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Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Section VII: Human Rights in Countries of Concern

Sudan

This is a critical time for Sudan. As stipulated in the Comprehensive Peace Agreement, a historic referendum on self-determination for South Sudan took place in January 2011. A credible, peaceful, free and fair referendum, the successful completion of the Comprehensive Peace Agreement and agreement on all the remaining outstanding issues such as citizenship, delineating the border between North and South, international debt relief and security can provide the basis for peaceful coexistence between North and South Sudan. This has implications for human rights in Sudan.

Overall the human rights situation across Sudan remains grave. Although there has been some positive action such as the passing of the Child Act, many of the obligations enshrined in the Comprehensive Peace Agreement, such as the establishment of an independent National Human Rights Commission, have yet to be acted on.

The Sudanese government's participation through the Advisory Council for Human Rights with the UN, and EU in human rights dialogue and the establishment of the Darfur Human Rights Forum, are welcome. However, this does not replace the need for a genuinely independent national Human Rights Commission.

Although the Sudanese government has ratified many of the international and regional human rights treaties, implementation remains limited. Sudan has signed but not ratified the UN Convention against Torture. Sudan has refused to sign the Convention on the Elimination of All Forms of Discrimination against Women citing concerns over its compatibility with Sharia law and Sudanese tradition. The government is still considering these treaties, and we have offered our full support to help the government adhere to them.

We continue to have serious concerns about a range of human rights issues including arbitrary arrests and detention; the death penalty; *Hudood* punishments (amputation, flogging and stoning); restrictions on freedom of expression, association, assembly and movement; women's rights; and a lack of justice and accountability for serious crimes. The application of the Public Order Act continues to result in Sudanese citizens suffering inhuman and degrading treatment, as highlighted by the public flogging of a woman in Khartoum by the public order police in December.

The Sudanese government continued to refuse to cooperate with the International Criminal Court on the outstanding arrest warrants for Governor Haroun, militia leader Mr Kushayb and President Bashir. On 12 July, the International Criminal Court added charges of genocide to the existing charges of crimes against humanity and war crimes against President Bashir. As William Hague made clear during his visit to the UN Security Council in November, we continue to urge the government of Sudan to cooperate with the Court.

In Khartoum, our Embassy worked with other EU missions to raise human rights issues. At the request of the UK and others, the EU special representative met with the Advisory Council in December to discuss the deteriorating human rights situation in Sudan and some specific cases of the arrest and detention of Sudanese citizens. A formal meeting between the Advisory Council and EU Heads of Mission will take place in early January 2011.

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In September, and with strong UK ministerial support, the UN Human Rights Council voted to extend the mandate of the UN independent expert on the human rights situation in Sudan. The renewal of the mandate ensured that human rights in Sudan will continue to be internationally monitored.

We continued to raise human rights concerns bilaterally through our Embassy in Khartoum and our office in Juba. Parliamentary Under-Secretary of State Henry Bellingham and the Secretary of State for International Development Andrew Mitchell visited Sudan in July and November respectively. Both raised human rights issues with senior members of the governments in North and South Sudan. William Hague also raised our concerns with the Sudanese foreign minister, Ali Karti, in New York on 16 November.

Promoting human rights in South Sudan is a huge challenge given the capacity-building challenges. We have opened a new office in Juba that has already strengthened our ability to provide diplomatic, development and humanitarian assistance in the South. All-party constitutional discussions in the South and a possible drive towards a robust multi-party democracy will help foster a better environment for human rights. We engage with the church organisations in South Sudan to encourage the government of South Sudan to include civil society organisations and opposition parties in the future development of South Sudan. We also work with the government of South Sudan to ensure that the Sudan People's Liberation Army is more accountable for its actions and that the government is able to address the continued threat of inter-tribal violence.

In the North, the government must build on the small gains made in implementing legislation. Human rights forums must be improved to be able to genuinely hold the government to account. Addressing the continued fighting and ongoing human rights abuses in Darfur will remain a priority. We will continue to provide a substantial amount of humanitarian assistance in Darfur to help improve the lives of the people, but all parties must address the high levels of insecurity which are preventing the full distribution of aid and assistance. We will continue to work towards a comprehensive and inclusive peace agreement for Darfur with the Sudanese government and representatives of the Darfur armed movements, in support of the African Union/UN Joint Chief Mediator Djbril Bassole and the Qatari government, who host the current mediation process.

The future stability of North and South Sudan is reliant on agreeing outstanding issues under the Comprehensive Peace Agreement. Following the referendum on Southern secession, held on 9–15 January, the people of North and South Sudan will need reassurance that the gains promised under the Comprehensive Peace Agreement will be fully realised and the freedoms and human rights of Northerners and Southerners will be respected. We continue to support President Mbeki's work with the parties on outstanding issues, particularly on debt and North/South border issues.

International monitoring and engagement will be essential. We are discussing with the Human Rights Council how human rights monitoring will continue once Sudan divides into two countries in July 2011. The independent expert is mandated to provide technical assistance to both sides in Sudan and we will encourage the governments in the North and South to engage with the independent expert in this regard.

Elections

Sudan's first elections in 24 years took place between 11 and 15 April. We provided £12.5 million for technical preparations, civic education and conflict management for the elections through the UN Development Programme managed election fund. On 26 April, President Bashir was declared the winner with 68.2% of the vote. President Bashir won more than 90% of the vote in the North but only 13.7% in the South. Salva Kiir was elected president of South Sudan with 93% of the vote against a National Congress Party-backed opponent.

In assessing the five-day polling period from 11 to 15 April, the EU Election Observation Mission and the Carter Center welcomed the elections as a crucial milestone in the Comprehensive Peace Agreement on the road to the referendum. They commended the positive engagement by Sudanese people; the dedication and commitment shown by polling staff and domestic observers; the high participation of women; and the generally peaceful conduct of the polling process, apart from some localised security incidents in the South.

However, they also highlighted a significant number of deficiencies and irregularities and questioned the political impartiality of the National Election Commission. In most of the North, polling was generally peaceful and orderly but there was also limited competition after the Sudan People's Liberation Army (Northern Sector), the Umma Party and some

smaller opposition parties decided to boycott the election. The Civil Society Network, which had 3,500 domestic observers in the North, cited irregularities including vote tampering and ballot box security. In addition to more than 7,000 official complaints lodged with the NEC, some 800 writs have been lodged at the state level electoral courts and 25 with the Supreme Court in Khartoum.

In the South there were numerous reported incidents of the Sudan People's Liberation Army soldiers intimidating voters and independent candidates. There was also some localised conflict between competing candidates and their supporters following the results announcement. The Sudan People's Liberation Movement formed an inclusive government in Juba that accommodated southern opposition parties, high profile independent candidates who came close to winning, and senior Sudan People's Liberation Movement figures who lost their seats. This decision went some way to calming tensions.

In Darfur, there was limited participation because most internally displaced persons were not registered to vote and those living in rebel-held areas were also excluded from the process. The EU Election Observation Mission decided to withdraw its observers from Darfur because of the security situation. Carter Center monitors remained on the ground but reported serious technical and procedural violations in the limited areas to which they had access.

In statements issued on 17 April, EU Chief Election Observer Veronique de Kaiser and former US President Carter concluded that the elections had fallen short of international standards for genuinely democratic elections.

While we were encouraged by the relatively peaceful polling process, we made clear to both governments in the North and South that we were seriously concerned by the allegations of significant political and technical problems during the process.

Access to justice

Access to justice in South Sudan is compounded by structural weakness in the state's justice sector and capacity constraints. Serious deficiencies in justice sector institutions, including an ill-equipped and under-resourced police force, inadequate prison facilities

and the near absence of a basic rule of law infrastructure beyond the major urban areas, continued to have a negative impact.

Across South Sudan there is friction between the judiciary and the traditional courts. The functions of the judiciary are yet to be fully rolled out and an inconsistent penal code means that there is a great variance in the application of the law.

The work of the South Sudan Human Rights Commission will go some way to strengthening human rights understanding and the justice infrastructure. Its main focus has been human rights awareness campaigns, which targeted local community leaders. The Commission also published and disseminated educational materials on human rights for the general public. The challenges faced by the Commission include institutional capacity building, financial resource mobilisation and the ability to reach out to and work with civil society organisations. We sponsored Dr Anei Arop, commissioner with the South Sudan Human Rights Commission, to attend a course on implementing human rights conventions at Nottingham University under the Chevening Fellowship scheme.

In Darfur, the scarcity of law enforcement institutions, including acute shortages of police personnel, judges and prosecutors, coupled with the lack of material resources and training within the justice sector institutions, put the formal justice sector beyond the reach of the vast majority of people. Very few perpetrators have been brought to trial for crimes committed during of the conflict despite the government setting up various mechanisms to address impunity.

We continue to urge the government of Sudan to address issues of impunity in Darfur and have called for perpetrators of crimes to be brought to trial.

Death penalty

On 14 January, six men accused of killing 13 policemen during riots in a suburb of Khartoum in 2005 were executed, in spite of concerns raised about the lack of due process. The government claimed that the appeals process had been exhausted and relatives of the accused failed to persuade the victims' families to accept "blood money" as an alternative. The executions went ahead in spite of urgent appeals and a request for a stay of execution from the Special Representative of the UN Secretary-General for Sudan and three UN special rapporteurs. We have urged the Sudanese government to establish a moratorium on the death penalty, with a view to its eventual abolition.

Rule of law

The administration of justice in South Sudan remains weak. The majority of the population rely on traditional courts, which dispense justice through customary norms and practices. However, the handling of serious criminal offences by the traditional courts often leads to human rights violations. Defendants appearing before the traditional courts do not have legal representation and there is no appeals process. The courts are presided over by people with no legal background nor the skills to understand the constituent elements of serious crimes. The catalogue of human rights violations that occur in these courts include imprisoning women for refusing a forced marriage.

Corruption within the government of South Sudan continues to be a concern. When Mr Mitchell met Southern President Salva Kiir in Juba in November, the president specifically asked for the UK's support to develop a rigorous anti-corruption policy and institutional framework that will extend across the public service in the South. We are working with the government of South Sudan to deliver this. No UK funds are channelled through the government in either North or South Sudan.

Since 2008 we have been running a criminal law reform project implemented by Redress, which is due to finish in March 2011. The project seeks to inform key decision makers, such as government officials, parliamentarians, civil society representatives and legal professionals, of international human rights standards and comparative experiences of legislative reform elsewhere, with the aim of bringing Sudanese criminal law into line with international standards.

Prisons and detention issues

The new National Security Act, which came into force on 28 January, maintained wide discretionary powers of arrest and detention for the National Security Service, in contravention of the Interim National Constitution and the Comprehensive Peace Agreement. Under the new law, the security service can arrest and detain people for up to four-and-a-half months without judicial review. It also maintains security service members' immunity from prosecution.

Arbitrary arrests and detentions mostly by the security service and military intelligence continued to be of concern. The joint African Union/UN operation in Darfur documented

more than 30 cases of arbitrary arrests in May and June alone. The government continued to hold detainees for long periods without charge and has denied them the right to challenge their detention in court.

During his visit to New York in November, William Hague raised a number of specific cases of detention in Darfur with Sudanese Foreign Minister Ali Karti.

Human rights defenders

Human rights defenders continued to be persecuted in 2010. Thirteen Darfuri human rights defenders, including Abdelrahman Mohamed Al Gasim of the Darfur Bar Association, and staff members of the Human Rights and Advocacy Network for Democracy, HAND, a Darfur-focused Sudanese NGO and Radio Dabanga, were detained in a wave of arrests in Khartoum between 30 October and 3 November. No charges were brought against them.

On 22 December, Dr Mudawi Ibrahim Adam, the former director of the Sudan Social Development Organisation and a prominent human rights defender, was sentenced to one year in prison on embezzlement charges. He had previously been acquitted of the charges in March 2009, which immediately followed the organisation's closure by the Humanitarian Aid Commission. The Commission appealed the judge's acquittal of Dr Adam, but did not present any new evidence of wrongdoing.

We and the EU raised these cases and others with the Advisory Council for Human Rights in Sudan on 30 December. We will continue to monitor them closely.

Freedom of expression

The April elections were blighted by serious flaws and allegations in both the North and South of harassment, intimidation, arrests and detentions. But civil society groups were able to publish critical reports; opposition parties were granted access to the media; and limited opposition rallies were allowed.

Since the elections, however, these limited gains have been reversed. A number of independent newspapers have experienced difficulties, including pre-publication censorship, closure, and the arrest and intimidation of staff.

Ray Alshaab, the opposition Popular Congress Party newspaper, was closed after the National Intelligence and Security Service (NISS) claimed that the newspaper had published information damaging to the country. Three of its journalists were arrested on 17 May and a court case was ongoing at the end of December.

While visits by NISS censors were again suspended in early August, newspapers have subsequently reported new restrictive measures, including demands by the NISS that journalists provide personal information including political affiliation, tribe, and contact information for family and close friends.

William Hague addressed issues of media harassment in a joint statement with US Secretary of State Hillary Clinton and Norwegian Foreign Minister Jonas Støre on 9 July, expressing concern “at the actions of the Sudanese authorities since the election, which have further undermined civil and political rights, including the arrest of opposition politicians, journalists and peaceful protestors” and urged “national and local authorities in the north, south and Abyei area to ensure a conducive political environment in the lead up to the referenda.”

Recognising the important role of the media in the referendum process, our Embassy provided training for 30 journalists in December on responsible reporting of the referendum.

Freedom of religion and belief

Non-Muslims in North Sudan continued to be charged with offences under the Sharia-inspired Criminal Act despite the Comprehensive Peace Agreement and the Interim Constitution stipulating the safeguarding of the rights of non-Muslims in Northern Sudan. For example, there were many arrests for inappropriate dress and possession of alcohol. We called on the Sudanese government to meet their responsibility to respect the rights of non-Muslims and asked the Commission for the Rights of non-Muslims, established

under the Comprehensive Peace Agreement, to ensure that the necessary measures and legal mechanisms were in place to protect these rights. The government of Sudan and the government of South Sudan must take steps to ensure the protection of minorities within their communities, and an early agreement on citizenship issues would go some way to assuring those affected of their safety.

Women's rights

We continued to urge the Sudanese government to sign the Convention on the Elimination of All Forms of Discrimination against Women. We contributed to programmes which have sought to engage women in the electoral process through our £12.5 million of support to the elections. The programmes supported awareness-raising of women's rights; provided a gender adviser to the National Elections Commission to promote gender-sensitive policies and practices, and supported and encouraged women to put themselves forward as candidates. We are supporting the economic and social re-integration of women associated with armed conflict through our £20 million contribution to the UN's Integrated Disarmament, Demobilisation and Re-integration programme. We have also provided funding and assistance, through the Darfur–Darfur Dialogue and Consultation, to engage women in the Darfur peace process.

Although reported cases of rape in Darfur and South Sudan have reduced, this could be because women have been deterred from coming forward because there were no powers to protect them or investigate claims. There were no women's shelters in South Sudan so this further reduces the understanding of the prevalence of rape in South Sudan. We are addressing these issues with the UN mission in Sudan and with NGOs. The African Union/UN Hybrid Operations in Darfur is helping to address sexual and gender-based violence through the establishment of coordination and analysis groups to improve the verification and reporting of cases. Henry Bellingham discussed this issue with NGO representatives in October. We are looking to establish a programme through African Conflict Prevention Programme funding to provide training for African Union/UN Hybrid Operation in Darfur officers to combat sexual and gender-based violence in Darfur.

Children's rights

The Child Act was passed by the National Assembly on 29 December 2009. The new law defines a child as anyone who has not reached the age of 18 years and revokes “signs of maturity” as a criterion for defining a child. It also raises the age of criminal

responsibility from seven to 12 years, criminalises child exploitation and abuse, and establishes a comprehensive juvenile justice system. Despite these positive reforms, the Act failed to criminalise female genital mutilation. The government has established specialised prosecutors for children, as well as child and family units as part of law enforcement agencies in the country.

Minorities and other discriminated groups

The issue of citizenship and the rights of South Sudanese citizens living in Northern Sudan must be agreed by the parties to the Comprehensive Peace Agreement as a matter of urgency to ensure that the rights of Southerners living in the North are protected. This was one of the outstanding Comprehensive Peace Agreement issues being discussed by the Sudanese parties under the auspices of President Mbeki and the African Union High Implementation Panel. We provided funding for the panel through the EU Instrument for Stability. We also provided technical assistance on other outstanding Comprehensive Peace Agreement issues such as agreement of the border between North and South and on debt. William Hague remained in regular contact with President Mbeki and other Sudanese partners on these issues throughout 2010.

Conflict

In Darfur, clashes between government forces and the armed movements as well as inter-communal violence continued to cause further deaths and displacement among the civilian population in 2010. Estimates suggest that there have been five times as many deaths in Darfur in 2010 as there were in 2009. Humanitarian access was limited and continued to be hampered by increased lawlessness and abductions of peacekeepers and aid workers. The persistent climate of impunity in the region remained the central driver of many acts of violence and criminality. It is essential that the government conducts thorough and timely investigations into these criminal acts and ensures that perpetrators are promptly brought to justice.

A peace settlement that addresses the root causes of the conflict is greatly needed for Darfur. Since September 2008, the Darfur peace talks in Doha have been at the centre of these efforts. We fully support these talks and have backed this process both politically and financially.

The situation in South Sudan continued to be characterised by high volatility in localised areas affecting civilian populations, especially women and children, as well as increasing human rights violations by the Sudan People's Liberation Army. Violence was further exacerbated by the near-absence of functioning law-and-order mechanisms in many parts of the region, and the widespread proliferation of arms and ammunition.

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