students who are detained by the security forces appear to be those suspected of leading student movements, membership of opposition groups or participating in demonstrations.

⁵ *The Tears of Orphans*, AI Index: AFR 54/02/95, January 1995, page 67. The SPLA holds prisoners of war and allows the ICRC access to them.

The severe beating of students suggests that torture and cruel, inhuman or degrading treatment may be used as a punishment and a warning to younger political activists that they should not continue to protest.

Some of the students of Khartoum University who were arrested in October and November 2002, mostly in connection with demonstrations in the University campus, were beaten in the security forces headquarters in Khartoum, near the Farouk cemetery, before being transferred to the political section of Kober Prison. Although in Kober Prison detainees suffer from poor conditions and are cut off from the outside world, they do not suffer beatings in the prison (though they may be transferred back to a security office for further torture).

Particularly harsh treatment was meted out to **Yaser Mohammed al-Hassan Osman**, the Assistant Registrar of the Faculty of Medicine of Khartoum University who was arrested by the security forces after the Khartoum student demonstrations on 22 and 24 October 2002. He had previously been arrested as a student activist some six years before. He stated that his torturers implied that it was because of this past activism and imprisonment that he was particularly targeted, to make him afraid and as a message to him that he was known and in the future he should keep silent. He was taken to the general security forces centre and beaten using an iron water pipe. Security officers stood on his bladder till he urinated and on his chest. He lost consciousness and was taken to the Intensive Care Unit of Khartoum Sha'b Teaching Hospital on 28 October 2002 and released from custody without charge. He was later arrested again on 22 March 2003 and released without charge on 27 March.

A number of the students who were arrested after the Khartoum University demonstrations in October 2002 stated that they were beaten indiscriminately for several hours immediately after their arrest. Many of those beaten say that they believe that they were kept in detention for weeks after their torture solely in order to allow time for the marks of the beatings to heal. **Muhassab Anwar Muhassab**, a fourth year student from Atbara studying geography and education and a supporter of the Popular Congress, was arrested on 13 November 2002 at the university hostel. Members of the NSA took him and 24 other students to their headquarters in Khartoum. He stated that the security officers used his shirt to blindfold him, then ordered him to stand with his hands up. They lashed all the students with whips and hoses. There was no detailed interrogation in relation to the university events. They released nine of the students and kept the remaining sixteen. Around 9.15pm they took them one by one and tied them in a contorted and painful position to two sticks on the floor, where they were left for about one hour on the floor and one hour standing. Towards midnight they were transferred to the political section of Kober Prison. Some of those arrested had taken no part in any political activities. While **Muhassab Anwar Muhassab** was detained (with 15 others in a room of 5 metres by 8 metres, with plastic prayer mats and one mattress between them to sleep on) other students were brought in, covered in blood from beatings. **Muhassab Anwar Muhassab** was released on 14 January 2003 without charge.

Omar Farouk, aged 22, a first year medical student at Khartoum University, a supporter of the Democratic Front Movement, was arrested on 4 December 2002 at his house by eight people in civilian clothes carrying machine guns. According to his testimony to Amnesty International, *"They handcuffed my hands behind my back and threw me onto the*

floor of the car. One man put his foot on my neck and the other kicked me. They took me to a security building near the Farouk cemetery. One person began to hit me with a hose before asking me any questions. One hit me on the face. One picked me up and threw me onto the ground. One was kicking my legs, the other hit my neck and hands in a hard way, with a wooden stick. Then they took me into a room with six chairs and a table. They blindfolded me with my shirt and put me on a chair and hit the soles of my feet. I cried out but they forced me to stay. I was still handcuffed with plastic and they tied my hands and foot together and beat them. They asked me, 'Is it painful?' and I said 'Yes! Leave me!' Then they shook me and brought cold water. They forced my swollen feet into the cold water and I had to sit facing the wall for three hours." Early the next morning they transferred him to an individual cell; later they brought other students to his cell and transferred them all to the political section of Kober Prison. He was still wearing only his underclothes and borrowed clothes until his family were allowed to bring clothes. His family came every day to the prison but they were never allowed to visit him. After two weeks the security forces took him with other students back to the security centre to reportedly be interrogated about who had organized the demonstrations at the university; they threw cold water over him, held him in a cold room with a fan and mocked or abused him. Then he was returned to Kober Prison. During his time in prison, he said he suffered from malaria, hypertension and, like most of the other detainees, from inflammation of the lungs. A doctor came and he was given chloroquine for the malaria. He was released on 9 January without charge after signing a guarantee that he would not engage in political activity. On his release he was medically examined; the report describes traces of injuries found to be consistent with his account.



Omer Farouk, showing marks on his upper arm of torture by the security guards forces to Amnesty International delegates © AI

Ahmad Isam al-Din, one of the students of Bahr al-Ghazal University in Khartoum who were arrested on 17 October 2002 stated that he was handcuffed behind his back, beaten with the other students, and then held for six days in solitary confinement. He said that he believed that he was singled out for beating and interrogation because he was the only one of the group of protesting students who was from the north. The security officers said to him several times: "You are from the north; you should cooperate with us". He was not allowed to see a doctor although he had a hearing problem as a result of his beating. Later he was

taken to the political section of Kober Prison from where, after two days, he was transferred to a hospital run by the security forces. Unlike other students detained, the group of Bahr al-Ghazal students were brought before a prosecutor and charged with crimes against the State; at their trial they were acquitted and released.

6.2 Beatings in Darfur

Other detainees have described beatings suffered at the hands of various branches of the security forces, including the police. Some 35 of 96 members of the Rizeiqat ethnic group arrested by the police in connection with killings during an attack on the Ma'aliya ethnic group stated that they were beaten by hoses and sticks both in the police station at Nyala in Darfur, western Sudan, and also on 21-23 June 2002 in Nyala Secondary School. Reportedly the secondary school was chosen for these beatings because the children were on holiday at the time and situated in a relatively secluded spot.

On 3 May Yusuf al-Beshir Musa, aged 35, correspondent of al-Sahafa in Nyala, South Darfur, was arrested by the security forces apparently because he wrote about the destruction of Sudan air force planes and helicopters in El Fashir airport by the Sudan Liberation Army (the SLA, formed in February 2003 by members of sedentary groups, in protest against the lack of protection for their communities and the underdevelopment of Darfur: see section on Darfur). He was held incommunicado for three days at the National Security centre in Nyala and reportedly beaten with sticks on his arms, legs, and body. On the fourth day he was allowed to see a lawyer and was examined by a doctor whose report describes marks of beatings on his buttocks and chest. He was detained in Nyala General Prison without charge under Article 26 of the 1999 Emergency Act. He was released on 24 May 2003. His family was not able to visit him during the twenty days of his detention. His lawyers have lodged a complaint at the Attorney-General's office in Khartoum.

6.3 Torture by Military Intelligence

Detainees held by military intelligence -all accused of links with foreign governments- have reported being forced to strip to their underclothes and beaten after cold water was poured on them; they also report that cigarettes were stubbed out on their bodies. One detainee⁶, arrested in December 2001 and released after being tortured for more than two weeks, said: *"The third officer ... even laughed while torturing me and used my body as an ashtray for his constantly lighted cigarettes. Two times I lost consciousness. What wakened me up again and again were the pains from my burns. I began to cough hysterically. At that moment I thought I was dying"*. Another released detainee from Kordofan, said he was arrested in July 2002 by military intelligence and taken to the army headquarters: *"After a while the man came with four other people. They bound my hands again and put me face down on the bed and kept me there. They then started to burn my back with cigarettes. They tried to force me to give information about who also worked for the German and British secret service...They tortured me with cigarettes on my back until I lost consciousness several times. Sometimes I woke up*

⁶ The names of the two detainees cited in this paragraph are withheld to avoid reprisals against them or their families.

with the continuous burning of my back from cigarettes. They burnt me several times on the same spot. ... Every day the procedure was repeated". He was released after some days of torture in detention.

7. Unfair Trials

The basic standards for fair trial are laid down in the provisions of Article 14 of the ICCPR which underscore that all people have the right:

- to a fair and public hearing by a competent, independent and impartial tribunal where the public may only be excluded in some cases of morals, public order or national security;
- to be presumed innocent, and treated as such;
- to be informed promptly and in detail in a language which they understand of the nature and cause of the charge against them;
- to have adequate time and facilities for the preparation of their defence and to defend themselves in person or through counsel of their choice;
- to be tried without undue delay;
- to be tried in their presence;
- to examine, or have examined through their legal counsel, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
- not to be compelled to testify against themselves or to confess guilt;
- That evidence extracted as a result of torture may not be used in court except as evidence against the perpetrators of torture.

Detainees who are brought to trial in Sudan frequently suffer trials which fall far short of these standards for fair trial. After summary and unfair trials some receive sentences involving cruel, inhuman or degrading treatment or punishment, prohibited by international human rights standards.

7.1 Political Trials

Over the past three years there have been few political trials⁷. On 6 December 2000, days before the National Security Forces Act was amended, eight members of the National Democratic Alliance (NDA), an alliance of northern opposition parties and the SPLM/A, were arrested while meeting a US diplomat and charged with "conspiracy against the state" in

⁷ In 1998 and 1999 26 men, including Father Hillary Boma, were arrested and tried by a military court for their alleged involvement in explosions in Khartoum – see Amnesty International, *Justice? The trial of Father Hillary Boma and 25 others: an update* (22 February 1999, AI index: AFR 54/03/99).

March 2001. They were released in October 2001 after the President publicly announced that charges against them were withdrawn. Such detentions can be extended – as in the cases of Hassan al-Turabi and Yusuf Mohammad Saleh Libis - by releasing the detainee for a few minutes or days and then rearresting him. So political and other detainees held by security forces may be held virtually indefinitely without charge or trial and a trial may not be seen as necessary. Dr Hassan al Turabi and the leaders of the Popular Congress who were arrested with him were initially charged under the Penal Code but never brought to trial; the detention of Hassan al-Turabi, initially extended by immediate rearrest, was later extended by a presidential emergency decree.

Though they are not usually brought to trial, members of political opposition groups have been threatened with trials under articles of the Penal Code which prohibit unauthorised assemblies or membership of unregistered organizations. Members of the Republican Brothers have been threatened with charges of apostasy under Penal Code (PC), Article 126, which carries the death penalty. But trials are very much the exception. Between August and December 2002 hundreds of students were arrested but only a handful were charged with an offence and brought to trial.⁸

7.2 Flawed trial procedures followed by floggings and amputations

The 1991 Sudanese Penal Code includes penalties such as flogging for a variety of offences, including offences such as dealing in or consuming alcohol, and limb amputations for robbery of more than 4.25 grams of gold in a guarded place.⁹ Such punishments are prohibited by international human rights standards.

In addition, they are often imposed after summary and unfair trials. During such trials the defendant is frequently convicted on the evidence of the police alone, sometimes supplemented by a confession extracted under torture or other duress.

Amnesty International is concerned that unfair trials are built into the Sudanese system of justice by Article 10(i) of the Law of Evidence of 1993 which states that:

“... evidence is not dismissed solely because it has been obtained through an improper procedure, if the court is satisfied that it is independent and admissible.”

Such a clause appears to allow a free rein for members of the security forces to torture detainees in order to obtain confessions.

It is a particularly serious concern that procedures in trials which allow the death penalty, amputations and floggings, are often summary and gravely flawed. As the African Commission on Human and Peoples' Rights said of the Sudanese trials applying *hudud* and *qisas* (retribution) punishments:

⁸ Students of Bahr al-Ghazal University in Khartoum who were charged in October 2002 under PC, Article 77, for causing a riot were acquitted.

⁹ These *hudud* penalties are imposed on all who live in northern Sudan; residents of southern Sudan are exempt, unless any individual in the South states that he or she wishes to be tried by *Shari'a*.

*"Another matter is the application of Shari'a law. There is no controversy as to Shari'a being based upon the interpretation of the Muslim religion. When Sudanese tribunals apply Shari'a, they must do so in accordance with the other obligations undertaken by the State of Sudan. Trials must always accord with international fair-trial standards."*¹⁰

As regards *hudud* crimes (those crimes which, under Islamic law have mandatory corporal penalties: they include theft, apostasy, illicit intercourse and drinking alcohol) both the Evidence Act of 1993 and the Decrees on the Special Courts and Specialized Criminal Courts require courts to follow evidence rules under *shari'a* law. However, the higher standard of evidence under *shari'a* law (which, for example, normally requires four witnesses for adultery¹¹) is generally not required in court.

Under the Penal Code a number of offences are punishable by flogging. This includes drinking alcohol if a Muslim (PC 78(1)); drinking alcohol in a public place or causing annoyance, applicable to Muslims and non-Muslims (PC 78(2)); conduct in a public place "contrary to public morality" (PC 152); and "wearing an indecent or immoral uniform in an indecent manner or contrary to public morality" (PC 152). Flogging is allowed – but less often now carried out – in case of contravention of the 1998 Khartoum Public Order Act, whose long list of offences includes holding parties after 11pm and begging. In the public order courts the defendants – usually the poor, including many living in displaced camps and a large number of women – rarely or ever have lawyers, and trials may take only a few minutes. Defendants are gathered in groups of around 10 according to their offence. If the offence is one of drinking, brewing or buying alcohol they are divided into Christian and Muslim; Muslims are sentenced to 40 and Christians to 39 lashes. Conviction is almost invariable on the simple word of a police officer and hardly ever in the presence of defence counsel. Others are sentenced to 40 lashes for offences such as unlicensed trading or breaking the dress code, again on the simple word of the police. The presumption is one of guilt, not innocence and evidence to corroborate police statements is completely absent. A human rights activist who sat through two days at greater Khartoum Public Order Court followed about 100 trials; of these there were only two acquittals (of a young couple who had been arrested together but even the police, appearing as witnesses after they had spent a night in the cells, could not give any valid explanation as to why they had been arrested). It is widely said that someone from a rich family, who has a mobile telephone and has connections, may get a lawyer and be acquitted; the poor are invariably convicted.

¹⁰ The submission continues: "Also, it is fundamentally unjust that religious laws should be applied against non-adherents of the religion. Tribunals that apply only Shari'a are thus not competent to judge non-Muslims, and everyone should have the right to be tried by a secular court if they wish." Amnesty International, Comité Lousli Bachelard, Lawyers Committee for Human Rights, et.al vs Sudan, African Committee on Human and People's Rights, Comm. No 48/90/50/91/89/93

¹¹ Adultery can also be proven by the birth of a child to an unmarried woman: see Munwashi case, page 32.



A camp for internally displaced persons in the outskirts of Khartoum ©AI

For instance, a southern Christian from Hajj Yusuf suburb of Khartoum North, where many refugees from the war in the southern Sudan live, told Amnesty International delegates that he was at home in his house when police forced an entry and accused him of having drunk alcohol. He denied this (in fact, according to the Penal Code, Article 78(2) the act of a non-Muslim drinking – as opposed to dealing in – alcohol is only punishable if it is in a public place or “causes annoyance to others”). No blood or breath test was taken and he was not taken to see any doctor. He spent two days in detention and then was taken to court where he denied the charge. He had no lawyer. One policeman witnessed against him, he was found guilty and sentenced to 40 lashes which were carried out immediately. When Amnesty International delegates raised this case in the Ministry of Interior, the Head of Police insisted that medical tests were normally carried out. However, those who are sentenced and those who attend cases before the court say that medical evidence to prove that alcohol has been taken is, for the poor, invariably absent.

Sentences of flogging are carried out immediately in public; any appeal will take place only after the flogging has been already carried out. Only those with financial means may challenge the evidence, insist on a lawyer and stand a chance of being acquitted; the poor accept that flogging is a natural consequence of arrest. The possibility of acquittal is so remote that even those who say they are innocent of any offence may prefer to accept 40 lashes rather than to call for a lawyer and perhaps spend a month in detention waiting for trial.

7.3 The Death Penalty

Under the Penal Code the death penalty is laid down for treason, homicide and a variety of offences not involving homicide. Capital offences include acts which may endanger the independence or unity of the state (PC, Article 50); waging war against the state (which may include attacks on public buildings or electricity wires; PC, Article 51); apostasy (renouncing Islam; the penalty is lifted if the offender recants, PC, Article 126).

The Human Rights Committee, an international committee of experts set up to monitor states parties compliance with the ICCPR, has made a number of comments regarding the fundamental importance of fair trials in death penalty cases. General Comment 6 para.7, on the right to life says:

"The Committee is of the opinion that the expression 'most serious crimes' must be read restrictively to mean that the death penalty should be a quite exceptional measure. It also follows from the express terms of article 6 that it can only be imposed in accordance with the law in force at the time of the commission of the crime and not contrary to the Covenant. The procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher tribunal. These rights are applicable in addition to the particular right to seek pardon or commutation of the sentence."

7.4 Special Courts

In addition to criminal courts and Public Order Courts, Special Courts were set up in North, West and South Darfur by decrees in each state in 2001 following a declaration of a State of Emergency in the region. Whilst Special Courts still operate in North and West Darfur, in April 2003 Special Courts in Darfur were replaced by Specialized Criminal Courts. The decrees are broadly similar. These Special Courts are headed by one civilian and two military judges; the military judges do not need to have any legal qualifications. The Decree on the Establishment of a Special Court in El-Fashir (Decree No. 21 for 2001 of the State Governor) states in Article 5:

"c) The evidence of finger-prints is enough and there is no need for further supporting evidence.

d) The Court accepts the confession of the accused and considers it as evidence if it is convinced by this confession.

e) If the accused withdraws his confession, the Court shall take the confession into account as evidence against the accused. The accused has no right to withdraw his confession."

The jurisdiction of the Darfur Special Courts covers a wide range of offences including armed robbery and *haraba* (banditry); unlicensed possession of firearms; crimes under articles 50-57 of the Penal Code (offences against the State); public order offences; and "anything else considered a crime by the Wali (Governor) of the State or the Head of the Judiciary" (Article 4). Under Article 5(g) of the law relating to North Darfur state, "*lawyers have no right to appear before the courts to represent the accused. The friend of a defendant can appear instead to provide help before the court*". South Darfur Special Courts have a similar provision. Sentences over five years' imprisonment can be appealed within seven days to the Darfur Court of Appeal, whose verdict is final except in cases involving amputation and the death penalty, when they may be appealed to the Supreme Court in Khartoum and the Constitutional Court, which has sometimes overturned cases because of unfairness.

Trials by Special Courts in Darfur are deeply flawed: the presence of members of the security forces as judges cannot present an independent judiciary; trials are summary and death penalties have been handed down after trials which have only lasted an hour; the detainees have only very limited and insufficient rights of defence: lawyers, only present as

“friends” meet them for only a short time, sometimes only just before the trial and without sufficient time to examine the case file; torture is often reported and confessions made under torture are accepted. Frequently the presumption is one of guilt, not of innocence. Amnesty International has not heard of any trial under Special Courts resulting in the acquittal of accused persons.

In the Special Courts lawyers frequently use the possibility of appearing as the “defendant’s friend” to plead on behalf of the accused, but this position does not give them the same rights as an appearance as defence counsel in the ordinary courts. They do not have the same right of access to the case file or to make a final plea (although the Special Court sometimes grants them these). The lawyer as “friend” is normally not allowed to cross-examine prosecution or defence witnesses.

On 6 April 2003, Lieutenant General Adam Hamid Musa, Governor of South Darfur State, issued a decree to abolish the Special Courts in Nyala, Kass and ed Da’ein, the main towns of the state. This followed a decision by the Chief Justice in Khartoum to establish Specialized Criminal Courts in South Darfur. The Specialized Criminal Courts are broadly similar to the Special Courts, except that: they are to be headed by a civilian judge only; they accept legal representation for the accused during the trial session; appeal is not allowed except appeal against sentences such as the death penalty, amputation and life imprisonment, which can be made within seven days to the Chief Justice of South Darfur State. His decision is final, which means that such sentences are no longer to be reviewed by the Supreme Court or the Constitutional Court of Sudan, therefore restricting further the chances of appeal for persons convicted to death or amputation under the Specialized Criminal Courts. The procedures of the Specialized Criminal Courts are still summary and the regulations on the use of confessions as evidence are similar to those of the Special Courts. Lawyers claim that, despite now being able to represent the accused before the Specialized Criminal Courts, they are not allowed to visit them in detention prior to the trial session. Special Courts in North and West Darfur States still reportedly operate according to the 2001 decrees.

7.4.1 The Rizeiqat 88

In April 2002, 136 members of the Rizeiqat ethnic group in South Darfur were arrested on charges of armed banditry (*haraba*) against members of the Ma’aliya, another ethnic group in the region. On 21 and 22 June, 35 of the detainees reported that they were taken to Nyala police station and beaten with sticks, gun butts and hoses by police officers. Some reportedly had their fingers and forearms broken. The detainees gave the names of those who had beaten them. A total of 96 of those detained were brought to trial under Article 168 (*haraba*) of the Penal Code before a Special Court in Nyala in July 2002. A team of lawyers defended the accused as their “friends”. About seven of these lawyers met 45 of the defendants for the first time only the day before the trial in prison over a period of two and a half hours. It was only then that lawyers heard the allegations of torture. They only met the other detainees in the courtroom before the trial. In Court the lawyers submitted an application to take the detainees who alleged torture for a medical examination. The judge refused this request, reportedly saying: “This is a Special Court and it will follow special procedures”.

On 2 July 2002, the second day of the Special Court hearing, after the prosecutor had presented the case, the prosecution witnesses were brought before the court. The defence lawyers submitted an application to cross-examine witnesses, which the court refused. The defence lawyers withdrew in protest at this and at the failure of the court to order a medical investigation of the torture allegations. The case continued without them. There were about 85 prosecution witnesses and 65 defence witnesses. The trial lasted 10 days and each accused was interrogated for some 15 minutes. In the absence of legal counsel, 88 of the defendants, including two defendants said to be minors at the time, were sentenced to death and eight were acquitted. Lawyers made an appeal to the Appeal Court in El- Fashir, which approved the sentence. Appeal was then made to the Higher Court of Appeal in Khartoum; this has not yet been heard.

7.4.2 The Singita Case

In another recent trial of members of nomadic groups accused of attacking and killing 35 villagers from Singita in Darfur on 31 December 2002, 38 members of various ethnic groups were brought to trial on 17 March. They had been arrested in January and held for at least two months in incommunicado detention in Nyala. Only three lawyers, who had not seen their clients until five days before they came into court, were allowed to defend them and they were not allowed to ask more than four questions of any witness (while the prosecutor could ask as many questions as he wished). The 26 defendants sentenced to death on 26 April included one 15-year-old boy. Lawyers and eyewitnesses alleged that the real perpetrators came from another ethnic group and those detained were arbitrarily arrested. Evidence from prosecution witnesses was inconsistent and some of them reportedly changed their stories more than once. Decision on their appeal is pending.

7.4.3 The Kass Case

On 13 November 2002, nine men -Tibin Abdel Rahman Isaag, Alhadi Abaker Hammad, Abaker Ahrran, Abader Adam Bakheet, Isaag Abaker, Saeed Abdella Abaker, Mohamed Abdel Rahman Ibraheem, Easa Mohamed Adam and Mohamed Abdella Yahya- were arrested in Kass. They were accused of taking part in an attack in 2002 on the village of Alibya, west of Kass, in which seven people were reportedly killed, by 150 to 300 armed men. On 12 June 2003, they were sentenced to death by the Specialized Criminal Court in Kass. The men had been detained in Kass until their trial without access to their relatives or legal counsel. They denied the charges and the 18 prosecution witnesses could not confirm whether they were part of the armed group which attacked Alibya. One lawyer was allowed to defend them in court but was reportedly only allowed to ask three or four questions to the prosecution witnesses during cross-examination. Their appeal is pending before the Chief Justice of South Darfur State. Under new procedures for the Specialized Criminal Courts in South Darfur, if their appeal is unsuccessful, they will have no other opportunity to challenge the sentence.

7.4.4 Other Unfair Trials before Special Courts

Adam 'Abdallah Ishaq, aged 31, a farmer, was arrested on 25 November 2002 and tried on 21 December by a Special Court in Mellit in North Darfur on charges of murder. He denied

the charge, saying that he was in another village at the time. Fourteen witnesses stated in court that they had seen him elsewhere. However, in the trial, which lasted just one hour and during which he had no formal defence he was found guilty and sentenced to death. His appeal is pending.

The requirement for the Supreme Court in Khartoum to hear cases of amputations and the death penalty offers some safeguards for the detainee. During appeal the right of a detainee to a lawyer is respected. Isma'il Garja was convicted on 10 April 2002 by a Special Court in the town of Kass of *haraba* (banditry). He denied the crime and had no lawyer. He was convicted and sentenced to cross-amputation (amputation of the right hand and left foot). When the case went to appeal he was represented by a lawyer who challenged the verdict of the Special Court on the grounds of insufficient evidence and he was acquitted and released.

The Human Rights Committee has expressed its opposition to the use of Special Courts:

"The Committee notes the existence, in many countries, of military or special courts which try civilians. This could present serious problems as far as the equitable, impartial and independent administration of justice is concerned. Quite often the reason for the establishment of such courts is to enable exceptional procedures to be applied which do not comply with normal standards of justice. While the Covenant does not prohibit such categories of courts, nevertheless the conditions which it lays down clearly indicate that the trying of civilians by such courts should be very exceptional and take place under conditions which genuinely afford the full guarantees stipulated in article 14." (General Comment 13, para.4)

8. Restrictions on the Freedom of the Press

Under Article 19 of the ICCPR:

"1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

According to the Human Rights Committee (General Comment 10) the right to hold opinions without interference permits no exception or restriction. As the Committee stated, "effective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression in a way that is not provided for under the Covenant."

The ICCPR recognizes that the right to freedom of expression may only be restricted in exceptional circumstances, stating that:

"3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals."

In its General Comment, the Committee stated that the right to freedom of expression carries with it special duties and responsibilities, and certain restrictions which may relate either to the interests of other persons or to those of the community as a whole. However, any restrictions that may be imposed must be provided by law and justified as being necessary for respect of the rights or reputations of others or for the protection of national security or public order. Such restrictions must be compatible with internationally recognized standards and must be strictly construed in order to advance the promotion and protection of the right, not to diminish or jeopardise it.

The Minister for Information and Communication, al-Zahawi Ibrahim Malik expressed support for freedom of the press during a meeting with a delegation of the Sudanese General Union of Journalists (SGUJ) on 31 August 2002. However, printed media in Khartoum still suffers from serious restrictions limiting their freedom of expression. Those who break the "red lines" drawn by the security forces may suffer confiscation or fines against their newspapers and sometimes arrest and short-term detention.

It is of fundamental importance that journalists, media and all Sudanese are able to hold free discussions on important questions relating to the future of Sudan, including questions of human rights and those areas which are being defined and discussed by the peace negotiators, such as the borders of the south, the future of the border areas and the question of "self-determination". Freedom of expression is a human right in itself and often acts in defence of other human rights. It will be impossible to obtain a peace based on justice if the media and individuals are prohibited from raising cases of injustice.

In December 2001, the government lifted censorship against all newspapers. A National Press Council (NPC) was set up in 1993 by presidential decree as the official supervisory body of the printed media. At present, as regulated by the Press Act of 1999, it is a body under the direct supervision of the President with a Secretary General chosen by the President. The council has 21 members: nine of them are elected directly by the Sudanese Press Union, five are nominated by the National Assembly and seven nominated by the President. Among the functions of the NPC is the obligation to consider any contravention of the provisions of the Press Act and the Code of Ethics of Journalists. In cases of repeated contravention the NPC may refer the case to court, and journalists may also appeal from the decision of the NPC to a court. Journalists and others are also liable under articles of the Penal Code; for instance, the offence of "propagation of false news" under Section 66 of the Sudanese Penal Code, punishable by imprisonment for up to six months or a fine of an unspecified amount; this has been interpreted and used by the Sudanese authorities to include any criticism of the government.

Certain provisions of the Press Act of 1999 under the section "Duties of journalists" are vague, and act as a means of legitimising restrictions on freedom of expression in Sudan. For instance Section 25 states that journalists shall: "not publish any secret information, relating to security of the country, or the disciplined forces" (25b); and shall "not publish any such matter, as may violate public morality" (25f). The Code of Ethics which newspapers had to sign in December 2001 also contains vague clauses which it is easy to claim have been violated. Such requirements include the demand that journalists respect "national achievements" and avoid certain issues, including "insulting armed forces or *mujahedin* [the fighters] and martyrs" or "publicising moral accusations against the country".

The National Press Council offers a hearing to journalists who are called before it. It is able to take a number of steps against newspapers that are considered to have breached the Press Act or the Code of Ethics including reproofing, advising and warning. According to the statistics of the NPC for a five-month period between 18 March and 25 August 2002 out of 68 complaints levelled against a newspaper 13, or 19.1%, ended in the suspension of the newspaper for one or more days. The suspension of the newspaper involves complete loss of earnings during the period of suspension.

- On 24 August 2002 the NPC suspended *al-Ayam* for one day after it published a piece on female genital mutilation (FGM) which was said to have been too explicit.

- On 4 September 2002 the NPC seized the day's issue of *al-Hurriya* and the *Khartoum Monitor*, apparently because both newspapers were to run articles criticising the government's decision to withdraw from the Machakos peace talks. The managing editor of *al-Hurriya*, Hajj Warrag, and Lubna Ahmad Hussein, a journalist on the paper, were summoned the next day before security officials, who interrogated them about the article. They were released without charge or trial.

- On September 5, the NPC confiscated the entire press run of *al-Sahafa* after it had reportedly published an article critical of the government withdrawal from the Machakos peace negotiations.

Amnesty International visited the NPC and raised criticisms of these suspensions. In a minority of cases the NPC was able to show that there were grounds for saying that an article had offended readers; in most cases, including those cited above, their decision appeared to violate the provisions of ICCPR Article 19.

However, even though the NPC is not a fully independent body, it is a body where journalists are represented and, in examination of cases, it allows editors and journalists the right to appear and defend themselves. Far more destructive of the freedom of the press are the actions – unchallengeable and often secret – of the security forces. The security forces have taken action against newspapers under the State of Emergency Law. The Sudanese security forces have harassed and detained journalists and editors for short periods. They have confiscated, fined and suspended newspapers which have criticised actions of the government or exercised their right to freedom of expression in commenting on events relating to Sudan. The list of topics which have brought harsh government action covers a large number of facets of Sudanese politics: the conflict in the South, in border areas or elsewhere and

criticism of government actions in relation to peace talks and the Machakos Protocol; human rights violations within Sudan including detention of government critics; protest demonstrations; criticism of government policies; and articles concerning female genital mutilation in Sudan. Newspapers have also been sanctioned for publishing news and comment about current events, such as the student riots in October and November 2002 and their repression, or now the emerging conflict in Darfur. The suspension of a newspaper is a serious sanction as it means that the newspaper loses a day's income, the sales of the newspaper and the advertisements. Editors state that action to suspend or confiscate an edition is frequently taken after the printing of the newspaper has just finished, apparently in order to inflict maximum losses on the newspaper which then has to pay for paper, newsprint and wages.

Such sanctions mean that the pre-publication censorship which was lifted on Sudanese newspapers between December 2001 and July 2002 has been replaced by self-censorship. There is a continuing pressure against editors and journalists who have been interrogated, fined or suffered confiscation for newspaper articles which do not go beyond reasonable criticism or comment. Directors of newspapers have been asked by security officers to fill in a form which includes not only their address, number of children, but even their political affiliation, the names of three good friends, and a map to show the exact home address. Editors are told or made aware of "red lines" which may lead to trouble. Amnesty International was consistently told by many editors and journalists that security officers might telephone a newspaper warning them not to include any articles on a particular event or issue; in addition they might be informed that they should publish articles on a particular issue. The apparent arbitrariness of the decisions adds to the concern of editors, many of whom told Amnesty International that, facing heavy losses, they were contemplating ceasing the wearisome battle of publication.

- In March 2002, the Chief Editor of *al-Hurriya*, Sa'd al-Din Ibrahim, and the paper's caricaturist Salah Salim, were fined the sum of eight million Sudanese dinars (U.S. \$30,923.85) for criticizing the government's tax service.
- In July 2002, Alfred Taban, Chief Editor of the *Khartoum Monitor*, was fined the sum of 500,000 Sudanese dinars (U.S. \$1,932.74) for an article he wrote about human rights violations against southern Sudanese in the eastern city of Kassala.
- On 3 September 2002, security forces detained Osman Mirghani, a columnist for *Al-Ra'y al-'Amm*, following an interview he gave on *al-Jazeera* television network on 1 September. During the program, Osman Mirghani criticized the Sudanese government for walking out of the peace negotiations. The following day Osman Mirghani was reportedly contacted by authorities and told to report to the general security offices that evening. He was detained for questioning for two days then released without charge or trial.
- On 4 September 2002, security officials summoned the *Khartoum Monitor*'s Chief Editor Albino Okeny and the Managing Editor Alfred Taban and reportedly questioned them about an article that referred to demands by residents of a town on the border between southern and northern Sudan to be part of the proposed referendum in southern Sudan under

the Machakos Protocol. Both the editor and the journalist were released without charge or trial.

- On 9 November 2002, the security forces confiscated issues of *al-Hurriya* and *al-Watan* newspapers apparently due to the newspapers' reporting of the clashes between Khartoum University students and riot police between 22 and 24 October. Security officials in Khartoum summoned the editor of *al-Watan*, Sid Ahmad Khalifa, and the editor of *al-Hurriya*, Sa'd al-Din Ibrahim. Sid Ahmad Khalifa was held for two days before being released without charge or trial after interrogation.

- On 28 December 2002, the Director of the NSA suspended indefinitely *al-Watan* newspaper, which used to bring out a print run of 20-25,000 copies and employed 65 staff. *Al-Watan* had recently been publishing a series on corruption. The suspension was issued according to the State of Emergency Law. The newspaper's editor, Sid Ahmad Khalifa, heard of the newspaper's suspension through the media. The newspaper remains suspended as of this writing.

- On 9 March 2003, the security forces confiscated all copies of the *Khartoum Monitor*. The newspaper had published a letter which cited a long passage from a classic history of Sudan discussing Egyptian Mamluk attacks against Dongola during the 13th and 14th centuries. The purpose of the letter was apparently to show that the penetration of Islam into Sudan had not always been peaceful. The acting editor of the paper, Nhial Bol, was summoned on two consecutive days to the security centre in Khartoum and questioned about the whereabouts of the letter writer.

- In March 2003, editors and journalists told Amnesty International that the "red lines" issued to journalists included a prohibition against mentioning human rights problems in Darfur (at a time that an armed group calling itself the Sudan Liberation Army was launching attacks against Sudan army forces) and against writing about the marginalised areas (at a time when this was the main topic of discussions in the peace negotiations). On 15 March, the day after the SLA issued a Charter stating its aims, security forces even visited the press of at least one newspaper while the paper was printing to ensure that nothing about this was in the newspaper.

- On 6 May 2003, the authorities seized copies of *al-Sahafa* newspaper at dawn, after it had been printed but before distribution. No reason was given for the seizure, but apparently the newspaper had quoted a statement by the Minister of Foreign Affairs about foreign interference in the affairs of Darfur which he had later withdrawn.

- On 8 May, national security forces entered the *Khartoum Monitor* and shut it down; two days later it was suspended by court for two months. Its assets were seized because of its failure to pay a fine of 15 million Sudanese pounds (\$6,000) for an article alleging slavery was practised in Sudan. Previously to this, Nhial Bol, the managing editor, had been detained for a night by police after three articles about Islam. He was detained for a further night after the Khartoum Criminal Court imposed a fine or a four-month prison sentence on him. Nhial Bol complained that during his first night's detention he was ill-treated by being made to stand facing the wall for hours and having water poured on him while asleep.

Sudanese newspapers still offer many lively and interesting articles reflecting different viewpoints. However, the lack of freedom of the press, the consistent prohibition on raising not only complaints against government abuses but even discussing central issues of the day reinforces the lack of accountability of the government and security forces. Restrictions on the press are detrimental not only to journalists, but also to the Sudanese civil society at large. In northern Sudan, printed media play a major role in keeping the civil society informed of issues of importance to all Sudanese, such as the civil war, the crisis in Darfur, political developments, discussions about government policies, health and development, human rights and the peace process. It is vital that, in a situation where civil society is excluded from the peace talks, all Sudanese are able to keep abreast of peace developments and decisions which will affect their future. Only if civil society is aware of what is being discussed in the peace talks and thus able to feed into the process will peace be owned by all Sudanese. At present, restrictions on the right to free expression are an impediment to the development of Sudanese civil society.

9. Detention and Harassment of Human Rights Defenders

In 1998 the United Nations General Assembly unanimously adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (usually known as the "Human Rights Defenders' Declaration"). It declares the duty of the state to respect, among other rights, the right of all:

- to meet or assemble peacefully;
- to form, join and participate in human rights organizations;
- to communicate with non-governmental or intergovernmental organizations;
- to seek information about human rights and to publish it.

Over the past three years in Sudan human rights defenders have frequently been arrested and sometimes detained for up to three months for work connected with the defence of human rights. At the same time human rights organizations and other non governmental organizations have had restrictions imposed on their activities including the need to re-register their association every year.

Ghazi Suleiman, a lawyer, the founder and chairman of the Sudan Human Rights Group (SHRG) and of the political party National Alliance for the Restoration of Democracy has frequently been summoned and detained by the security services. In December 2000 Ghazi Suleiman and another well-known human rights lawyer, **Ali Mahmoud Hasanain**, of the Democratic Union Party, were arrested for protesting against the arrest of eight members of the National Democratic Alliance (NDA). The NDA is a coalition of the main Sudanese opposition parties, which has been engaged in armed opposition to the government in the

eastern Sudan. Ghazi Suleiman and Ali Mahmoud Hasanain were held incommunicado in Kober Prison and released in February 2001. The eight members of the NDA were eventually released without trial in October 2001.

Ghazi Suleiman was also arrested on 5 May 2002 and on 2 February 2003; on both occasions he was interrogated by the security forces and released the same evening.

Dr Nagib Nagmeldin al-Toum, Director of the Amal Centre for Rehabilitation of Victims of Physical and Mental Trauma, was detained for more than two weeks in March 2002 and the organization's property and medical files seized. **Faisal al-Baqer**, a staff member at the Centre, was detained incommunicado for 12 days. Both were released uncharged. The centre's files and property were not returned at the time of writing. The security forces have told both men that they are forbidden to travel out of the country without their permission. Faisal al-Baqer is often interrogated upon return after attending conferences abroad. On 8 June 2003, he was stopped at the Khartoum airport on returning from a conference on media issues in Greece and interrogated by members of the NSA about his media and human rights activities and his political ideas. He was released after two hours.

Al Hajj Satie, a human rights lawyer working with the SHRG was summoned by phone on 11 March 2003 while he was in court to report to the security offices. When he returned to his office, a group of members of the security forces entered and arrested him. When he arrived at their office, they made him sit facing the wall from 3pm until about 8:30pm. Then he was questioned on a memorandum issued by the Umma Party on political reform. He was released at 9:00 pm.

Hussein Ibrahim Gindeel, a senior official in the Ministry of Industry who works in a voluntary capacity as the executive director of the Sudan Social Development Organization (SUDO), a voluntary organisation created to promote sustainable development and human rights, was arrested by four plainclothes security officers on the road near his house in Damazin, Blue Nile province in eastern Sudan on 24 March 2003. On 26 and 27 March, SUDO was due to hold a workshop in Damazin, on the role of civil society in the peace process. The workshop was to be attended by participants from the capital Khartoum, Damazin and elsewhere. Permission for the workshop was initially granted by the security forces, but subsequently withdrawn, without an official explanation. Hussein Gindeel was released on 26 March 2003.

10. Harassment, Restrictions on the Right of Assembly and Excessive Use of Force Against Demonstrators

Many suspected government critics -including members of political or religious groups, human rights activists, students, or any individual considered possibly to support an opposition agenda- suffer arbitrary short-term arrest or harassment. The harassment may come in the form of summons -sometimes daily summons- to the security offices, police raids

or, as in the case of students, dismissal from their universities. Public meetings are normally banned; even if meetings are held in homes or offices they may be raided and the organizers or even the participants arrested. During demonstrations the police have frequently used excessive force, beating and sometimes killing demonstrators by the excessive use of force and firearms.

10.1 Repeated Summons as Harassment or Punishment

The practice of summoning people (*istid'a*) is a frequent form of harassment. The individual is summoned to the security department and interrogated, or made to sit around, for several hours; this daily summoning is frequently repeated, sometimes for up to two weeks. For instance, a senior civil servant in Juba, a leading member of a southern political party, was asked in November 2002 to report at the security office in the morning and kept there until late in the evening. This continued for some two weeks. He was not charged with any offence.

One leading Republican Brother, Abdallah Fadlallah, a retired engineer aged 55, set up an exhibition in his home to mark the anniversary of Mahmud Mohammad Taha's execution¹². He put up 73 posters and wall-papers and had cassettes of Mahmud Mohammad Taha's speeches. The exhibition opened on 16 January 2003 and was attended by people from his village on the outskirts of Omdurman, Republican Brothers, journalists and artists. On the night of 17 January, about 22 members of the security and the police came to his house. They asked Abdallah Fadlallah to show authorization for a public meeting; he said that this was not necessary as it was in his house. The police then took the exhibition from the walls and searched the house taking 23 cassettes of the speeches of Mahmud Mohammad Taha, 400 copies of his biography and more than 265 books. Abdallah Fadlallah was taken first to the closest police station, where he was threatened with charges of apostasy as well as "holding an unauthorized assembly". He was then detained for three nights by the security forces. After his release without trial, he was summoned every day to report to the office of the security forces. Sometimes he was insulted or questioned and often he was just sent to sit the whole day on the roof. On 2 February Abdallah Fadlallah protested and said he would refuse to continue to attend unless he was to be charged with an offence. The next day he was released; however, his books and computer are still being kept by the security forces.

10.2 Right of Assembly

The refusal of authorization for meetings is essentially arbitrary and refusal – for instance of a singer refused authorization to hold a concert – is often difficult to explain. Persons who try to avoid the failure to get permission by holding meetings in their house, are not exempt from harassment. At 11am on 5 February 2003 a meeting was held to commemorate the execution of Mahmud Mohammad Taha. Since authorization was not obtained it was held in the office

¹² Mahmoud Mohamed Taha was the spiritual leader of the Republican Brothers, a movement founded in 1945 which advocated for a new interpretation of Islam and engaged in non-violent political activities. It was banned in 1969 by President Nimeiri and on 18 January 1985, Mahmoud Mohamed Taha was publicly executed for "heresy" (advocating an alternative form of Islam). Amnesty International considered him to be a prisoner of conscience and appealed for his life to be spared.

of the lawyer and President of the Sudan Human Rights Group, Ghazi Suleiman. About 35 people, including journalists, lawyers, and the representatives of some European embassies were gathered when the meeting was raided by the police. Diplomats were released, the others were taken to security offices and released within half an hour, apart from the editor of the newspaper *al-Hurriya*, al-Hajj Warraq, who was held for two hours and Ghazi Suleiman himself who was held until 9.30pm.

10.3 Excessive Use of Force

International standards make clear that the duty of law enforcement officers is to protect and respect the human rights of all people and protect and preserve life.

They must:

- respect and protect human dignity;
- use force only when strictly necessary;
- use firearms against persons only in self-defence or in defence of others and when less extreme means are insufficient.

However, meetings and protests, especially of student groups, have been frequently and violently broken up by the security forces. Between August and November 2002 demonstrations took place in a number of universities. On 19 October 2002 security officers reportedly surrounded the University of Bahr-El-Ghazal, which is situated in a suburb of Khartoum and fired tear gas and rubber bullets to disperse unarmed students who were protesting at the dismissal of students unable to pay their fees.



Students from Bahr-El-Ghazal University in Khartoum giving testimonies about arrests and torture by security forces ©AI

Between 22 and 24 October 2002, there were further violent clashes between students from the University of Khartoum and riot police, armed with sticks and rubber bullets. Students were demonstrating to commemorate the 38th anniversary of the demonstrations of 1964 against the military government of General Abboud which led to the overthrow of his government, and against the failure to allow elections for the student union. Students and policemen were reportedly injured and scores of arrests were made. On the night of 23 October 2002, some 60 students were charged with "public disturbance" and released from several police stations. Police and members of the security forces were accused of stealing mobile phones and jewellery from students during raids on the student dormitories.

Around the same time in El-Fashir, Darfur, students demonstrated against the food, the provision of which had been contracted out and which, they said was of poor quality. They called for a boycott of examinations. The university administration called in the police and clashes occurred; students said that police responded with excessive force and dozens of students were arrested. The university administration said that students had attacked other students, damaged property and insulted members of the university staff. According to reports an estimated 160 students were suspended or dismissed from El-Fashir University in mid January 2003, 23 from Kordofan University and around 40 students from the other universities.

At the end of October 2002, a Commission of Inquiry was set up into excessive use of force by police who beat students and stole some of their property at the University of Khartoum. The commission was not fully independent and impartial and the report produced by the inquiry was never made public. However, Amnesty International delegates in Khartoum were able to discuss its findings with the representative of the Vice Chancellor and the Head of Police who were on the Commission. Despite finding that the complaints against the police were justified no action was taken against any member of the security forces while dozens of students were dismissed.

On Monday 17 March 2003 police and security forces attacked students of Bakht Er-Ruda University in Ed-Dueim, south of Khartoum, who were demonstrating within the university campus against the university administration's refusal to allow student union elections. The police tried to disperse the demonstrators with tear gas and then reportedly shot at them using Kalashnikovs and revolvers, wounding a number of students and arresting 11, some of whom are still reportedly held in custody. Police are then reported to have raided the women's hostels and beaten and arrested some women students, releasing them after three hours. One student was said to have suffered severe internal injuries and others were badly bruised.

Excessive force against student demonstrators by the police led to the killing of students. On Saturday 22 March 2003 a protest demonstration was held in El-Nilein University in Khartoum, near the US Embassy, calling for a student assembly and protesting against the war on Iraq. Police – reportedly including special anti-terrorist units – fired tear gas at the demonstrators and beat them with truncheons. The students responded by throwing stones at the police who then fired live ammunition. Two students were reportedly killed: **Sherif Hassibullah**, a first year student, who was shot in the head, and **Haytham al-Tayeb**, a fourth year law student. A correspondent and a cameraman from *al-Jazeera* television station were also beaten by police.

The following day students at the nearby Sudan University in Khartoum held a meeting in protest at the police killings and use of excessive force against fellow students. This meeting was also violently broken up by police. **Al-Amin Shams al-Din**, a first year engineering student suffering from asthma, died in disputed circumstances; police claim he fell from a building, while students state that he was shot when others students lifted him up to avoid the tear gas that would have impaired his breathing.

The Attorney General's office said it opened an investigation into the killing of Sherif Hassibullah but no one has yet been arrested for the crime.

Several students have been killed in the past as a result of excessive use of force by police forces during student protests. These killings are still unaccounted for, whether or not the authorities had announced the opening of inquiries. For instance, in June 2000 soldiers opened fire on a student seminar on the crisis in Sudan at the University of Senna. One student, **Mirghami Mahmoud al-Norman**, was shot dead and several others were injured. In the days that followed the shooting, several demonstrations in support of the students took place. At least 11 people, including seven students, were arrested and charged with rioting and disturbing public order. All were believed to have been tortured and most were hospitalized as a result. To Amnesty International's knowledge, no investigation has taken place into the killing of Mirghami Mahmoud al-Norman. In August 2001, two students, **Mutasim Mohamed El Hassan** and **Yahia El Hussain** were shot dead and 16 others injured in clashes between students and armed police and security forces after violent unrest at Al-Gezira university in Medani between students of different political affiliations. As inquiries into such incidents have not made the results of investigations public, Amnesty International is not in a position to know whether investigations have taken place or not.

On 2 June 2003, Sudanese security forces reportedly clashed with displaced persons, in majority from the Nuba Mountains, while they were attempting to destroy houses in the displaced persons camp in Umsalama, Kereri area, North of Omdurman. The reason for the raid on this camp is unclear. At least seven persons were reportedly killed and 14 injured in the clashes. On 5 June, the Minister of Justice set up a committee to investigate the reasons behind the demolition of houses by the security forces and to account for the damage that occurred. The Committee is composed of the Chief Prosecuting Attorney of Omdurman, a member of the Advisory Council on Human Rights, a representative from the police force and a representative from the security forces. The Committee was mandated to take measures to prevent the occurrence of further damage and was due to report its findings to the Minister of Justice within two weeks. According to Amnesty International's information, such a report has not been made public. Therefore the organization is not in a position to know whether the incidents, including the deaths and injuries of persons as a result of clashes with the police and security forces, were investigated in an independent and impartial manner. According to the organization's information, no one suspected to be responsible for the killings has so far been brought to justice.

11. Human Rights Violations against Women and Women Activists

Women have tended to be particular targets of human rights violations on account of their gender. They have even less access to lawyers and justice than men and are often singled out for cruel, inhuman or degrading punishments in ways which do not affect men.

Women continued to be harassed and ill-treated by police enforcing the Public Order Law which restricts women's freedom of movement, behaviour and dress. Under this law women are not allowed to travel without a guardian; they are not allowed to talk alone with men who are not their husbands or members of their immediate family and they are supposed to remain with their hair covered and with dress which covers the wrists and ankles. These articles of the Public Order Law are not enforced systematically, but their existence allows the police to act arbitrarily against women if they so desire.

In addition, articles which make adultery a criminal offence are invariably enforced only, or more strongly, against women than men. Adultery is punishable with execution by stoning, if the offender is married, or one hundred lashes, if the offender is not married (Article 146 of the Penal Code). For instance, in November 2002 17 women from the village of Munwashi, 80 km north of Nyala in Darfur, Western Sudan, were convicted of adultery (meaning here sexual intercourse with a man without being lawfully bound to him, according to Article 145 of the Penal Code) and sentenced to 100 lashes of the whip each. They were convicted because they had all given birth to children although they were unmarried. No individual man was brought before a court in connection with these offences and none of the women was represented by a lawyer. The sentence was carried out immediately on each woman, without obtaining any medical report, as required by law, on the fitness of each woman to undergo punishment. On 17 May 2003, a fourteen-years old girl, unmarried and nine months pregnant, was sentenced to 100 lashes of the whip on charges of adultery. The man charged in connection with this case was acquitted because of lack of evidence. The girl is appealing the sentence.

On 28 January 2003, eight women representing various organizations in Sudan, including the heads of the Nuba, Southern, and Northern non governmental organisations networks, were interrogated and stopped at Khartoum airport as they were leaving to attend an official seminar in Nairobi on the role of women in peace organized by IGAD. They were not allowed to travel, despite all their travel authorizations being in order. When Amnesty International delegates raised their case with the Minister of Information, he said that they may have been stopped by mistake, because there was a new computer system in place at the airport. On 26 March, security officers closed the office of some of these women and confiscated some documents.

On 2 June, eight women activists representing the Nuba Mountains region were prevented by the security forces from travelling to Kauda, in the Nuba Mountains to attend a conference on peace and development. They were arrested in Omdurman, searched and interrogated about their activities. The security forces confiscated some of their documents and equipment and made them sign an "undertaking" that they would not travel without the permission of the national security forces. They were all released after one night and at least one of them, Zeinab Balandia, still has to report everyday to the office of the security forces at the time of writing.

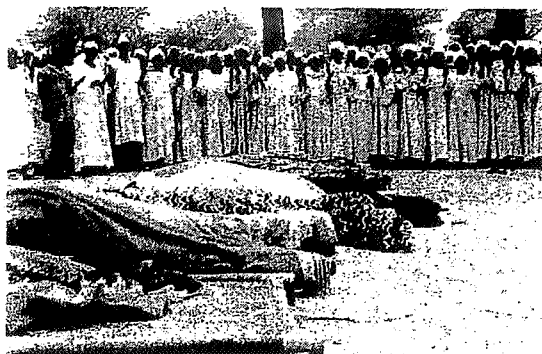
12. A Human Rights Crisis in Darfur

Many of the human rights violations detailed above, including incommunicado detention, torture of students and unfair trials have also occurred in Darfur. However, in the specific context of Darfur, further abuses are perpetrated.

In Darfur, respect for human rights has been undermined by an increased number of attacks mostly by nomadic groups on sedentary groups, an increase in attacks by bandits - whose growth is itself the result of complex social and economic factors - and a heavy-handed response by the government, including many instances of human rights violations.

Nomadic groups such as the Abala, the Mahamid and the Zeilat have attacked since 1982 sedentary communities in Darfur, mainly Fur but also Masalit and Zaghawa. These armed groups have killed hundreds of people, destroying grain stores, killing or seizing cattle and other livestock, and burning houses. Many of the Fur and other sedentary people of Darfur have said that these attacks have the intention to drive them and other sedentary peoples out of the fertile area of the Jebel Marra Mountains. Members of the regional government have told Amnesty International that the problems are the result of the increasing desertification and over-farming of the area which has caused difficulties for nomads, accustomed to move south in the dry season so as to graze their herds on farmers' lands after crops have been harvested. This has led to increased clashes in competition for scarce grazing grounds. The proliferation of small arms, from within Sudan or smuggled from Libya or Chad, has undoubtedly led to an increase in armed attacks; the arming of the sedentary population in response can only lead to a deterioration of the situation.

Sometimes large numbers of people have been killed in large-scale attacks on villages. For instance, on 28 April 2002, the village of Shoba, near Kabkabia, was attacked at dawn by an armed group, which killed at least 17 people and injured 16 others. On 1 January 2003, another village, Singita, 14 km south of Kass was also attacked by armed horsemen. About 25 people are reported to have been killed, including 10 persons who were shot and allegedly subsequently thrown into fire by the attackers. In both places, homes and crops were destroyed by burning and cattle and other herds were looted by the attackers. People from Shoba village interviewed by Amnesty International claimed that the security forces had failed to come to their help although they had been forewarned that an attack was planned. However, the security forces had come to the village during the two days before the attack, which had apparently been timed to take place when security forces were not in the village. The Head of the Darfur security forces stated that 33 members of the security forces had been killed in attacks over the past year. He stated that such large-scale killings were the result of revenge killings; in the case of Shoba, as the result of a number of incidents over the past months, including the killing of an Arab by Shoba villagers at a well a few weeks previously.



Fur villagers mourn their dead after an attack on the Shoba village by an armed group on 28 April 2002 © private



Remains of a cow burnt in the attack on the Shoba village © private

The Sudanese and Darfur state authorities have reacted to the situation in Darfur with repression. A decree issued in the states of North Darfur, South Darfur and West Darfur allowed those accused of armed robbery, attacks or possession of arms to be tried before Special Courts which handed down verdicts in summary trials before a partly military panel of judges where a lawyer could only appear as a "friend". At least 10 Shoba community leaders - and **Hamed Mohamed Hamed, Nur al-Din Mohamed Abdelrahim, Abdelrahman Adam Yahya, Fadl Adam Shata, Abbas Abu Shawk, Yusuf Abu Shawk, Khalil Mohamed Din, Hassan Ossuli, Hassan Ahmed Abdel Shafi and Mustafa Nus Rakib** - were arrested and detained incommunicado for several months without charge or trial after the attack on Shoba. They were reportedly detained first for five weeks in Shala prison without legal counsel. They were subsequently transferred to Port Sudan prison for about 17 days and then detained in a house in Wad Medani. **Hamed Mohamed Hamed, Nur al-Din Mohamed Abdelrahim and Fadl Adam Shata** were released on 31 August 2002 without charge or any explanation for the reasons behind their arrest. **Yusuf and Abbas Abu Shawk** were not released until November. At the same time, a number of leaders of Arab groups were also reportedly arrested and held incommunicado; they include **Musa Hilal the Nazer** (chief) of the Mahamid and **Shaykh Abdel Baqi Abdel Rahman Abdel Baqi** of the Zeilat.

In February 2003 members of sedentary groups formed the Sudan Liberation Army (SLA) and started carrying out attacks on military targets throughout Darfur. The attacks were hit-and-run attacks: several military centres between Geneina and al-Tina on the western border of Darfur with Chad were attacked. On 24 April, El-Fashir airport was attacked and military planes destroyed: 75 members of the security forces were killed in the attack. On 11 May the SLA attacked and briefly held the district centre of Mellit north of al-Fasher. Leaders of the SLA said that these attacks were in response to the government's failure to protect farmers from attack and inequality and underdevelopment in the region. During its mission, and by letter, Amnesty International had called on the government to set up an independent and impartial Commission of Inquiry into the deteriorating situation in Darfur. The government did not respond to this call, and initial attempts to involve members of parliament, chiefs and civil society in reconciliation and searching for peaceful solutions to the conflict failed. By the end of March, the government stated that the conflict would be solved by military means. Amnesty International then renewed its call, asking for an international Commission of Inquiry to be set up, which could clarify to the people of Darfur and the world the complex factors which have led to the present deteriorating situation and identify mechanisms which are in accordance with human rights standards to protect effectively the population from attacks.

Amnesty International also called for the Darfur region to be urgently included in the human rights monitoring set up under the IGAD peace process. Reports from around Kutum, North Darfur, allege that villagers are fleeing in the context of the fighting between government forces and the SLA as well as because of attacks by nomad groups, and that food supplies are getting short.

Amnesty International has received recent allegations of bombings of civilian villages in North Darfur by government aircraft. For instance, around 19 June 2003 the villages of Donglat, Leinie, Ostanie, Roma and Tartoura near Kornoy in North Darfur, were reportedly bombed. Eleven men and one woman, all civilians, were reported dead after the incident: Ibrahim Suleiman, Adam Yagoub, Sheikh Hamid, Khadiga Mohammed Suleiman (f), Ismail Mohammed Adam, Mohammed Ibrahim, Abu Sameera, Mohammed Abdalla Haroon, Abkr Haroon, Mohammed Abdalla Guma'a, Hamid Abdalla and Mohammedin Ibrahim. On 22 June 2003, Kornoy was reportedly bombed by government aircraft and six civilians were allegedly killed in the bombing: Um Alfugra Nour Taryou, Abu Bakr Yousif Shomo Haroon, Nara Ismail Bodat, Mariam Hir Bani and her child and a woman who reportedly can not be identified because her body was burned. It becomes increasingly difficult to monitor the situation because of the government military presence in the region and the absence of non-governmental local or international organisations. The government was recently quoted as saying that it was restricting the use of satellite telephones and four wheel drive vehicles by civilians of the region for fear that they would be used to help the SLA. Despite resolutions by the Sudanese Parliament, no humanitarian aid has been sent to those regions where fighting is reported and the government denied access to aid agencies because of the "insecurity" in the region.

In the meantime, the government has detained incommunicado scores of persons from the region in Darfur or in the capital Khartoum. Since 2003, dozens of persons have been arrested in the region. While some were released after one to two months, the fate of the following 17 detainees is unknown at the time of this writing: Yusuf Arkoi Minawi (aged 45), Sherif Ahmad Ilhaga (aged 38), Ramadan Jabir Nahar (aged 35), Dawood Mohammad (aged 55), Zakaria Mohammad (aged 70), Yunis Mohammad Bani (aged 25), Mandi Mamoun (aged 55), Siddid Abdel Rahman (aged 28), Khalil Abdel Rahman (aged 26) all arrested in Darfur between late April and early May 2003; Abubaker Hamed Nur (engineer) and Yusuf Mohammed Faleh (engineer) arrested on 8 April in Khartoum; Mohammad Bashir Ahmed (civil servant), Bashir Bushara (businessman), arrested on 18 April in Geneina; Hashem al-Tayeb, Abdel Rahman Ahmad and Mohammad Hashem Abdel Rahman (businessman) arrested in April and believed to be held in Geneina; Ibrahim Mohammad Hassan (photographer, aged 55) arrested in Kabkabiya on 19 April. Amnesty International fears that they may be tortured or ill-treated. The organization continues to receive further allegations of arrests in Darfur and therefore fears that the number of detainees in the region is much higher.

13. Conclusion

This report deals only with human rights violations committed by the Sudanese authorities outside the armed conflict areas of the south. The areas of armed conflict discussed in this report – Darfur and the Eastern Sudan – are outside the areas covered by the peace talks continuing between the SPLA and the Government of Sudan in Kenya.

While the focus of the world has been on the human rights abuses against Sudanese carried out during the civil war, which have been committed by both sides, human rights violations outside the armed conflict in the South have been less closely examined. The human rights of the people living under the Government of Sudan have been marginalised. It is not now envisaged that the Sudanese people of the north will be represented in any discussions on human rights and peace nor that any peace agreement would enshrine their rights to human rights.

Impunity for human rights violations not only allows perpetrators to go unpunished for their actions, but also creates an environment in which further human rights violations become more likely. Failure to protect fundamental human rights and discrimination against particular groups, on grounds of ethnicity, region, religion or gender, have been the cause of present and past conflicts and contain the seeds of future conflicts. The civil and political rights described in this report are only a few of a wide spectrum of civil, political, social, economic and cultural rights which have been violated in the Sudan. In the southern Sudan and now in Darfur the Government of Sudan has tried to resolve conflicts whose deep causes lie in problems of discrimination and justice by condoning or ordering actions which have violated human rights. Only when the human rights of all people in Sudan are taken into account can a durable peace develop.

14. Recommendations

Recommendations to end the practice of Incommunicado Detention

- The Sudanese government should repeal Article 31 of the National Security Forces Act which allows up to nine months' detention outside the control of the judiciary.
- The Sudanese government should ensure that all reports of detainees being held incommunicado are fully and independently investigated and that those suspected to be responsible for these are held accountable.
- All security forces, including members of the National Security Agency should inform detainees immediately of the reasons for their arrest and promptly of any charges against them.
- The relevant authorities should ensure that the detainees' families are promptly notified of their arrest, place of detention and any transfers.
- Security forces should allow every detainee prompt, regular and confidential access to family and lawyers.
- All detainees should be brought promptly before a judge.
- A registry should be kept of all detainees.
- If there is any evidence that any of those detained without charge or trial has committed a recognizably criminal offence they should be brought to trial in accordance with international standards for fair trial and without recourse to the death penalty.
- The relevant authorities should release immediately from prison persons, including political prisoners and possible prisoners of conscience, who are arbitrarily detained.

Recommendations to end Torture or other Cruel, Inhuman or Degrading Treatment or Punishment

- The Government of Sudan should abolish Article 31 of the National Security Forces Act to end incommunicado detention and ensure that all detainees have prompt access to a judge;
- In accordance with international treaties ratified by the Government of Sudan all those arrested or detained should have prompt access to family and lawyers;
- Detainees should have access to medical attention if they require it; independent doctors should also be allowed to visit detainees;

- In order to ensure that no detainee is tortured or ill-treated, prosecutors, judges and an independent inspection body must have access to all detention centres, including those under military security;
- The government should make a public announcement saying that torture or other ill-treatment will not be tolerated in any detention centre and will be prosecuted;
- The immunity from prosecution of the national security contained in Article 33 of the National Security Forces Act should be lifted;
- There should be an immediate investigation of any complaint of ill-treatment against any member of the security forces. Where sufficient evidence is found, anyone thought to have used or ordered torture should be brought to justice, in accordance with international standards of fairness and without recourse to the death penalty;
- The relevant authorities should provide compensation for victims of torture as well as medical treatment and rehabilitation;
- The Sudanese Government should ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without reservations.
- The relevant authorities should ensure that UN Standard Minimum Rules for the Treatment of Prisoners and the UN Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment are observed.

Recommendations to end Unfair Trials

- Judicial officers should ensure that “everyone charged with a penal offence has the right to be presumed innocent until proved guilty in a public trial at which he has had all the guarantees necessary for his defence” (Universal Declaration of Human Rights);
- Judges should ensure that defendants are always given adequate time and facilities to prepare their defence;
- Everyone should have the right to legal assistance even if the defendant has not sufficient means to pay;
- Everyone convicted of an offence should have the right of appeal to a higher tribunal.
- The provisions of the Special Courts and the Specialized Criminal Courts which contravene international standards of fairness should be reformed or abolished.

Recommendations for the Abolition of the Death Penalty

- The relevant judicial and governmental authorities should commute the sentences of all prisoners currently on death row;
- Ensure that all those accused of offences punishable by death in Sudanese laws have all their rights to adequate defence respected and to a fair trial, in accordance with

international standards;

- Sign and ratify without delay the Second Optional Protocol to the ICCPR.

Recommendations concerning Freedom of Expression

- The government of Sudan should guarantee the right to free expression, and lift controls on the press; restrictions on freedom of expression must be as narrow as possible, following the guidelines set by Article 19 of the ICCPR and general comments on the Article;
- The security services should end all intimidation and harassment of independent media, journalists and other media workers;
- Provisions of the Press Code which unduly protect Government policy and officials from criticism should be reviewed and amended in conformity with Article 19 of the ICCPR guaranteeing the right to freedom of expression.

Recommendations on Human Rights Defenders

- The government of Sudan should recognize the legitimate role of human rights defenders in accordance with the Human Rights Defenders' Declaration;
- Harassment of human rights defenders by the security forces should cease; no one should be arrested or detained for work as a human rights defender;
- Freedom of association should be maintained according to internationally recognized standards.

Recommendations on Harassment, Right of Assembly and Excessive Use of Force

- The security forces should put an end to the use of repeated summoning as a means of harassment;
- the security forces should adhere to international standards found in the UN Code of Conduct for Law Enforcement Officials which state clearly that lethal force may only be used in self defence or against imminent death or serious injury, whenever the lawful use of force is unavoidable and that law enforcement officials should minimize damage and injury and respect and preserve human life.
- Students who have been dismissed or suspended from the university following accusations of rioting and causing damage to the university property should be given the right to defend themselves against the accusations and a right of appeal.
- Any killing should be immediately investigated in an independent and impartial manner and anyone suspected to be responsible should be brought to justice in proceedings consistent with international standards for fair trial and without recourse to the death penalty.

- Commissions of Inquiry should be composed of independent people known for their integrity, have a clear mandate, be able to compel and protect witnesses and report in public.

Recommendations for Women's Rights

- The government should ratify the UN Convention on the Elimination of Discrimination Against Women (CEDAW) and abolish all laws and practices which discriminate against women;
- Any woman arrested or detained should have immediate access to a lawyer and medical attention if required. No punishment should be inflicted without the right to appeal.

Recommendations with regard to Darfur

- The government should act to protect all the people of Darfur from attacks; those suspected of attacking others should be brought to trial in fair trials without the application of the death penalty;
- The government should attempt to resolve the conflict by discussions among leaders of different ethnic groups and civil society in Darfur and by investigating the human rights violations committed in the region; a resolution to the conflict must be based on respect for human rights and accountability for human rights violations.
- The government should allow the establishment of an international Commission of Inquiry composed of people known for their integrity and independence which could examine the factors behind the deteriorating situation in Darfur, investigate abuses and suggest mechanisms to bring to justice the suspected perpetrators of human rights violations.
- The government should allow the deployment and unimpeded access of human rights monitors to all areas in Darfur where fighting is occurring. Any human rights abuse reported to be committed by government forces or Sudan Liberation Army forces against civilians must be fully and independently investigated. Those suspected of committing such abuses must be brought to justice, in accordance with international standards for fair trials and without recourse to the death penalty.
- The relevant authorities should provide human rights training to law enforcement officials and armed forces.