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COUNTRY OF ORIGIN INFORMATION REPORT

SUDAN

18 JANUARY 2007

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Preface

- i This Country of Origin Information Report (COI Report) has been produced by Research, Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 27 October 2006. The 'latest news' section contains further brief information on events and reports accessed from 28 October 2006 to 15 January 2007.
- ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- iii The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- iv The structure and format of the COI Report reflects the way it is used by Home Office caseworkers and appeals-presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- vi As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.
- vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been

included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

- viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.
- ix COI Reports are published regularly on the top 20 asylum intake countries. COI Bulletins are produced on lower asylum intake countries according to operational need. Home Office officials also have constant access to an information request service for specific enquiries.
- x In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

- xi The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk
- xii It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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Latest News

EVENTS IN SUDAN, FROM 28 OCTOBER 2006 TO 15 JANUARY 2007

- 15 January Darfur rebels divided over proposed 60-day truce
Sudan Tribune, Darfur rebels divided over proposed 60-day truce, 15 January 2007
<http://www.sudantribune.com/spip.php?article19760>
Date accessed 17 January 2007
- 13 January Creation of a new rebel group in Darfur. The Great Sudan Liberation Movement (GSLM) was announced by a breakaway faction of Minni Minawi's SLM rebel group.
Sudan Tribune, Creation of a new rebel group in Darfur, 12 January 2007
<http://www.sudantribune.com/spip.php?article19729>
Date accessed 17 January 2007
- The Justice and Equality Movement (JEM), denies 60-day ceasefire with the Sudanese government
Darfur rebel JEM denies 60-day truce with Sudanese government, 12 January 2007
<http://www.sudantribune.com/spip.php?article19723>
Date accessed 17 January 2007
- 11 January Rebels in Darfur agree ceasefire with Sudanese government
IRIN News, Sudan: Government, rebels agree Darfur ceasefire, 11 January 2007
http://www.irinnews.org/report.asp?ReportID=57035&SelectRegion=Horn_of_Africa,%20&SelectCountry=Sudan
Date accessed 17 January 2007
- 10 January Rebels in Darfur agree on a 60-day ceasefire with Sudanese government
Sudan Tribune, Sudan, rebels agree to 60-day Darfur truce, 10 January 2007
<http://www.sudantribune.com/spip.php?article19690>
Date accessed 17 January 2007
- 09 January South Sudan prepares to pilot a new currency as the dinar which was introduced in 1992 will be replaced by the Sudanese pound.
BBC Online, South Sudan Pilots new currency, 9 January 2007
<http://news.bbc.co.uk/1/hi/world/africa/6244019.stm>
Date accessed 17 January 2007
- New Sudan currency to circulate from January 10
Sudan Tribune, New Sudan currency to circulate from January 10, 8 January 2007
<http://www.sudantribune.com/spip.php?article19646>
Date accessed 17 January 2007
- 04 January The Government of Southern Sudan joins the United Nations to investigate allegations of sexual abuse by peacekeepers in Southern Sudan
IRIN News, Sudan: Southern Sudan government launches probe into sex crimes, 4 January 2007
http://www.irinnews.org/report.asp?ReportID=56915&SelectRegion=Horn_of_Africa&SelectCountry=SUDAN
Date accessed 17 January 2007
- Thirteen people killed in two ambushes in southern Sudan, Lords Resistance Army (LRA) fighters suspected
IRIN News, Sudan-Uganda, Suspected rebels kill 13 in southern Sudan, 4 January 2007

http://www.irinnews.org/report.asp?ReportID=56919&SelectRegion=East_Africa,%20Horn_of_Africa,%20&SelectCountry=Sudan-Uganda
Date accessed 17 January 2007

03 January The UN to investigate allegations of sexual abuse by peacekeepers in Southern Sudan

UN to probe Sudan sex abuse claim, 3 January 2007
<http://news.bbc.co.uk/1/hi/world/africa/6226829.stm>
Date accessed 17 January 2007

Five people killed in bombing raid on civilians in Darfur

IRIN News, Sudan: Five killed in bomb attack on civilians in Darfur, 3 January 2007
http://www.irinnews.org/report.asp?ReportID=56905&SelectRegion=Horn_of_Africa,%20&SelectCountry=Sudan
Date accessed 17 January 2007

27 December Thousands go into hiding in hills near the North Darfur village of Abu Sakin after Arab militias continued their destructive rampage across parts of the western Sudanese region

IRIN News, Sudan: Violence displaces more civilians in Darfur
http://www.irinnews.org/report.asp?ReportID=56851&SelectRegion=East_Africa&SelectCountry=SUDAN
Date accessed 29 December 2006

SPLM registers tens of thousands in the north as their electoral campaign begins

Sudan Tribune, Sudan's SPLM begins electoral campaign, 26 December 2006
<http://www.sudantribune.com/spip.php?article19461>
Date accessed 29 December 2006

20 December More humanitarian aid workers have been relocated in the western region of Darfur after attacks on Gereida, south Dafur state bringing the number of aid workers relocated to over 400 during December

IRIN News, Sudan: Largest monthly relocation of aid workers, 20 December 2006
http://www.irinnews.org/report.asp?ReportID=56796&SelectRegion=East_Africa&SelectCountry=SUDAN
Date accessed 29 December 2006

Approximately 1,800 Sudanese rebels are gathering at an assembly point preparing to demobilise and either return to civilian life or join the Sudanese army or Police

Sudan Tribune, Eastern Sudan Rebels prepare to demobilise, 19 December 2006
<http://www.sudantribune.com/spip.php?article19361>
Date accessed 20 December 2006

15 December International Medical Corps (IMC) survey finds a significant number of displaced women in South Darfur, western Sudan, suffer from depression and experience suicidal thoughts because of largely unaddressed mental-health problems

IRIN News, Sudan: Women facing mental-health problems in Darfur
http://www.irinnews.org/report.asp?ReportID=56755&SelectRegion=East_Africa&SelectCountry=SUDAN
Date accessed 20 December 2006

10 December Gunmen attack relief supply convoy in Darfur, 30 civilians reported killed.

BBC Online, Civilians killed in Darfur attack, 10 December 2006
<http://news.bbc.co.uk/1/hi/world/africa/6166305.stm>
Date accessed 11 December 2006

- 5 December United Nations withdraws 134 non essential staff from Al Fasher AS Janjaweed presence increases.
BBC, UN pulls staff from Darfur town
<http://news.bbc.co.uk/1/hi/world/africa/6212628.stm>
Date accessed 06 December 2006
- 30 November Clashes between the Sudanese army and the SPLA in southern town of Malakal, breaks peace deal signed in January 2005.
BBC Online, 'Hundreds killed' in Sudan Battle, 30 November 2006
<http://news.bbc.co.uk/1/hi/world/africa/6158121.stm>
Date accessed 30 November 2006
- 150,000 displaced southerners prepare to return home from around Khartoum.
Sudan Tribune, Southerners in Khartoum register to return home, 29 November 2006
<http://www.sudantribune.com/spip.php?article18983>
Date accessed 30 November 2006
- 22 November Outbreak of meningitis in Southern State
IRIN, Sudan: Sixteen die of meningitis in southern state
http://www.irinnews.org/report.asp?ReportID=56469&SelectRegion=East_Africa&SelectCountry=SUDAN
Date accessed 30 November 2006
- 17 November Sudan government agrees in principle to the deployment of a UN peacekeeping force in Darfur.
IRIN, Government 'accepts' UN Troops in Darfur
http://www.irinnews.org/report.asp?ReportID=56407&SelectRegion=East_Africa&SelectCountry=SUDAN
Date accessed 30 November 2006
- 10 November Norwegion aid agency shuts down Darfur operation.
IRIN, Sudan: Norwegion aid agency shuts down Darfur operation
http://www.irinnews.org/report.asp?ReportID=56313&SelectRegion=East_Africa&SelectCountry=SUDAN
Date accessed 30 November 2006
- 3 November At least 67 people dead after Janawid attack eight villages in Jebel Moon area of West Darfur.
Amnesty International, Sudan: Civilians in West and North Darfur, particularly in the Jebel Moon area
<http://web.amnesty.org/library/Index/ENGAFR540732006?open&of=ENG-SDN>
Date accessed 28 November 2006
- 1 November Janjawid attacks on civilians continue in Darfur.
Amnesty International, Sudan: 'If you leave the camp we will kill you.'
<http://web.amnesty.org/library/Index/ENGNEWS210102006?open&of=ENG-SDN>
Date accessed 28 November 2006

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REPORTS ON SUDAN PUBLISHED OR ACCESSED SINCE 28 OCTOBER 2006**Human Rights Watch (HRW)** <http://www.hrw.org/>

World Report 2007, covering events of 2006

<http://www.hrw.org/wr2k7/wr2007master.pdf>

Date accessed 17 January 2007

International Rescue Committee (IRC) <http://www.theirc.org/>

Problems Without Borders, 27 December 2006

<http://www.theirc.org/news/problems-without-borders.html>

Date accessed 29 December 2006

United Nations monthly report of the Secretary-General on Darfur

Monthly report of the Secretary-General on Darfur, 8 November 2006.

(S/2006/870) <http://www.un.org/Docs/sc/sgrep06.htm>

Date accessed 28 November 2006

Background information

GEOGRAPHY

- 1.01 The Republic of the Sudan has a total area of 2,505,813 sq km (967,500 sq miles). (Europa, 2005) [1a] (p1087, 1107) Sudan is bordered by Egypt to the north; the Red Sea, Eritrea and Ethiopia to the east; Kenya, Uganda and the Democratic Republic of Congo to the south; and the Central African Republic, Chad and Libya to the west. (UN Map, May 2004) [6a] Sudan is mainly composed of extensive plains or ironstone soils in the South, clay in the central regions and sand in the North and West. There are few mountainous areas of which the principal ones are the Imatong in the South, Jebel Marra in the West, and the Red Sea Hills in the East. (Embassy of the Republic of Sudan in London) [5a]
- 1.02 The Embassy of Sudan, London, describes the climate as tropical with the greater part of the country falling under the influence of the trade winds; hence it has generally hot, rainy summers and warm dry winters. There is little rainfall in the north, averaging 25mm, whereas in the south the rainfall reaches up to 150mm. The Red Sea Hills receive Monsoon rains during the months of October and November while severe sandstorms, or "Haboubs", blow frequently in the north between April and October. [5a]
- 1.03 The CIA World Factbook, updated 6 June 2006 noted that the population of Sudan was 41,236,378 (July 2006 est). [2] (p3) Europa 2005 recorded that, according to a mid-2003 UN estimate, the population of the capital, Khartoum, was approximately 4,285,542. [1] (p1107) However, the Foreign and Commonwealth Office Country Profile on Sudan, updated 14 March 2006 estimated the population of Khartoum City to be 2.5 million and Khartoum State to be 7 million [4a] (p1) Europa 2005 also noted that the principle towns included Omdurman, Khartoum (Capital), Khartoum (North), Port Sudan, Kassala, El-Obeid, Nyala, El-Gezira, Gedaref, Kosti, El-Fasher and Juba. [1a] (p1107)
- 1.04 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that:

"The population was a multi-ethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims, numbering approximately 16 million persons, traditionally dominated the government, while southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) numbered approximately 6 million. The fighting in Darfur was between Muslims who self-identify as either Arab or non-Arab" [3a] (Section 5)

See also Annex D: [Main ethnic groups](#) and Annex G: [States of Sudan](#)
- 1.05 Europa World Online notes that: "Arabic is the official language, although other languages are spoken and English is widely understood." (Europa World Online) [1b]

See also Annex E: [Languages of Sudan](#)

MAP OF SUDAN AND NEIGHBOURING COUNTRIES

1.06



Further maps of Sudan can be located on the Reliefweb website located at:
<http://www.reliefweb.int/rw/rwb.nsf/doc404?OpenForm&rc=1&emid=ACOS-635PJQ>

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ECONOMY

- 2.01 “Sudan has turned around a struggling economy with sound economic policies and infrastructure investments, but it still faces formidable economic problems, starting from its low level of per capita output. From 1997 to date, Sudan has been implementing IMF macroeconomic reforms. In 1999, Sudan began exporting crude oil and in the last quarter of 1999 recorded its first trade surplus, which, along with monetary policy, has stabilized the exchange rate. Increased oil production, revived light industry, and expanded export processing zones helped sustain GDP growth at 8.6% in 2004. Agricultural production remains Sudan’s most important sector, employing 80% of the work force, contributing 39% of GDP, and accounting for most of GDP growth, but most farms remain rain-fed and susceptible to drought. Chronic instability - resulting from the long-standing civil war between the Muslim north and the Christian/pagan south, adverse weather, and weak world agricultural prices - ensure that much of the population will remain at or below the poverty line for years.” (The CIA World Factbook, updated 6 June 2006) [2] (p6)
- 2.02 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa 2005) noted that: “Sudan is primarily an agricultural and pastoral country, with about 59% of the economically active population engaged in the agricultural sector – the majority in essentially subsistence production.” [1a] (p1101) Agriculture remained the largest single component of Sudan’s Gross Domestic Product (GDP) at 39.2%, in 2002 and Europa 2005 also notes that: “In 2003 domestic petroleum consumption was about 70,000 b/d [barrels per day], which left approximately 200,000 b/d for export.” [1a] (p1101, 1104)
- 2.03 Europa 2005 states that: “On 1 March 1999 the Sudanese pound was replaced by the Sudanese dinar, [which was] equivalent to 10 Sudanese pounds....The pound was withdrawn from circulation on 31 July 1999.” [1a] (p1101)

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HISTORY

- 3.01 The Foreign and Commonwealth Office's Country Profile on Sudan, updated on 14 March 2006, stated that:

"Sudan entered the Twentieth Century ruled as an Anglo-Egyptian Condominium, a unique constitutional status dating from 1899. After the First World War Sudanese nationalist sentiment grew drawing inspiration from Egyptian nationalism. However, it was only much later, following the 1952 July Revolution in Egypt, that Sudan gained independence. The 1953 Anglo-Egyptian Agreement provided for a three-year transitional period before self-rule." [4] (History)

- 3.02 Europa World Stated that:

"The Sudan (as the country was known before 1975) achieved independence as a parliamentary republic on 1 January 1956. After a military coup in November 1958, a Supreme Council of the Armed Forces was established and ruled until October 1964, when it was overthrown in a civilian revolution. In May 1969 power was seized by a group of officers, led by Col Gaafar Muhammad Nimeri. All existing political institutions and organizations were abolished, and the 'Democratic Republic of the Sudan' was proclaimed, with supreme authority in the hands of the Revolutionary Command Council (RCC). In October 1971 a referendum confirmed Nimeri's nomination as President. A new Government was formed, the RCC was dissolved, and the Sudanese Socialist Union (SSU) was recognized as the only political party." [1a]

- 3.03 The Foreign and Commonwealth Office's Country Profile on Sudan, updated on 14 March 2006, additionally noted that:

"Meanwhile, southern Sudan was suffering from escalating conflict between the Government forces and rebels. In 1972 Nimeiri signed a peace agreement with the southern rebels (South Sudan Liberation Movement). During the 1970s, the regime's pledges gradually unravelled and by 1983, when Nimeiri proclaimed the application of Islamic law (Shari'a) throughout the country, southern resistance forces were re-mobilising into what became the Sudan People's Liberation Army/Movement (SPLA/M). Nimeiri was little more popular in the North, but challenges to his rule were met with bloody purges. Widening anger eventually sparked a military take-over in April 1985 and the following year elections were held. Parliamentary rule was to last less than four years, a period in which five governments were formed, each under the premiership of veteran politician Sadiq al-Mahdi. Peace talks with southerners and the poor state of the economy strengthened dissent. Nimeiri was little more popular in the North, but challenges to his rule were met with bloody purges. Widening anger eventually sparked a military take-over in April 1985 and the following year elections were held. Parliamentary rule was to last less than four years, a period in which five governments were formed, each under the premiership of veteran politician Sadiq al-Mahdi. Peace talks with southerners and the poor state of the economy strengthened dissent." [4] (History)

THE AL-BASHIR REGIME

- 3.04 The Foreign and Commonwealth Office's Country Profile on Sudan, last updated on 14 March 2006, stated that:

"On 30 June 1989, the army overthrew the democratically elected government of Sadiq al-Mahdi and installed a Revolutionary Command Council, chaired by General Omar al-Bashir. Bashir ruled by decree at the head of the Revolutionary Command Council and banned all political parties except his own National Islamic Front (NIF) (renamed the National Congress Party in 1998). In 1996 Bashir was elected President and a National Assembly was elected in a flawed election which was boycotted by the opposition. Bashir was re-elected (with 86% of the vote) in 2000. Again a number of key opposition parties boycotted the election, claiming it was flawed and unfair." [4] (History)

For further information on history prior to June 1989, refer to Europa Regional Surveys of the World: Africa South of the Sahara 2005, [Annex I](#) source [1a].

PEACE AND CONFLICT IN SUDAN

The Signing of the Comprehensive Peace Agreement (CPA): 9 January 2005

- 3.05 On 9 January 2005 a Comprehensive Peace Agreement (CPA) was signed by the Government of Sudan and the Sudanese Peoples' Liberation Movement to bring Africa's longest-running conflict to an end (DFID Country Profile on Sudan, updated 9 March 2006). [6a] The Foreign and Commonwealth Office's Country Profile on Sudan, updated on 14 March 2006, additionally noted that: "The parties have now established a Government of National Unity (GNU) comprising members of the National Congress, SPLM and other northern and southern political forces. The Presidency of the GNU, comprising of President Field Marshall Bashir, First Vice President Garang [who was succeeded by Lt. Gen. Salva Kiir Mayardit following Garang's death on 30 July] and Vice President Taha, was sworn in on 9 July, the National Assembly first sat on 1 September and the formation of the Government of National Unity was announced on 20 September [2005]." [4a] (Recent Overview)

- 3.06 The FCO Profile also noted:

"The new Government will now work to fully implement the terms of the CPA. Under the agreement democratic elections are to be held within four years. The Government of Southern Sudan, which will safeguard the interests of the people of southern Sudan and provide a link with the Government of National Unity, was formed on 22 October [2005]. After six and a half years the south will be able to vote on whether or not to remain united with the rest of the country. This peace agreement is a huge achievement, trying to end more than 20 years of civil war in which more than 2 million people have died and some 4 million have been displaced." [4a] (Recent Overview)

THE DARFUR CONFLICT

- 3.07 The Department for International Development (DFID), Country Profile on Sudan noted that: "There has long been unrest in Darfur, Western Sudan. The latest conflict which began in 2003 has caused a [sic] displaced a further 1.8 million people and left over 3.5 million in need of humanitarian assistance." [8a] The FCO Profile on Sudan stated that: "It is largely a battle for resources, land, water and grazing rights together with a related struggle for power within the native tribal administration structure." [4a] (Recent Overview)
- 3.08 Europa Regional Surveys of the World: Africa South of the Sahara 2005 (Europa 2005) noted that:
- "In February 2003 two rebel groups, the Sudanese Liberation Movement (SLM), which reportedly comprised as many as 2,500 armed troops, and the SJEM [Sudanese Justice and Equality Movement], a force estimated to number several hundred men, organized a rebellion against the Government in an attempt to end political oppression and economic neglect in the Darfur region of western Sudan." [1a] (p1096)
- 3.09 The FCO Profile continued: "A humanitarian ceasefire agreement was signed between the Government of Sudan, the SLM and the Justice and Equality Movement (JEM) on 8 April 2004 and they subsequently signed Security and Humanitarian Protocols on 9 November 2004 in Abuja." [4a] (Recent overview)
- 3.10 The FCO Profile further reported: "The Government of Sudan, SLM and the Justice and Equality Movement (JEM) have engaged in talks. African Union-led peace talks in Abuja, Nigeria. The talks are now in permanent session and the parties are now discussing wealth, security and power sharing arrangements within the parameters laid out in the Declaration of Principles signed by the parties to the talks on 5 July 2005." [4a] (Recent Overview)
- 3.11 The BBC Timeline of September 2006 reported that, in March 2005, the UN Security Council had authorised sanctions against those who violated the ceasefire in Darfur and that the Council had voted to refer those accused of war crimes in Darfur to the International Criminal Court (ICC). [9a]
- 3.12 In his March 2006 monthly Report on the situation in Darfur, the UN Secretary General (UN SG) stated that: "In accordance with the statement by the President of the Security Council of 3 February 2006 (S/PRST/2006/5), I have initiated contingency planning on a range of options for a possible transition from AMIS to a United Nations operation." [6b] (p5) However, the Integrated Regional Information Networks (IRIN) noted on 23 February 2006 that: "Sudan has rejected the proposal to transform the African Union-led peacekeeping mission in the strife-torn western region of Darfur to a United Nations operation." [10a]
- 3.13 There were further developments to this as reported by IRIN on 17 May 2006:
- "A United Nations Security Council resolution has paved the way for the deployment of a UN peacekeeping force in Sudan's western Darfur region and threatened sanctions against any parties standing in the way of peace. In a resolution adopted on Tuesday, the Council called on the African Union (AU) to agree with the UN and other regional and international bodies on a strategy

to strengthen its 7000-strong peacekeeping force in Darfur before a UN mission is deployed.” [10b]

- 3.14 United Nations Mission in Sudan, (UNMIS), reported on the Darfur Peace Agreement stating that: “On Friday the 5th of May 2006, the Government of Sudan and the Sudan Liberation Movement/Army (Minni Minawi) have signed the Darfur Peace Agreement.” [7a] However, IRIN News reported on 1 June 2006 that: “Abdelwahid Mohamed al-Nur, leader of one faction of the rebel Sudan Liberation Movement/Army (SLM/A) and Khalil Ibrahim, leader of the Justice and Equality Movement (JEM) refused to sign the 5 May Darfur Peace Agreement (DPA) on Wednesday, claiming it did not address their key political and security demands.” [10c]

THE EASTERN CONFLICT

- 3.15 In Eastern Sudan, there is a relatively low-intensity conflict between the government and the Eastern Front. The Front was created in February 2005 as an alliance between two eastern tribal rebel groups, the Rashaida tribe's Free Lions and the Beja Congress. They were later joined by the Darfuris' Justice and Equality Movement (JEM). The rebels' gravest threat is to block the flow of oil through Port Sudan. The Eastern Front is demanding that power and wealth be shared equitably within Sudan, including Eastern Sudan. (Canadian International Development Agency). [11a] An IRIN report of 22 June 2005 reports that: “The eastern rebels have clashed intermittently with government forces in eastern Sudan since 1996, Beja sources said, but tension has risen in recent months.” [10d] In January 2006, the BBC and the Sudan Tribune reported on the increased tension between the Eastern Front and government forces in and near the town of Hamesh Koreb. [9b] [12a-b]
- 3.16 Despite the parties involved the conflict having expressed their willingness to participate in Libyan and Eritrean mediated peace talks, the commencement of these proceedings was delayed on four successive occasions. (Sudan Tribune, 9 January 2006) [12c] (Agence France Presse, 25 January 2006) [13a] However, On 20 June 2006 IRIN reported that: “The Sudanese government and rebels of the Eastern Front (EF) have signed a ceasefire and agreed on a framework for substantive peace talks to end a simmering civil conflict in east Sudan. Preparatory talks between the government and the EF - an alliance of two rebel movements, the Beja Congress and a smaller insurgency, the Rashaida Free Lions - began in the Eritrean capital, Asmara, on 13 June and concluded on Monday with the signing of two agreements. ‘They signed a declaration of principles - a framework for future talks - and an agreement on creating a conducive environment for peace, which includes a ceasefire, the lifting of the state of emergency, the release of prisoners of war, and an agreement to refrain from hostile media campaigns,’ an analyst in Asmara told IRIN.... ‘The military ceasefire will take immediate effect,’ he added.” [10e]
- 3.17 The BBC also reported on the ceasefire noting:
- “Rebels in eastern Sudan and the government have signed a ceasefire deal at talks in neighbouring Eritrea. Both sides agreed to end hostilities to pave the way for a lasting settlement, the Eritrean mediators said. Eastern Front rebels, allied to other Sudanese rebel groups, have controlled Hamesh Koreb close to the Eritrean border for more than a decade. They complain of discrimination by the central government in one of the poorest areas of Sudan.” [9c]

RECENT DEVELOPMENTS

- 4.01 In early November 2005, Minni Arko Minnawi was elected the new president of the Sudan Liberation Movement/Army (SLM/A), a decision that the incumbent president, Abdel Wahed Mohamed al-Nour refused to recognise causing observers to fear that the SLM/A's disunity would negatively affect the already stalled African Union-sponsored peace talks set to resume later the same month. (IRIN news report 4 November 2005) [10f] On 5 December 2005, Salva Kiir Mayardit signed the Interim Constitution for south Sudan (ICSS). [10g]
- 4.02 In January 2006, Chad and Sudan discussed the possibility of engaging in talks to ease the tension that has grown between the two countries since late 2005. (IRIN, 10 January 2006) [10h] Chad has accused Sudan of supporting Chadian rebels operating from Darfur, although Sudan has denied that the rebels are in Sudanese territory. [10h] In January 2006, it was reported that the Darfuri rebel movements – the SLM/A and JEM – had agreed to join forces under the banner Alliance of Revolutionary Forces of West Sudan. (AFP, 22 January 2006) [13b] Despite an improvement in Sudan-Chadian relations following an 8 February 2006 agreement in Libya to end support to each other's rebel groups, cross-border raids continued and high-level defections from Chad's army to the Darfur-based Chadian rebels increased the likelihood of the escalation of tension between the countries. (ICG CrisisWatch, 1 March 2006) [14a]
- 4.03 The BBC reported on 12 June 2006 that:
- “Gunmen in southern Sudan have attacked the outskirts of the city of Juba, killing nine people. Residents said the gunmen belonged to the Ugandan rebel Lord's Resistance Army who have been fighting for many years in northern Uganda. The attack comes just after LRA leaders arrived in Juba having been invited by south Sudan Vice-President Riek Machar. He has offered to mediate a peace agreement between the rebels and the Ugandan government.” [9d]
- 4.04 In October 2006 the Sudanese government and the Eastern Front rebels signed a peace agreement to end the conflict in Eastern Sudan. The agreement was signed in Asmara, the capital of Eritrea. The Eastern Front is an alliance between two rebel movements, the Beja Congress and the Rashaida Free Lions. (BBC Online, 14 October 2006) [9ax], (IRIN News, 16 October 2006) [10ef]

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CONSTITUTION

INTERIM NATIONAL CONSTITUTION OF SUDAN (INC)

5.01 The Interim National Constitution (INC) was signed on 9 July 2005. (BBC Timeline, 18 September 2006) [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune website. [12d]

5.02 The Sudan Organisation Against Torture's (SOAT) newsletter of November – December 2005 noted that other than in Darfur:

“The situation in the rest of the Sudan has improved little despite the expectations generated by the Comprehensive Peace Agreement (CPA) and the Interim Constitution adopted in June 2006. The untimely death of Dr. John Garang, the architect of the CPA and the leader of the Sudan People Liberation Movement/Army (SPLM), the slow pace of implementation of elements within the CPA specifically with regards the Constitution coupled with the perception among many of the weakness of Salva Kiir Mayardit, the now leader of the SPLM and the First Vice President have all combined to produce an atmosphere of resignation and disappointment. For the general civilian population in the Sudan, little has changed in the last twelve months.” [15a] (p2)

5.03 Article 4 of the draft copy of the INC records the fundamental basis of the Constitution:

“This Constitution is predicated upon and guided by the following principles:

- (a) The unity of the Sudan shall be based on the free will of its people, the rule of law, democratic governance, accountability, equality, respect and justice for all citizens,
- (b) Religion, beliefs, customs and traditions are a source of moral strength and inspiration for the Sudanese people,
- (c) The cultural and social diversity of the Sudanese people shall be the foundation of national cohesion and shall not be used for causing division,
- (d) The authority and powers of government emanate from the sovereign will of the people exercised by them in free, direct, and periodic elections conducted through universal adult suffrage in secret balloting;” [12d] (p3-4)

5.04 The draft copy of the INC provided for basic human rights such as the right to life and human dignity, equality, and freedom of religion, speech, assembly and movement. [12d] (p13-17) The UN's Integrated Regional Information Networks (IRIN) recorded on 11 July 2005 that “On Sunday [10 July 2005], [President] al-Bashir issued a decree ending the country's 16-year-old state of emergency – which gave authorities wide powers to detain people without charge and to crack down on opposition forces – in all the states of Sudan except the three strife-torn states of Darfur and two eastern states bordering Eritrea.” [10i]

5.05 Amnesty International (AI) welcomed the human rights provisions in the new Constitution but was concerned that “Article 60 of the Interim Constitution grants immunity from prosecution to the President and First Vice President of

the Republic of the Sudan for all crimes except those of high treason, gross misconduct in relation to State affairs, and gross violations of the Constitution.” [16a] Whilst, the Sudan Human Rights Organisation-Cairo’s (SHRO-Cairo) Human Rights Quarterly of January 2006 states, in relation to the ending of the State of Emergency, that “Gross human rights violations, however, were never abated. Tens of political detainees and prisoners of conscience remained in jail.” [17a] (**The Situation of Human Rights in Sudan: March-November 2005**)

INTERIM CONSTITUTION OF SOUTHERN SUDAN (ICSS)

5.06 The Interim Constitution of Southern Sudan (ICSS) was signed into law on 5 December 2005. (United Nations Secretary-General’s report on the Sudan, 21 December 2005) [6c] (para 4) Although, no copies of the final version of the ICSS were available at the time of writing, a draft constitutional text was reproduced on the Sudan Tribune website. [12e] Article 3 of the draft copy of the ICSS records the supremacy of the Constitution as follows:

- “(1) This Interim Constitution shall be the supreme law of Southern Sudan and shall have binding force on all organs and agencies of government and persons throughout Southern Sudan.
- (2) The interim constitutions and laws of the States of Southern Sudan shall comply with this Constitution and the Interim National Constitution.” [12e] (p4)

5.07 As with the INC, the draft copy of the ICSS provided for basic human rights such as the right to life and human dignity, equality, and freedom of religion, speech, assembly and movement. [12e] (p8-15) Article 9 (1) of the draft copy of the ICSS also affirms that “The people of Southern Sudan have the right to self-determination through a referendum to determine their future status.” [12e]

5.08 Part Eleven of the ICSS concerns: ‘The States, Local Government, Traditional Authority and Abyei Area’. [12e] (p78) Article 165 states that: “(1) The Territory of Southern Sudan shall be decentralized and composed of ten states. (2) The states shall adopt their own constitutions, which shall conform to this Constitution and the Interim National Constitution.” [12e] (p78) Articles 166 to 170 of Part Eleven of the ICSS deal with the provisions for state organs, the state executives, state legislative assemblies, state judiciaries and interim provisions for the individual southern states, the latter pending the elections scheduled to be held no later than the end of the fourth year of the Interim Period [approximately July 2009]. [12e] (p78-82)

See also Annex G: [States of Sudan](#)

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POLITICAL SYSTEM

GOVERNMENT OF NATIONAL UNITY (GoNU)

- 6.01 The Interim National Constitution (INC) was signed on 9 July 2005. (BBC Timeline, 18 September 2006) [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune site. [12d] Article 24 of the March 2005 draft INC records that:

“The Sudan is a decentralized State, with the following levels of government:

- (a) The national level of government [Government of National Unity (GoNU)], which shall exercise authority with a view to protect the territorial integrity and the national sovereignty of the Sudan and promote the welfare of its people,
- (b) Southern Sudan level of government [Government of Southern Sudan (GoSS)], which shall exercise authority in respect of the people and states in Southern Sudan,
- (c) The state governments throughout the Sudan, which shall exercise authority at the state level and render public services through the level of government close to the people,
- (d) The level of local government throughout the Sudan.” [12d] (p10)

- 6.02 On 31 August 2005, the new interim parliament convened its first session in Khartoum:

“In accordance with the historical peace agreement, 52 percent of the parliamentary seats were reserved for members of the ruling party, while the SPLM/A was accorded 28 percent. Northern opposition parties received a further 14 percent, while their counterparts in the south were allotted the remaining six percent of the seats in the new interim assembly.” (IRIN, 1 September 2005) [10j]

- 6.03 IRIN recorded that: “Under the January [2005] peace accord, a new legislative chamber will be set up after national elections in three to four years’ time, followed by a referendum in which the south will vote on unity or secession.” [10j] On 22 September 2005, the BBC and IRIN reported on the swearing in of the new Government of National Unity (GoNU). [9e] [10k] The President of the GoNU, as of 3 October 2006, was Lt Gen Omar Hassan Ahmad El-Bashier, the First Vice-President Lt Gen Silva Kair Miar Madit and the Vice-President Ali Osman Mohamed Taha. (GoNU via Gurtong.org, updated 29 September 2006) [18j]

- 6.04 IRIN reported on 22 September 2005 that:

“Of the 29 ministries, 16 remained in the hands of the ruling National Congress Party (NCP). Nine went to the SPLM/A, and the remaining four were divided among various other political parties in accordance with the wealth- and power-sharing quotas agreed to under the Comprehensive Peace Agreement. The NCP retained the key energy and mining, defence, interior, finance and justice ministries in the new government. The SPLM/A gained

control of the foreign affairs ministry, under senior SPLM/A official Lam Akol, as well as the foreign trade, education and scientific-research, and health ministries.” [10k]

- 6.05 Many Southerners were reportedly unhappy at the allocation of ministries as the SPLM was effectively a junior rather than equal partner in the sharing of power, contrary to the accords contained in the peace agreement. (BBC Online, 22 September 2005) [9e] (IRIN 22 September 2005 & 15 November 2005) [10k, 10i] IRIN also noted that: “Two seats [in the GoNU] have been left vacant for members of the northern opposition National Democratic Alliance [NDA], which is unhappy at the allocation of seats.” [10k]
- 6.06 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) noted that:
- “Although there were 20 officially registered political parties, the law effectively prohibits traditional political parties linked to armed opposition to the government. The Political Parties Act allows some formerly banned political parties to resume their activities, but the parties were required to notify the registrar in writing to participate in elections. Observers believed that the government controlled professional associations.” [3a] (Section 2b)
- 6.07 The main national opposition parties were the Popular National Congress (PNC), the Umma Party (UP) and the Democratic Unionist Party (DUP). (HRW, March 2006) [19a] IRIN reported on 1 September 2005 that: “A number of opposition groups, including the Umma Party of former premier Sadiq al-Mahdi and the Popular Congress Party of Hassan al-Turabi, announced earlier a decision not to participate in the new parliament on the grounds that the president’s party unfairly dominated both chambers.” [10j]
- 6.08 In the conflict zones of North, South and West Darfur states in the north-west, and Red Sea and Kassala state in the north-east, the main opposition groups were – in Darfur – the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), who allied under the banner the Alliance of Revolutionary Forces of West Sudan (ARFWS) in January 2006, and – in the east – the Beja Congress (BC) and Rashaida Free Lions (FL), who joined forces in February 2005 under the name the Eastern Front (EF). (UN ICI, 25 January 2005; AFP, 22 January 2006; Sudan Tribune, 5 February 2005) [6e] [13b] [12F]

See also Annex B: [Political organisations](#) and Annex C: [Prominent people, past and present](#)

GOVERNMENT OF SOUTHERN SUDAN (GoSS)

- 6.09 The Interim Constitution of Southern Sudan (ICSS) was signed into law on 5 December 2005. (UN Secretary-General’s report on the Sudan, 21 December 2005) [6c] (para 4) Although no copies of the final version of the ICSS were available at the time of writing, a draft constitutional text, dated October 2005, was reproduced on the Sudan Tribune website. [12e] Article 50 of the draft copy of the ICSS records that:

“Southern Sudan shall have a decentralized system of government with the following levels:

- (a) the government of Southern Sudan [GoSS] level which shall exercise authority in respect of the people and states in Southern Sudan;
 - (b) the state level of government, which shall exercise authority at the state level throughout Southern Sudan and render public services through the level closest to the people; and
 - (c) local government level throughout Southern Sudan, which is the closest level to the people and whose organization, elections and proper functioning, shall be the responsibility of the states.” [12e] (p23)
- 6.10 On 29 September 2005 the Interim Legislative Council of Southern Sudan was inaugurated in Juba, the capital of southern Sudan, “The transitional southern parliament will remain in place until legislative elections are held in approximately four years. After a six-year interim period, which began on 9 July, the south will hold a referendum to decide whether to remain part of a united Sudan or secede.” (IRIN, 30 September 2005) [10m] The Report further noted: “The establishment of the legislative council also opens the door for the adoption of a host of new legislative powers – from approving budgets to decisions on the framework of local governance – that are essential for the implementation of development and reconstruction programmes for the war-ravaged region.” [10m]
- 6.11 The Gurtong Peace Project website recorded that the vast majority of members in the South Sudan Assembly were members of the Sudan People’s Liberation Movement. [18c] The few remaining seats were taken by members of President al-Bashir’s National Congress Party (NCP), the South Sudan Defense Force (SSDF), the Sudan African National Union (SANU), the United Democratic Front (UDF), the Union of Sudan African Parties 1 (USAP 1), the Union of Sudan African Parties 2 (USAP 2) and the United Democratic Sudan Forum (UDSF). [18c]
- 6.12 On 23 and 24 October 2005, the BBC and IRIN reported on the swearing in of the new Government of Southern Sudan (GoSS). [9f] [10n] “According to the January [2005] peace agreement, 70 percent of the representatives of the southern government are from the SPLM/A, 15 percent from the northern ruling National Democratic Party of President Umar al-Bashir and 15 percent from other southern parties.” (IRIN, 24 October 2005) [10n] The President of the GoSS, as of 10 March 2006, was Salva Kiir and the Vice-President was Riek Machar Teny. (GoSS via Gurtong.org, updated 29 September 2006) [18k]
- 6.13 The main opposition parties in south Sudan were the South Sudan Defence Force (SSDF), South Sudan Unity Movement (SSUM) and South Sudan Independence Movement (SSIM). [14f]

See also Annex B: [Political organisations](#) and Annex C: [Prominent people, past and present](#)

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HUMAN RIGHTS

INTRODUCTION

- 7.01 The British Broadcasting Corporation (BBC) Timeline, updated on 18 September 2006, recorded the signing of the Interim National Constitution (INC) on 9 July 2005. [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune website. [12d] Article 27 of the draft INC stated that:

“This Bill of Rights is a covenant between the Sudanese people and between them and their governments at every level and also a commitment to respect and promote the human rights and fundamental freedoms enshrined in this Constitution; it is the cornerstone of social justice, equality and democracy in the Sudan; the State shall guarantee, protect, and fulfil this Bill; all rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified by the Republic of the Sudan shall be an integral part of this Bill.” [12d] (p13)

- 7.02 In 2004, 2005 and 2006, the abuse of individuals and groups, and the severe restriction of fundamental freedoms, were reported in detail by various international governments and agencies, and both international and national human rights groups such as the United States Department of State (USSD), United Nations (UN), Human Rights Watch (HRW), Amnesty International (AI), the Sudan Organisation Against Torture (SOAT) and the Sudan Human Rights Organisation-Cairo (SHRO-Cairo). [3a-3b, 3d-3e] [6e, 6k-6p, 6s-6u, 6w-6y] [19b-19m] [16a-16am] [15a-15am] [17a-17l]

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SECURITY FORCES

- 8.01 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) stated that: "The National Intelligence and Security Service (NISS) and the Ministry of Interior both have security forces under their control, along with the police force that maintained internal security. The police forces included regular police units and the Popular Police Force, a parallel progovernment force that received higher pay than regular forces....The army was responsible for external and internal security." [3a] (Section 1d) The report also noted: "The government generally maintained effective control over the security forces." [3a] (p1)
- 8.02 The Report of the International Commission of Inquiry (UN ICI) on Darfur to the United Nations Secretary-General (UN SG), published in January 2005, states that: "According to information received by the Commission, the National Security and Intelligence Service is one of the most powerful organs in the Sudan. ... National Security Forces act under the general supervision of the President." [2c] (p29-30)

POLICE

- 8.03 "Police corruption was a problem, and police officers supplemented their incomes by extorting bribes from the local civilians. Impunity remained a serious problem." (USSD report for 2005) [3a] (Section 1d)

Arbitrary arrest and detention

- 8.04 Human Rights Watch, in its 2005 Report on Sudan stated: "More than twenty international or national aid workers were arbitrarily arrested, detained, or threatened by Sudanese police and security forces in Darfur in the first six months of the year alone [2005]." [19e]

ARMED FORCES

- 8.05 The Republic of Sudan has three legally regulated armed forces: the Sudanese Armed Forces are the regular Government military and currently operate throughout the country; the Sudan People's Liberation Army (SPLA) is the regular military force of the Government of Southern Sudan; and, the Popular Defence Force is an armed force linked to the ruling party of northern Sudan and to armed groups raised from rural ethnic groups. A fourth group, the Joint Integrated Units, composed of units from SPLA and the Sudanese Armed Forces, was established by the Comprehensive Peace Agreement to form the nucleus of a unified army if southern Sudan decides against independence in the referendum scheduled for 2011. (UN Security Council Secretary-General's Report 17 August 2006) [6J] (P3) In addition to these legally regulated forces, there are numerous non-legal forces operating in the Sudan. During the civil war in southern Sudan and the transitional areas, the Sudanese Armed Forces used non-legal militias to control territory. The Comprehensive Peace Agreement refers to these non-legal militias as other armed groups. There were over 50 such groups brought together under the South Sudan Defence Forces (SSDF), an umbrella organisation that was nominally led by Major General Paulino Matiep of the South Sudan Unity

Movement (SSUM) but was effectively under the control of the military intelligence division of the Sudanese Armed Forces. (UN Security Council Secretary-General's Report 17 August 2006) [6J] (P3)

- 8.06 The Report of the International Commission of Inquiry (UN ICI) on Darfur to the United Nations Secretary-General (UN SG), published in January 2005, stated that:

"The Sudanese armed force is a conventional armed force with a mandate to protect and to maintain internal security. It carries out its mandate through an army, including Popular Defence Force militia and Borders Intelligence, as well as an air force and navy. According to information received by the Commission, currently the army numbers approximately 200,000 in strength, although its logistical capacity was designed for an army of 60,000. Support, in particular air support, therefore goes primarily to priority areas and is re-deployed only after those areas have calmed down. The central command and control of armed forces operations are therefore imperative." [6e] (p27)

SECURITY FORCES: SOUTH SUDAN

- 8.07 Article 160 of the Interim Constitution of Southern Sudan (ICSS), signed into law on 5 December 2005, states:

"(1) There shall be established a police service to be known as the Police of Southern Sudan which shall be a decentralized professional service force whose mission is to prevent, combat and investigate crime, maintain law and public order, protect the people of Southern Sudan and their properties, and uphold and enforce this Constitution and the law.

(2) The Police Service shall be organized at the level of Southern Sudan and states of Southern Sudan; its powers and functions shall be prescribed by law." [12e]

"(4) The duties of the Police shall, inter alia, be to:

- (a) maintain law and public order;
- (b) ensure the safety and security of the people of Southern Sudan including returnees, internally displaced persons and refugees and their properties;
- (c) prevent and detect crime;
- (d) protect government officials, executives, international dignitaries and other designated persons as required;
- (e) combat illicit trafficking in narcotics, drugs, illegal trade in firearms and other organized and trans-boundary crimes and terrorism;
- (f) co-operate with other security organs established under this Constitution and with the civil population generally;
- (g) collect data and information on all criminal matters; and
- (h) combat corruption." (ICSS, Article 160) [12e]

- 8.08 In comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR stated that the New Sudan Police Act and Police General Regulation Act, 2003 were enacted and are currently in use. The Laws will need to be amended slightly to put them in line with the CPA which

is currently done by a team of lawyers of the Ministry of legal Affairs and Constitutional Development.” [20a] (p2-3)

8.09 The Police Act states that:

“The Police shall be deployed for the prevention and detection of crime and prosecution of offenders on behalf of the Attorney General and shall report back to the same on all steps taken in that regard. The Police shall also be responsible for apprehension of offenders, maintenance of public order and public security, safety of persons and property, fulfillment of any obligations under law and regulations it shall also be responsible for the custody of any unclaimed properties.” [18e] (**Police Act: Chapter 3, Section 10**)

8.10 The Police Act also records the duties and expectations of officers of the law, whilst the Police General Regulation Act details the organisation, titles and seniority within the force, and other aspects such as training and recruitment. [18e] (**Police Act**) [18f] (**Police General Regulation Act**)

8.11 The United States State Department report on human rights practices 2005, published on 8 March 2006, recorded that: “The court system did not function in many areas due to lack of infrastructure, communications, funding, and an ineffective police force.” [3a] (**Section 1e**)

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MILITARY SERVICE

- 09.01 Article 18 of the draft Interim National Constitution (INC) stated that: "Defending the Country is an honour and a duty; the State shall care for the combatants, afflicted in war and the families of the martyrs." (Sudan Tribune, draft Interim National Constitution, 16 March 2005) [12d] (p9)
- 09.02 War Resisters' International's (WRI's) 1998 survey 'Refusing to Bear Arms' noted that the law governing military service is the National Service Act 1992, which rendered all males aged between 18 and 33 liable for national service. [21a] (p1) However, the Danish Fact Finding Mission (FFM) of 2000 reports that "Military service is compulsory for all males aged 18 and over, the recruitment age being adjusted from time to time." [23a] (p36)
- 09.03 WRI's 1998 Survey also noted that: "According to the law, women are also liable for military service, but they are not called up in practice." [21a] (p1) It also states that: "The length of military service is 24 months, 18 months, in the case of high school graduates, and 12 months in the case of university and college graduates." [21a] (Section 1)
- 09.04 War Resisters' International's survey further noted: "According to the 1992 law, those called up for military service are not allowed to follow an education or get a job. Men of conscription age are forbidden to leave the country for any reason (art. 20)." [21a] (Section 3)
- 09.05 The International Committee of the Red Cross' 2004 Annual Report stated that: "The Sudanese national security forces signed an agreement on 5 June [2004] to launch a training programme on IHL and international human rights law." [22a] (p105)
- 09.06 The Report continued:
- "In the field, improved access in the south meant the ICRC gave more presentations and workshops on IHL and international human rights law to military, security and police forces stationed in conflict-affected areas. In Darfur, ICRC staff seized every opportunity to give ad hoc briefings on IHL and international human rights law to armed, security and police forces. As its mandate became better known, it organized comprehensive presentations on IHL, such as a three-day workshop in El Fasher for high-ranking army officers. The ICRC also conducted sessions on IHL and the ICRC for newly arrived African Union troops." [22a]
- 09.07 The 2005 International Committee of the Red Cross Annual Report stated that:
- "The ICRC stepped up IHL training for all armed groups in Darfur and had frequent contact with both the African Union Mission in Sudan (AMIS) and the UN Mission in Sudan. The organization also initiated IHL training for the Joint Integrated Units. As defined in the comprehensive peace agreement, the units made up a unified force of around 40,000 Sudanese army and SPLM/A troops." [22b]

POPULAR DEFENCE FORCES (PDF)

- 09.08 The Danish Fact Finding Mission of 2001 reported that: "Besides the regular Sudanese army the National Congress (NC) party has its own military branch called the Popular Defence Forces (PDF)." [23b] (p35) The PDF was created by the Government in 1990 and has its legal basis in the Popular Defence Forces Act 1989. (War Resisters International, 1998) [21a] The Danish 2001 Fact Finding Mission reported that: "Under the 1989 Popular Defence Forces Act (attached as Annex 5 [of the Report]), PDF recruits must be at least 16 years old and Sudanese citizens. In 1992 service in the PDF became obligatory for all students, both male and female. Completion of service was a precondition for entering further education." [23b] (p37)
- 09.09 The January 2005 Report of the International Commission of Inquiry (UN ICI) to the United Nations Secretary-General (UN SG) states that:
- "For operational purposes, the Sudanese armed forces can be supplemented by the mobilization of civilians or reservists into the Popular Defence Forces (PDF)....According to information gathered by the Commission, local government officials are asked by army Headquarters to mobilize and recruit PDF forces through tribal leaders and sheikhs. The Wali is responsible for mobilization in each State because he is expected to be familiar with the local tribal leaders." [6e] (p28)
- 09.10 WRI's 1998 Survey stated: "PDF training involves military training, civil defence training and patriotic and cultural education (1989 law, art. 14) and is considered to be an instrument of religious indoctrination." [21a] The Danish FFM report 2001 noted: "The PDF training contained a considerable element of Islamisation, and many Christian students therefore had serious problems when they were recruited to the PDF." [23b] (p37) The Report also noted that although women were recruited into the PDF on a voluntary basis, they were not sent on active service, although "There were women's battalions which stayed behind the front lines where recruits worked as nurses, etc." [23b] (p39)
- 09.11 The UN ICI recorded that "One senior commander explained the recruitment and training of PDF soldiers as follows:
- "Training is done through central barracks and local barracks in each state. A person comes forward to volunteer. We first determine whether training is needed or not. We then do a security check and a medical check. We compose a list and give it to the military. This is done at both levels – Khartoum and state or local level. We give basic training (for example, on the use of weapons, discipline, ...) [sic] which can take two weeks or so, depending on the individual."
- "A person may come with a horse or camel – we may send them into military operations on their camel or horse. [...] Recruits are given weapons and weapons are retrieved again at the end of training." [6e] (p28)
- 09.12 The 2001 Danish FFM Report noted that: "Students who go into the PDF before entering further education have to serve 12 months, while those who have not yet been accepted for further education or who have not completed secondary school have to serve for 18 months. State employees and those

working in state-owned companies have to undergo a 45-day training programme.” [23b (p37)]

- 09.13 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that: “In the [government-run] camps [for vagrant children], the PDF often conscripted teenage males (and, in the South, some females). Conscripts faced significant hardship and abuse in military service, often serving on the frontline.” [3a] (Section 5)

EXEMPTIONS, PARDONS AND POSTPONEMENTS

- 09.14 The National Service Act 1992, contained in Annex 4 of the Danish 2001 FFM Report, detailed the conditions to be met by Sudanese citizens to qualify for an exemption, pardon or postponement of their military service. [23b] (p69-72)

CONSCIENTIOUS OBJECTION, DESERTION AND EVASION

- 09.15 The National Service Act 1992, contained at annex 4 of the Danish 2001 FFM Report outlines the general laws and penalties of avoiding or postponing military service. [23b] (p73) War Resisters’ International’s 1998 Survey noted that: “The right to conscientious objection is not legally recognised.” [21a] It also stated that: “Avoiding military service is punishable by two to three years’ imprisonment (National Service Law, art. 28).” [21a]
- 09.16 The FCO stated in its letter of February 2005 that, although they were not aware of specific cases of draft evaders/deserters facing inhuman, degrading or persecutory treatment, they would not be surprised to find that this was the case. [4b]

RECRUITMENT/CONSCRIPTION

- 09.17 “The 1992 National Service Law was introduced in an attempt to meet [the] increasing personnel needs of the armed forces.” (War Resisters’ International’s 1998 Survey). [21a] The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) stated that: “The government continued to forcibly conscript citizens for mandatory military service as part of mandatory military service for male citizens.” [3a] (Section 1f) The FCO, when commenting on the Government’s current recruitment/conscription practices in its letter of February 2005, stated that: “The relevant authority puts an advertisement in the local media calling for young people to sign up.” [4b]
- 09.18 The Danish FFM report of 2001 stated that during round-ups military personnel in civilian clothing stopped vehicles and “The authorities forced those passengers who were believed to be the right age for conscription and who could not prove that they had in fact already performed their military service to go with them to military training camps. Many of those who were recruited did not even have an opportunity to contact their parents or relatives to inform them of what had happened.” [23b] (p35)
- 09.19 A December 2002 Canadian Immigration and Refugee Board (IRB) Research Directorate enquiry response described “The process for reporting for military service; how recruitment calls are made; [and] exemptions from service.”

[52a] (p1) In addition to the above methods of call-up the chairman of the Sudan Human Rights Group (SHRG), who was consulted by the IRB, stated that local radio and television announcements occurred asserting that all men eligible for military service should gather together at a specific place, at a certain hour and date. [52a] (p1)

- 09.20 The same report relayed: "As well, he [the Chairman of the SHRG] stated that '[i]n case of emergency, that is to say, [an] urgent need for fighters, the Military Police usually close main highways and roads and check the passengers and arrest those persons who are eligible for...service.'" [52a] (p1) However, in comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR stated that: "Some three years ago the government stopped rounding up young men in the cities to conscript them into National Service. Students are now required to undergo 45 days to 2 months military training prior to entering University and then serve one year National service upon graduation. National service can be in the army or in governmental institutions depending on profession and state of health." [20a] (p4)

FORCED CONSCRIPTION

- 09.21 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that: "While there were no reports of child conscription into the government military, there were reports that government and allied militias conscripted children and accepted children as soldiers and reports of children participating in hostilities in northern Darfur." [3a] (Section 1g) The report also stated that: "The government operated 'reformation camps' for vagrant children....In the camps, the PDF often conscripted teenage males (and, in the South, some females). Conscripts faced significant hardship and abuse in military service, often serving on the frontline." [3a] (Section 5)

MILITARY SERVICE: WEST SUDAN (DARFUR)

- 09.22 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) stated that: "The government continued forcibly to conscript citizens for military service as part of mandatory military service for male citizens, and government-allied forces and rebels continued to recruit and accept child soldiers in Darfur. Community leaders relayed unconfirmed reports that all sides to the conflict in Darfur recruited child soldiers." [3a] (Section 1f)
- 09.23 Save the Children (UK) published a Report, 'Child Protection in Darfur', in September 2004, in which the organisation expressed its concerns regarding the apparent forced conscription of children by government/government-allied forces and rebel groups in Darfur. [24a] (p5) The report also stated that some children might also have 'volunteered' in an effort to protect themselves or their families but stressed that even the 'voluntary' recruitment of minors is a violation of their rights and, in the case of children under the age of 15, such a practice constitutes a war crime. [24a] (p5)

MILITARY SERVICE: SOUTH SUDAN

- 09.24 Article 45 of the Interim Constitution of Southern Sudan (ICSS) states that: “(1) Defence of Southern Sudan is an honour and a duty of every citizen in Southern Sudan. (2) The Government of Southern Sudan shall care for the combatants, the wounded, the families of martyrs and those missing in action.” (Sudan Tribune, The Interim Draft Constitution of Southern Sudan, 2005) [12e]
- 09.25 In comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR stated that the New Sudan SPLA (Sudan People’s Liberation Army) Act, 2003 was enacted and is currently in use. [20a] (p2) UNHCR also notes that “The laws will need to be amended slightly to put them in line with the CPA which is currently done by a team of lawyers of the Ministry of Legal Affairs and Constitutional Development.” [20a] (p3)
- 09.26 The SPLA Act, 2003 describes the structure of the force:
- “(1) The SPLA shall comprise of:-
- (a) The Forces known as the SPLA immediately before the commencement of this Act;
 - (b) Any person enrolled or enlisted under this Act;
 - (c) Reserves.
- “(2) The SPLA shall be divided into:-
- (a) An Active List;
 - (b) A Reserve List.” [18g] (SPLA Act: Chapter I, Section 4)

09.27 Chapter II of the Act contains the provisions for commissioning, enrolment, enlistment, appointments and transfers, whilst Chapter III describes the provisions for dismissal and discharge from the SPLA. [18g] (SPLA Act: Chapters II & III, Sections 7-15) Chapters IV and V refer to the offences members of the SPLA could be charged with, and the respective punishment for each offence. [18g] (SPLA Act: Chapters IV & V, Sections 8-46) Chapter VI prescribes the various types of punishment in more general terms, which include but are not confined to:

 - “(a) Imprisonment (which may be in a normal prison or military camp or in a labour camp in case of productive punishment);
 - (b) Death which may be executed by a firing squad or by hanging the condemned person by the neck until he is dead;

Provided that the death sentence shall not be passed on persons under the age of 18 years, pregnant or sucking *[sic]* women or persons above the age of 70 years;

 - (c) Fine (which may be in the form of money, cattle or any other property current in each area);
 - (d) Forfeiture of property (the ownership of which passes to the Civil Authority of New Sudan (CANS);
 - (e) Field punishment (which may be passed in lieu of or in addition to any other lawful sentence);

- (f) Whipping (which may be passed in lieu of any other sentence).”
[18g] (SPLA Act: Chapter VI, Section 47)

09.28 The International Committee of the Red Cross' Annual Report for 2004 stated that: "The SPLM/A taught IHL [International Humanitarian Law] at its main training centre, the Institute for Strategic Studies, but had not yet integrated the subject into all its training programmes. As support, the ICRC trained 30 SPLA officers as IHL instructors." [22a] (p106) The ICRC's 2005 Annual Report has since reported: "The ICRC stepped up IHL training for all armed groups in Darfur and had frequent contact with both the African Union Mission in Sudan (AMIS) and the UN Mission in Sudan. The Organization also initiated IHL training for the joint integrated Units. As defined in the Comprehensive Peace Agreement, the units made up a unified force of around 40,000 Sudanese army and SPLM/A troops. [22b] (p119)

FORCED CONSCRIPTION: SOUTH SUDAN

09.29 An IRIN news article dated 20 October 2005 noted that the UN Mission in Sudan reported that: "continued extortion and forced conscription of returnees by local militias was of concern to humanitarian agencies operating in the Sudan's south." [10r] IRIN news had previously reported on 1 July 2005 that Una McCauley, child protection officer with the UN Children's Fund (UNICEF) Operation Lifeline Sudan, said: "We estimate that there are about 4,000 child soldiers remaining in the SPLM/A" [10s] However, a recent IRIN report dated 26 July 2006 noted that: "Some 242 children who have been in the fighting units of the southern Sudan People's Liberation Movement/Army (SPLM/A) were on Tuesday [25 July 2006] disarmed and demobilised at a ceremony in the southern town of Tonj in Warab State....According to the United Nations Children's Fund (UNICEF), in the past five years more than 15,000 children have been disarmed, demobilised and returned to their families and communities from SPLA ranks. Of these, 900 were disarmed after the signing of the CPA." [10t]

09.30 Additionally in comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR states that:

"In the Protection working Group, 17 June 2005, UNICEF reported that [the] SPLA believes there are still 3500 child soldiers in their ranks. UNICEF also reported that Commander Salva Kiir had prepared a policy document to declare the recruitment of child soldiers a criminal offence. He also pledged that the SPLA would continue the demobilisation of child soldiers. It should be noted that due to the fact that military training centres are under civilian command, community leaders – when asked to provide people for military training – are / were sending children to the training centres. UNICEF is working with the SPLM on ways to exclude children from military training." [20a] (p4)

09.31 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) stated that: "Unlike in the previous year, there were no reports that southern militias recruited child soldiers. Credible observers stated that southern tribal chiefs delivered children to the militias for recruitment goals in an effort not to give up their able-bodied fighters." [3a] (Section 5)

- 09.32 An IRIN report of July 2005 recorded that “Some 10,000 other children are thought to be associated with other armed groups in southern Sudan, mainly pro-government militia. Many were selected by local chiefs in their home areas who arrange their recruitment.” [10s]

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JUDICIARY

10.01 The Interim National Constitution (INC) was signed on 9 July 2005. (BBC Timeline, 18 September 2006) [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune website. [12d] Article 34 of the draft INC states that:

- “(1) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his/her arrest and shall be promptly informed of any charges against him/her;
- (2) In the determination of any criminal charges or rights and obligations in a law suit, the accused shall be entitled to a fair and public hearing by a competent, independent and impartial court of law;
- (3) Everyone charged with an offence shall be presumed innocent until proved guilty according to law;
- (4) No one shall be held guilty on account of any act or omission which did not constitute an offence under national, Southern Sudan or state laws, or international law at the time when it was committed;
- (5) In the determination of any criminal charge against anybody, he/she shall be entitled to be tried in his/her presence without any undue delay and to defend himself/herself in person or through legal assistance of his/her own choice and to have legal aid assigned to him/her where the interest of justice so require;” [12d] (p14)

10.02 Article 123 of the draft INC records that:

- “(1) The National judicial competence in the Republic of the Sudan shall vest in an independent authority to be known as the ‘National Judiciary’;
- (2) The National Judiciary shall assume judicial powers in adjudicating on disputes and issuing judgments on those disputes in accordance with this Constitution and the law;
- (3) The National Judiciary shall be independent of the Legislature and the Executive;” [12d] (p48)

10.03 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that: “Although the constitution provides for an independent judiciary, the judiciary was largely subservient to the president or the security forces, particularly in cases of crimes against the state.” [3a] (Section 1e) The report further noted that: “On occasion courts displayed a degree of independence. For example, appeals courts overturned several decisions of lower courts in political cases, particularly decisions from public order courts. However, political interference with the courts regularly occurred.” [3a] (Section 1e)

10.04 The report also noted that:

“The law provides for fair and prompt trials; however, this was often not respected. Trials in regular courts nominally met international standards of legal protections. Trials were open to the public at the discretion of the judge. In cases of national security and offenses against the state, trials were usually closed. Juries are not used.” [3a] (Section 1e)

10.05 The report continued:

“The accused normally have the right to an attorney, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment; however, there were reports that defendants frequently did not receive legal counsel and that counsel in some cases could only advise the defendant and not address the court. There were reports that the government sometimes denied defense counsel access to the courts or did not allow the calling of defense witnesses.” [3a] (Section 1e)

10.06 The report further noted that: “Lawyers who wished to practice were required to maintain membership in the government-controlled bar association. The government continued to harass members of the legal profession whom it considered political opponents.” [3a] (Section 1e)

10.07 Amnesty International (AI), in a Report dated December 2004, stated that: “Unfair trials are the norm in Sudan. Political trials and trials under Specialised Criminal Courts in Darfur are inherently unfair, but often even trials under ordinary courts fail to respect international standards of fairness. In some cases, the judiciary appears to have overturned sentences or dismissed charges against the accused for lack of evidence; however, doubts remain as to the guilt of many persons convicted in unfair trials.” [16r] (p34)

10.08 Furthermore, Amnesty International, in its December 2004 Report, registered its concern that the Popular Congress (PC/PNC) party members arrested in connection with the alleged March 2004 coup attempt had been tortured to extract confessions, which the defendants had later retracted. [16r] (p38) The Report further added that: “Regarding the September [2004] arrests of Popular Congress members, defence lawyers were reportedly given a list of 94 persons, including military men, who would stand trial for suspected involvement in an alleged coup attempt.” [16r] (p38)

STRUCTURE

10.09 Article 124 of the draft INC records that: “The National Judiciary shall be structured as follows: (a) A National Supreme Court, (b) National Courts of Appeal, (c) Other national courts or tribunals as deemed necessary to be established by law.” [12d] (p48) Article 130 of the INC states that: “(1) Having regard to competence, integrity and credibility, the Chief Justice of the Republic of the Sudan, Justices of the National Supreme Court, and all Judges of the Republic shall be appointed by the President of the Republic, after consultation within the Institution of the Presidency and upon the recommendation of the National Judicial Service Commission.” [12d] (p50)

10.10 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) noted that: “The judicial system includes four types of courts: regular, military, special, and tribal courts. Tribal courts functioned in rural areas to resolve disputes over land and water rights, and family matters. Within the regular court system there are civil and criminal courts, appeals courts, and the Supreme Court. Special courts in Darfur operated under the state of emergency to try crimes against the state; there were three such courts, one in each Darfur capital.” [3a] (Section 1e) The report also noted that: “The Criminal Act governs criminal cases, and the Civil

Transactions Act applies in most civil cases. Shari'a is applied in the North but not by courts in the South." [3a] (Section 1e)

- 10.11 Article 156 of the draft INC states, with regard to the National Capital, Khartoum, that: "(d) the judicial discretion of courts to impose penalties on non-Muslims shall observe the long-established *Sharia* principle that non-Muslims are not subject to prescribed penalties, and therefore remitted penalties shall apply." [12d] (p62) Article 157 continues: "A special commission shall be established by the Presidency to ensure that the rights of non-muslims are protected and respected in accordance with the guidelines mentioned in Articles 154 and 156 above and not adversely affected by the application of *Sharia* law in the National Capital. The said commission shall make its observations and recommendations to the Institution of the Presidency." [12d] (p62)
- 10.12 The Sudan Organisation Against Torture's (SOAT) April 2004 Report on Reformatories in Sudan records that: "There is an active juvenile [*sic*] court [in] Khartoum that has been established as a pilot project in 1999 in Khartoum North....Recently, there are two juveniles' courts in other states (Gadarif and Kosti)." [15b] (p1) The Report further states that: "The court applied the code of criminal procedure 1991 in general because the juvenile Welfare act 1983 [*sic*] did not provide special procedures for handling the cases under it." [15b] (p5) The report also states that: "The administrative structure of the court is the same as the structure of ordinary courts in the Sudan." [15b] (p5) The Report added: "Establishing the juvenile's court has had a tremendous impact on the lives of children who came into conflict with the law in Khartoum State." [15b] (p5)

WEST SUDAN (DARFUR)

- 10.13 "Special courts operated in Darfur under the state of emergency to try crimes against the state; there were three such courts, one in each Darfur capital.... The Special Courts Act created special three-person security courts to deal with violations of constitutional decrees, emergency regulations, and some sections of the Penal Code, as well as with drug and currency offenses. Special courts, composed primarily of civilian judges, handled most security-related cases. Attorneys could address the court." (USSD report for 2005) [3a] (Section 1e)
- 10.14 In December 2004 Amnesty International released a report entitled 'Sudan: The Specialised Criminal Courts in Darfur', which stated that:
- "Special Courts instituted by decrees under a 2001 State of emergency in Darfur were reformed into 'Specialised Criminal Courts' in all three states of Darfur in March 2003, following another decree by the Chief Justice in Khartoum. Jurisdiction over offences such as 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 Governor of the State or the Head of the Judiciary' (Article 4) was passed onto these new Courts." [16b] (p1)

10.15 The report continued:

“The Specialised Criminal Courts are defended by the Sudanese authorities as a notable improvement for the rights of defence; in particular they are now headed by only one civilian judge, compared to the Special Courts which were also headed by members of the security forces. According to the Ministry of Justice, the Specialised Criminal Courts are formally under the responsibility of the judiciary; they have been established for reasons of ‘expediency’. However lawyers in Darfur see little difference between the Special Courts and the Specialised Criminal Courts. Many of the flaws remain.” [16b] (p1)

10.16 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) stated that:

“Lawyers complained that they sometimes were granted access to court documents too late to prepare an effective defense. Sentences usually were severe and implemented at once; however, death sentences were referred to the chief justice and the head of state. Defendants could file appellate briefs with the chief justice. The defendant has seven days to appeal a decision; the decision of the appeal court is final.” [3a] (Section 1e)

10.17 Amnesty International’s December 2004 report on the Specialised Criminal Courts in Darfur noted what the organisation considered were the main flaws that remained in the system. Amnesty International was concerned that: “The 2003 Decree institutionalising such courts still fails to ensure that confessions extracted under torture are not used as evidence against the accused, even if they are later retracted.” [16b] (p1) It was also concerned that proper legal representation was still not guaranteed and, while defence lawyers were frequently allowed to represent their clients, this was at the discretion of the judge, and that “Specialized Criminal Courts continue to sentence convicted persons to cruel, inhumane and degrading punishments and the death penalty, with limited rights of appeal.” [16b] (p1)

10.18 AI also recorded, in December 2004, that:

“The Sudanese authorities also use the Specialised Courts to try ordinary people on suspicion of belonging to, or supporting, rebel groups. In Darfur, there are two opposition groups – the Sudan Liberation Army and the Justice and Equality Movement. Amnesty International is concerned that the Specialised Courts, which accept confessions extracted under torture as evidence, can be used by the Sudanese authorities to pass sentences of death or other cruel, inhumane and degrading treatment, on such detainees. The Sudanese authorities have frequently arrested and tortured civilians into confessing to belong to rebel groups.” [16b] (p1)

10.19 Human Rights Watch’s (HRW’s) August 2004 Report ‘Empty Promises, Continuing Abuses in Darfur, Sudan’ recounts that: “On July 19, 2004, the government of Sudan announced that it had sentenced the first ten ‘Janjaweed’ militia members for crimes including armed attacks, robbery and illegal possession of arms. The sentences included six years in prison and cross-amputation — amputation of the right hand and left foot. The process of these trials raises a number of concerns.” [19b] (p27) The concerns the report referred to were that the sentence of limb amputation is contrary to Sudan’s international obligations under the International Covenant on Civil and Political

Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the continuing doubts concerning the fairness of trials conducted in the Specialised Criminal Courts, as outlined in paragraphs 10.13 to 10.18 above, and that: "The identities of the convicted men and their precise connection to the government-backed Janjaweed militias remains unclear and it appears that the majority of the individuals who have been presented as militia members and leaders are in fact common criminals, many of whom have been charged with crimes such as the illegal possession of weapons. Witnesses who visited the prison and Nyala in July 2004 and were presented to detainees alleged to be the convicted militia men told Human Rights Watch that the prisoners were often petty thieves and some individuals convicted of serious crimes, but that none had been convicted of rape, for instance, and that the vast majority of the individuals presented were convicted of crimes unrelated to the attacks by government-backed Janjaweed militias, long before July 2004." [19b] (p27)

- 10.20 The Report of the International Commission of Inquiry (ICI) on Darfur to the United Nations (UN) Secretary-General, dated 25 January 2005, when discussing the possible mechanisms to ensure accountability for the crimes committed in Darfur, states that: "Considering the nature of crimes committed in Darfur and the shortcomings of the Sudanese criminal justice system, which have led to effective impunity for the alleged perpetrators, the Commission is of the opinion that the Sudanese courts are unable and unwilling to prosecute and try the alleged offenders." [6e] (p144) The Commission recommended that the situation in Darfur be referred to the International Criminal Court (ICC) as: "The international community must take on the responsibility to protect the civilians of Darfur and end the rampant impunity currently prevailing there." [6e] (p145)
- 10.21 In June 2005, the ICC announced the opening of an investigation into crimes against humanity in Darfur, a move welcomed by various human rights organisations and made possible by a March 2005 UN Security Council (UN SC) resolution to refer the situation in Darfur to the court. [19c, 19d] [16c, 16d] IRIN reported, in April and June 2005, on the Sudanese Government's and judiciary's objections to the ICC's decision to open the investigation, including a state-organised public protest in April 2005. [10o, 10p, 10q]
- 10.22 The UN Secretary-General's (UN SG) August 2005 Report noted that: "The Special Criminal Court for the events in Darfur, which was established by the Government on 7 June [2005], began proceedings this month. There are currently four cases before the Special Court, dealing with charges of rape, armed robbery, illegal possession of firearms and unlawful killing of persons in custody." [6f] (p2)
- 10.23 The UN Secretary General's Report continues:

"The establishment of the Special Court is a positive development. However, none of the cases before the Special Court addresses the major violations of human rights and international humanitarian law that took place during the conflict in Darfur during 2003 and 2004; nor do the cases address the criminal responsibility of senior officials. I am also concerned about procedures adopted for the Special Court. From the beginning, no special procedures have been in place for protecting minors, whether as victims or as alleged perpetrators. Each case has had to be adjourned owing to the non-attendance

of witnesses who had been given insufficient notice, or no notice at all, of the hearing. Trial procedures must meet with international fair trial standards and, if the Special Court is to be true to the spirit of the mandate under which it was established, this must be reflected in the selection of cases.” [6f] (p2)

JUDICIARY: SOUTH SUDAN

- 10.24 Article 132 of the draft INC recorded that: “Notwithstanding Article 130(1) herein, and within one week from the adoption of Interim Constitution of Southern Sudan, the President of Government of Southern Sudan shall appoint the President and Justices of Southern Sudan Supreme Court, Courts of Appeal and Judges of other courts as shall be determined by that Constitution and the law;” [12d] (p51)
- 10.25 The Interim Constitution of Southern Sudan (ICSS) was signed into law on 5 December 2005. (UN Secretary-General’s report on the Sudan, 21 December 2005) [6c] (para 4) Although no copies of the final version of the ICSS were available at the time of writing, a draft constitutional text, dated October 2005, was reproduced on the Sudan Tribune website. [12e] Article 23 of the ICSS states that:
- “(1) An accused is presumed to be innocent until his or her guilt is proved according to the law.
 - (2) Any person who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest and shall be promptly informed of any charges against him or her.
 - (3) In all civil and criminal proceedings, every person shall be entitled to a fair and public hearing by a competent court of law in accordance with procedures prescribed by law.
 - (4) No person shall be charged with any act or omission which did not constitute an offence at the time of its commission.
 - (5) Every accused person shall be entitled to be tried in his or her presence in any criminal trial without undue delay.
 - (6) Any accused person has the right to defend himself or herself in person or through a lawyer of his or her own choice and to have legal aid assigned to him or her by the government where he or she is unable to defend himself or herself in serious offences.” [12e]
- 10.26 An undated article on the Gurtong Peace Project website recorded that the 29 laws of the New Sudan were signed by the then SPLM/A Chairman, the late John Garang, on 26 June 2003, and four draft laws signed on 17 April 2004. [18a] The article also remarked that: “After the signing of the peace agreement, the laws will have to change; there will be new laws which will respond to the new situation and to the future environment of cooperation and peace.” [18a] In comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR stated that the New Sudan Judiciary Act, 2003 was enacted and is currently in use. [20a] (p2) UNHCR also noted that: “The Laws will need to be amended slightly to put them in line with the CPA which is currently done by a team of lawyers of the Ministry of legal Affairs and Constitutional Development.” [20a] (p3)
- 10.27 The Act itself states that: “Judicial powers in the New Sudan shall be vested in an independent body to be known as ‘The Judiciary’ and shall in the discharge of its duties be directly responsible to the Chairman [of the SPLM and Civil

Authority of the New Sudan (CANS)].” [18d] (**Judiciary Act: Chapter 1, Section 4**) As to the Powers and jurisdiction of the Courts:

- “1) Courts shall have powers to determine all the disputes and try all the cases other than those excepted by law.
- 2) Every Court shall have the power to determine matters submitted to it in accordance with the Law.
- 3) Courts shall not directly or indirectly adjudicate upon acts of sovereignty.” [18d] (**Judiciary Act: Chapter 1, Section 6**)

10.28 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) noted that: “Shari’a is applied in the North but not by courts in the South....In the South the SPLM employed a judicial system of county magistrates, county judges, regional judges, and a court of appeals. The court system did not function in many areas due to lack of infrastructure, communications, funding, and an ineffective police force. The SPLM recognized traditional courts or ‘courts of elders,’ which usually heard domestic matters such as marriages and dowries and based their decisions on traditional and customary law. Local chiefs usually presided over traditional courts. Traditional courts were particularly active in Bahr el-Ghazal. In rural areas outside effective SPLM control, tribal chiefs applied customary laws.” [3a] (**Section 1e**)

10.29 Furthermore, the United Nations (UN) Special Rapporteur reported in January 2003 that perpetrators of abuses were reportedly sometimes brought to justice, although the judiciary often acted on an arbitrary basis. [6g] (p14) “In parts of the South and the Nuba Mountains where civil authorities and institutions did not operate, there were no effective judicial procedures. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially for offenses against civil order.” (USSD report of 2005, published 8 March 2006) [3a] (**Section 1e**)

STRUCTURE: SOUTH SUDAN

10.30 The New Sudan Judiciary Act, 2003 states that:

“The New Sudan Courts shall be classified as follows:-

- a) Court of Appeal.
- b) High Courts.
- c) County Courts.
- d) Payam Courts.
- e) Regional Courts.
- f) Chiefs Courts.
- g) Any other Court established by law specifying its constitution, the seat and jurisdiction thereof.” [18d] (**Judiciary Act: Chapter 1, Section 5**)

10.31 Chapter 2 of the Act went on to describe the establishment, constitution, powers and jurisdiction of each court. [18d] (**Judiciary Act: Chapter 2, Sections 8-19**) Chapter 3 detailed the provisions for the appointment of judges at each court level. [18d] (**Judiciary Act: Chapter 3, Sections 20-28**)

ARREST AND DETENTION – LEGAL RIGHTS

- 11.01 Article 29 of the Interim National Constitution (INC) which was signed on 9 July 2005 states that: “Every one has the right to liberty and security of person; no one shall be subjected to arbitrary arrest or detention nor be deprived of his/her liberty except on such grounds and in accordance with such procedures as are established by law.” (BBC Timeline, updated 18 September 2006) [9a], (Sudan Tribune, Draft Constitutional Text, 16 March 2005) [12d] (p13) While Article 34 states: “(1) anyone who is arrested shall be informed, at the time of arrest, of the reasons for his/her arrest and shall be promptly informed of any charges against him/her.” [12d] (p14)
- 11.02 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report 2005) stated that: “The law prohibits arbitrary arrest and detention without charge; however, the government continued to use arbitrary arrest and detention under the state of emergency provisions (until July 9) or under the National Security Act.” [3a] (Section 1d)
- 11.03 The report further noted that:
- “Warrants are not required for an arrest. Under the Criminal Code, an individual may be detained for 3 days without charge, which can be extended for 30 days by order of the director of security and another 30 days with the approval of the prosecuting attorney. Under the National Security Act, which supersedes the Criminal Code, an individual accused of violating national security may be detained for three months without charge, which the director of security may extend for another three months. Under the state of emergency, the government was not constrained by the National Security Act and reportedly detained individuals indefinitely without judicial review. The law provides for the individual to be informed of the arrest charges at the time of arrest and for prompt judicial determination without undue delay, but these provisions were rarely followed.” [3a] (Section 1d)
- 11.04 Amnesty International, in its Annual Report for 2006, reporting on events in 2005, states that: “Hundreds of political prisoners continued to be held arbitrarily in Khartoum. Arbitrary arrests, incommunicado detention, torture and restrictions on freedom of expression persisted, aimed in particular at human rights defenders, student activists and internally displaced people in and around Khartoum.” [16e] In January 2005, the Report of the International Commission of Inquiry (UN ICI) on Darfur to the United Nations Secretary-General (UN SG) was published; it reports that: “The Commission noted that the National Security Force Act, as amended in 2001, gives the security forces wide-reaching powers, including the power to detain without charge or access to a judge for up to nine months.” [6e] (p31)
- 11.05 The United States State Department report on human rights practices 2005, published on 8 March 2006, further noted that:
- “The law allows for bail, except for those accused of crimes punishable by death or life imprisonment, and there was a functioning bail system. Although the law provides for access to a lawyer, security forces often held persons, including criminal detainees, incommunicado for long periods in unknown locations without access to their lawyers or family members. Individuals were

arbitrarily arrested and detained. In general the government detained persons for a few days before releasing them without charge or trial; however, there were exceptions, particularly for perceived political opponents.”

[3a] (Section 1d)

- 11.06 The USSD report 2005 continued: “The government routinely mistreated persons in custody. There were credible reports that security forces held detainees incommunicado; beat them; deprived them of food, water, and toilets; and forced them to sleep on cold floors.” [3a] (Section 1c)

- 11.07 The report additionally noted:

“The government held an estimated 100 political detainees, such as members of opposition parties, and security forces reportedly tortured, detained without charge, and held incommunicado political opponents [during 2005]. Detentions of such persons generally were prolonged. Security forces arrested numerous persons suspected of supporting the rebels in Darfur, some of whom were tried, convicted, and sentenced to death under special courts. Security forces frequently harassed political opponents by summoning them for questioning, forcing them to remain during the day without questioning, and then ordering their return the following day—a process that sometimes continued for weeks.”

[3a] (Section 1d)

- 11.08 The January 2005 United Nations International Commission of Inquiry on Darfur Report stated that:

“In Khartoum, the Commission interviewed detainees that were held incommunicado by the security forces in ‘ghost houses’ under abhorrent conditions. In some cases, torture, beatings and threats were used during interrogations and so as to extract confessions. Some of the detainees had been held for 11 months without charge, access to a lawyer or communication with family.” [6e] (p31)

ARREST AND DETENTION – LEGAL RIGHTS: SOUTH SUDAN

- 11.09 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) stated that: “The SPLM/A released approximately 500 prisoners of war (POWs) within their territories during the year. The government did not acknowledge holding any POWs; the SPLM alleged that government-held POWs were killed during the years of fighting.” [3a] (Section 1g) The International Committee of the Red Cross (ICRC) recorded on 3 August 2005 that: “Around 300 people formerly held by the Sudan People’s Liberation Army (SPLA) were freed at the beginning of July and returned to Khartoum. Most of them had been held for a period of several years, and some for up to fifteen years.” [22e]

- 11.10 The USSD report 2005 further stated that:

“In accordance with Shari’a (Islamic law), the Criminal Act provides for physical punishments, including flogging, amputation, stoning, and ‘crucifixion’—the public display of a body after execution. According to the constitution, the government officially exempts the 10 southern states from Shari’a law. There were no reports of physical punishments carried out against non-Muslims in the North. During the year hundreds of persons, primarily

southerners, were flogged, especially after the August Khartoum riots.”
[3a] (Section 1c)

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PRISONS AND PRISON CONDITIONS

STRUCTURE

- 12.01 The Sudan Organisation Against Torture's (SOAT's) Annual Report on Women Prison Conditions in Sudan, 2003, provided some background on the prison structure in Sudan. The Report stated that: "The prisons in Sudan are divided into five sections; Federal, Provincial, Regional and Central, Open and Semi-Open and Mental Asylums." [15c] (p1)
- 12.02 The Report noted that the seven different types of prisons house the following types of prisoner:
- "Federal:** repeat offenders, prisoners with special needs such as behavioural difficulties, those imprisoned for crimes regarding hudud (crimes where physical punishment for the offence is provided in law) and unusual practices like refusing to obey orders.
- Provincial:** first time offenders with medium- to long-term sentences, hudud prisoners from the provinces and those with special needs.
- Regional and Central:** repeat offenders with medium- to long-term sentences and first time offenders.
- Open and Semi-Open camp:** first-time offenders, according to their jobs, age and those with a 'positive attitude'.
- Mental Asylum:** those who have been sectioned under Article 4 of the criminal Act of 1991 and prisoners who are too mentally unstable to carry out their sentences in normal prison conditions." [15c] (p1-2)
- 12.03 SOAT's 2003 report also recorded the size, location and layout of the mixed and women's prisons in Marawi, Al Fashir, Kousti and Omdurman. [15c]

PRISON CONDITIONS

- 12.04 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that:
- "Prison conditions remained harsh, overcrowded, and life threatening. Most prisons were old and poorly maintained, and many lacked basic facilities such as toilets or showers. Health care was primitive, and food was inadequate. Prison officials arbitrarily denied family visits to prisoners. High-ranking political prisoners reportedly often enjoyed better conditions than did other prisoners.... The government did not permit regular visits to prisons by domestic human rights observers; however, in the latter part of the year, the government allowed limited access to UN monitors. The government granted the International Committee for the Red Cross (ICRC) limited access to some detention facilities, but the ICRC requested unrestricted access, which the government denied." [3a] (Section 1c)
- 12.05 Marawi and Kousti prison, according to SOAT's 2003 Report on Women Prisons, held both men and women prisoners. [15c] (p10, 11) The Report further stated that: "There are no health units at the prison [Marawi] as there are no medical staffs [sic]." [15c] (p11) However, in Kousti prison, SOAT reports that: "There are no serious health issues amongst the prisoners....There are

medical units within the prison and in the past there was a medical assistant to overlook its operation, who looked after the health of prisoners.” [15c] (p12)

WOMEN IN PRISON

- 12.06 SOAT’s 2003 Report included information in varying detail on the living and health conditions in each of the prisons on which it reported. [15c] The Report noted that, in Omdurman, blankets and sheets were not provided by the state and the prison authorities depended on charities to provide them. [15c] (p7) The Report also stated that: “Prisoners suffering from poor health are relocated to Al Tigani Al Mahi hospital on Omdurman or the Central mental hospital in Kober (a department of the prison administration).” [15c] (p7)
- 12.07 SOAT’s 2003 Report further noted that, in Kousti women’s prison: “There are 45 inmates along with twelve accompanied children. Between the hours 5pm to 5am only one area a room is provided for them to reside in, this room does not have space for a quarter of the inmates....There are only 4 beds; these are the private property of some 4 persons of the inmates *[sic]*.” [15c] (p13) The Report also noted that, in Kousti prison: “The prisoners’ ankles are chained by manacles almost always, especially when they are visiting a hospital, they may even be chained together as a group.” [15c] (p14)
- 12.08 In comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR stated that the majority of female inmates in Omdurman prison, Khartoum are held on charges of the illicit manufacture and distribution of alcohol, and that most of these women were internally displaced, living in camps on the outskirts of the capital: “Many are detained, in poor conditions, together with their small children, who range from newly born to 5 years of age.” [20a] (p3)

CHILDREN IN PRISON

- 12.09 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that:
- “Juveniles often were held with adults and in some cases subjected to sexual abuse by the adult inmates.” [3a] (Section 1c) UNHCR’s comments to the APCI of 8 March 2006 note that: “Children are being imprisoned with adults, there aren’t separate holding facilities.” [20a] (p4) SOAT’s 2003 Report on Women’s Prisons noted that, in Kousti’s mixed prison: “There is no separate section for minors and as they are not allowed according to law *[sic]* to mix with the adult populations, so, they have to be imprisoned in solitary confinement.” [15c] (p12) The Report also noted that, in Omdurman: “The children [imprisoned with their mothers] continue their education at Bayt al Maal Primary School (Omdurman district).” [15c] (p9)
- 12.10 The Sudan Organisation against Torture (SOAT), April 2004 Report on Reformatories in Sudan stated that:
- “Since nineteen fifties, 6 reformatories were established in Sudan with the aim of separating juveniles in conflict with the law from adult prisoners. Those reformatories were located in various parts of the country. Geographical coverage included southern Sudan (Maridi Reformatory), western Sudan (Shalla Reformatory), Central Sudan and Khartoum State (Abu Goota, Abu

Jeili, Kober and Jirief Reformatories).” [15b] (p1) Two reformatories that were in operation in Sudan were Jireif Reformatory in the Jireif area in Khartoum and Kober Reformatory in Kober, Khartoum North. [15b] (p1) The Reformatories Report also noted that in Kober Reformatory: “There is no medical check *[sic]* and not even a medical unit. Problems of skin disease are wide spread. Juveniles in severe cases are taken to [a] security hospital which is near the reformatory.” [15b] (p12) Common punishments in the two reformatories included solitary confinement, lashings and being asked to perform tasks which, in Kober prison particularly, could also be considered cruel and inhuman in nature. [15b] (p11, 13)

- 12.11 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) further noted that:

“The government operated ‘reformation camps’ for vagrant children. Police typically sent homeless children who had committed crimes to these camps, where they were detained for indefinite periods. Health care and schooling at the camps generally were poor, and basic living conditions often were primitive. All of the children in the camps, including non-Muslims, must study the Koran, and there was pressure on non-Muslims to convert to Islam.” [3a] (Section 5)

- 12.12 Children separated from their families as well as street children, who require bail in order to be released from detention, are more likely to suffer unjustly long pre-trial detention. Reports from UN Police consistently indicate that families are routinely not informed of the arrest of their children and so are unaware they must provide bail or food assistance. Children who have no families to provide bail must remain in detention until the Attorney General sanctions release. This is a process which is untimely and apparently ad hoc.” (UNHCR, 8 March 2006) [20a] (p4)

PRISONS AND PRISON CONDITIONS: SOUTH SUDAN

Structure

- 12.13 Article 161 of The Interim Constitution of Southern Sudan (ICSS) stated that:

- “(1) There shall be established a prisons service to be known as the Prisons Service of Southern Sudan and it shall be a decentralized professional service; its mission shall be correctional, reformatory and rehabilitative. It shall respect the will of the people, the rule of law and order, civilian government, democracy and human rights.
- (2) The Prisons Service shall be organized at the level of Southern Sudan and States of Southern Sudan.
- (3) The Prisons Service shall be headed by a Director-General of Prisons to be appointed by the President of the Government of Southern Sudan on the recommendation of the minister in charge and approval of the Council of Ministers.
- (4) The functions of Prisons shall, *inter alia*, be to manage, operate and maintain the prisons of Southern Sudan, and to administer the internment and care for the health of prisoners and inmates.
- (5) Organization, powers, terms and conditions of service of the Prisons Service shall be prescribed by law; and

- (6) Prisons authorities shall treat prisoners humanely. Any treatment that is cruel, inhuman, degrading of the dignity of prisoners, or that may expose his or her health to danger is prohibited and punishable by law.” (Sudan Tribune) [12e]
- 12.14 In comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR stated that the New Sudan Prisons Act, 2003 was enacted and is currently in use. [20a] (p2) UNHCR also notes that: “The Laws will need to be amended slightly to put them in line with the CPA which is currently done by a team of lawyers of the Ministry of legal Affairs and Constitutional Development.” [20a] (p3)
- 12.15 The Prisons Act itself outlined the constitution, duties and powers of the Prison Forces, appointment and duties of officers of the Prison Forces, and penalties of any contravention of those duties by Prison Officers. [18h] (Prisons Act)
- 12.16 The Prisons Act states that: “The regulations shall specify the position of various classes of prisoners, or divisions thereof according to their sex, previous conviction, term of imprisonment and the requirements of their treatment.” [18h] (Prisons Act: Chapter 7, Section 42)
- “Prisons shall be divided into the following types:-
- (a) Central Prisons
 - (b) County Prisons
 - (c) First Class Local Prisons
 - (d) Second Class Local Prisons
 - (e) Open and Closed Camps
 - (f) Mental Asylums
 - (g) Reformatories
 - (h) Juvenile Homes.” [18h] (Prisons Act: Chapter 7, Section 42)
- 12.17 The Act goes on to specify the treatment of persons in prison depending on factors such as gender, age, good behaviour and whether a prisoner has been convicted of an offence or is being held on remand. [18h] (Prisons Act: Chapter 7, Sections 43-54)

Prison Conditions

- 12.18 In comments submitted to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR states that conditions in Rumbek Prison, as of April 2005, were extremely poor:
- “There are two wings (one for men, one for women), Facilities are missing: no beds, no medical ward. The women’s ward has two toilets. Male prisoners are ‘chained’ when sitting in the open spaces of the prison compound. Food is provided by relatives of the prisoners and -sometimes- by the Church (Diocese of Rumbek). Due to lack of funding, the prison authorities are unable to provide food. Cases of malnourishment were witnessed.” [20a] (p3)
- 12.19 UNHCR’s comments also note that: “Pre-trial detainees and convicted criminals are not separated [as they should be according to the provisions of the Prisons Act].” [20a] (p3) [18h] (Prisons Act: Chapter 7, Section 51) They also state that: “Juveniles are being detained for the crimes of their family

members.” [20a] (p4) Furthermore: “Children are being imprisoned with adults, there aren’t separate holding facilities. There are no recreational or educational facilities. The youngest prisoner seen in Rumbek was a boy of (reportedly) 8 years old convicted of murder.” [20a] (p4)

- 12.20 UNHCR’s comments of 8 March 2006 further noted that: “Prison visits are allowed. DOR (diocese of Rumbek) and an indigenous NGO (Bahr el Gazal Women’s development Council – Department Women in the Law) are visiting prisoners regularly to undertake general monitoring and advocacy on behalf of prisoners.” [20a] (p3)

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DEATH PENALTY

13.01 Throughout 2005–2006, Sudan continued to view the death penalty as legitimate punishment for offenders including for offenders under the age of 18. This is despite the fact that Sudan is a state party to the UN Convention on the Rights of the Child. Several executions by hanging took place over the year particularly in Port Sudan prison in the Eastern region of Sudan on persons convicted of murder. (The Sudan Organisation Against Torture Annual Report on the Human Rights situation in Sudan March 2005 to March 2006) [15d] (p47)

13.02 Amnesty International's Report on Death Penalty Developments in 2005, noted that:

“The new Interim Constitution for Sudan, ratified on 9 July 2005, failed to abolish the death penalty in Sudan, particularly as it applies to those under the age of 18. Article 36 (2) of the Interim Constitution states that: ‘The death penalty shall not be imposed on a person under the age of eighteen or a person who has attained the age of seventy except in cases of retribution or *hudud*’ [sic]. This last exception makes the first safeguard almost worthless; for instance hudud crimes include murder and burglary over a certain amount, according to the 1991 Sudanese Penal Code. Article 36 (2) is incompatible with Sudan’s international obligations that prohibit child executions. There is no official record of those on death row or of executions in Sudan. However, Amnesty International receives cases every year of persons convicted to death in Sudan for crimes committed when under 18 years-old.” [16f] Human Rights Watch reported on 7 September 2005 of the execution of two prisoners who were minors at the time of their arrest. The report stated: “Mohammed Jamal Gesmallah and Imad Ali Abdullah, both in their twenties, were executed on August 31 [2005] in Khartoum’s Kober Prison. According to their families, they were 16 and 17 years old at the time of the crimes for which they were punished.” [19f]

13.03 The Interim National Constitution (INC) was signed on 9 July 2005. (BBC Timeline, 18 September 2006) [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune website. [12d] Article 36 of the draft INC states that: “No death penalty shall be inflicted save as retribution or punishment for extremely serious offences in accordance with the law.” [12d] (p15)

13.04 A Danish Fact Finding Mission of August and November 2001 reported that:

“According to the 1991 criminal law there are now nine offences in all for which the accused may be sentenced to death:

- Article 50: Attack on the power of the state and undermining the constitution
- Article 51: Making war on the state
- Article 53: Spying against the country
- Article 126: Apostasy (converting from Islam to another religion)
- Article 130: Murder
- Article 146: Adultery

Article 148g: Homosexuality
Article 168: Armed robbery
Article 177: Embezzlement.” [23b] (p13)

- 13.05 The US State Department’s (USSD’s) report on Human Rights practices 2005, published on 8 March 2006, stated that: “While the law permits non-Muslims to convert to Islam, conversion by a Muslim is punishable by death. In practice authorities usually subjected converts to intense scrutiny, ostracism, and intimidation, and encouraged them to leave the country, and there were no reports of conversion punished by death.” [3a] (Section 2c) The report added: “The punishment for rape under the law varies from 100 lashes to 10 years’ imprisonment to death. Spousal rape is not addressed. In most cases convictions were not publicized; however, observers believed that sentences often were less than the legal maximum.” [3a] (Section 5)
- 13.06 The Amnesty International 2005 Annual Report, covering events in 2004, stated that: “More than 100 death sentences were imposed; executions were believed to have been carried out.” [16g] (p1)

DEATH PENALTY: SOUTH SUDAN

- 13.07 Article 25 of the Draft Interim Constitution of Southern Sudan (ICSS) states that:
- “(1) No death penalty shall be imposed, save as punishment for treason, murder, armed robbery or other extremely serious offences as the law may determine.
 - (2) No death penalty shall be imposed on a person under the age of eighteen or a person who has attained the age of seventy.
 - (3) No death penalty shall be executed upon a pregnant or lactating woman, save after two years of lactation.” [12e]

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POLITICAL AFFILIATION

FREEDOM OF ASSOCIATION AND ASSEMBLY

14.01 The Interim National Constitution (INC) was signed on 9 July 2005. [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune website. [12d] Article 40 of the draft INC states that:

- “(1) The right of peaceful assembly shall be guaranteed; every one shall have the right to freedom of association with others, including the right to form and join political parties, associations and trade or professional unions for the protection of his/her interests;
- (2) The right to establish political parties, associations and trade or professional unions shall be guaranteed, the law shall regulate the exercise of this right as is necessary in a democratic society;
- (3) No association shall function as a political party at the national level unless it:
 - (a) has its membership open to all Sudanese irrespective of religion, ethnic origin, sex or place of birth,
 - (b) has a programme that upholds the Comprehensive Peace Agreement, and conforms to this Constitution,
 - (c) has a democratically elected leadership and institutions,
 - (d) has disclosed and transparent sources of funding;” [12d] (p16)

14.02 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that: “Although the constitution provides for freedom of assembly, the government severely restricted this right in practice.” [3a] (Section 2b) The report further stated that: “The law provides for freedom of association, but the government severely restricted this right in practice.” [3a] (Section 2b)

14.03 Human Rights Watch (HRW) released a Report in March 2006, ‘The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan’, which noted that:

“Political parties are beginning to test the limits of the commitments in the CPA for respect for human rights, and the SPLM has opened political party offices in certain northern cities. However, the political climate is nowhere near the open atmosphere that is needed for a genuine multiparty political system with respect for human rights. No progress has been made in drafting or passing the CPA-promised Political Parties Act or the National Security Act.” [19a] (p15)

14.04 The Report further noted:

“During the year since the CPA was signed, security agencies continue to play the lead role in preventing opposition to the NCP from developing. They persist in attacking and dispersing demonstrators and political gatherings, monitoring and arbitrarily arresting opposition suspects, conducting searches and seizures of opposition property, intimidating journalists and editors, and a range of other activities.” [19a] (p15)

MEETINGS AND DEMONSTRATIONS

- 14.05 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that:
- “The government banned all rallies and public demonstrations in the country and issued no permits authorizing such rallies. The authorities generally permitted only government-authorized gatherings and routinely denied permission for or disrupted gatherings they perceived were politically oriented. Before July 9 [2005], the government used the state of emergency as an excuse to restrict gatherings; after July 9 [2005], the government continued to restrict demonstrations under the pretext of security concerns for drivers and pedestrians.” [3a] (Section 2b)
- 14.06 The report further noted: “Security forces used excessive force, including beatings, tear gas, and firing of live ammunition to disperse unapproved demonstrations.” [3a] (Section 2b)
- 14.07 In late January, early February 2005 and March 2005, the BBC, SHRO-Cairo, AI, IRIN and SOAT all reported on the killings and arrests of demonstrators in Port Sudan in the eastern region of Sudan, when a demonstration against socio-economic and political marginalisation turned violent. [9g] [17b] [16h, 16i, 16j, 16k] [10u] [15e] SHRO-Cairo’s ‘Human Rights Quarterly’ of May 2005 records that “In February [2005], the Governor of the Red Sea State issued Decree No. 4/2004 prohibiting all assemblies or demonstrations ‘to ensure the public safety of the state’ based on the Sudan’s Constitution 1998 and the Emergency Law 1998.” [17c] (Public Freedoms)
- 14.08 An SHRO-Cairo Report noted that: “In the city of Omdurman today, the 6th of April, 2005, the government’s police and security forces launched an aggressive attack to frustrate the Umma Party’s peaceful celebration of the national anniversary of the April Popular Uprising, which ended the dictatorial rule of the Sudan in 1985.” [17d] SOAT and the USSD Report of 2005 noted the deaths and injuries caused by the excessive use of force by the security forces to suppress two student demonstrations later the same month. [15f] [3a] (Section 2b)
- 14.09 IRIN reported on the April 2005 demonstrations against a UN resolution calling for those accused of crimes in Darfur to be tried by the International Criminal Court (ICC): “The demonstration, organised by the ruling National Congress Party, came two days after the Sudanese government rejected UN Security Council resolution 1593, adopted on 31 March.” [10v] The following day, IRIN reported that: “The [news] agencies said security forces surrounded the party’s headquarters on Wednesday morning [6 April 2005], to stop a rally to celebrate the 20th anniversary of the fall of a previous regime. Scores of officials and party members were arrested.” [10w]
- 14.10 During the latter half of 2005, and early 2006, organisations such as Amnesty International (AI), Sudan Organisation against Torture (SOAT) and Sudan Human Rights Organization – Cairo Branch (SHRO – Cairo) recounted how the security forces continued to disrupt meetings and demonstrations. [16l, 16m-16n] [15g, 15h, 15i, 15j] [17a]

POLITICAL ACTIVISTS

14.11 “The President of Sudan on 30 June [2005] promised to release political prisoners. Amnesty International has repeatedly called on Sudanese authorities to release all prisoners of conscience immediately and unconditionally and to release other political prisoners unless they are to be charged promptly with a recognisably criminal offence and given a fair trial.” (Amnesty International, 1 July 2005) [16p] The statement also asserted Amnesty International’s view that, despite the Government’s claim that all political prisoners had been released, its own published list of known political detainees demonstrated that this was not the case and that this list was not even representative of the true number of detainees held in Sudan: “Families do not often know where detainees are being held. Prisoners are transferred from one place to another, while families must search for any information at all about their relative’s whereabouts. There is no public registry of detainees that relatives can consult.” [16p] Then on 6 July 2005, Amnesty International confirmed the names of nine men that had been released, noting that one of the men had been released in April [2005] and the other eight were released on 30 June [2005]. [16a]

14.12 Human Rights Watch’s (HRW) March 2006 report argues that:

“The political class in Sudan—which ranges from Islamists critical of the government (Ansar al-Sunna and the Popular Congress Party of Dr. Hassan al Turabi) to secular democrats (including many southern parties) to sect-based parties (the largest political parties have been the Umma and Democratic Unionist Parties) to regional parties (Union of Southern African Parties and Sudan National Party) and many others (including the Sudan Communist Party)—is capable of a high level of activity if it is not hemmed in by fear of the torture and repression used by the NCP-controlled security services since 1989 up to the present day.” [19a] (p15)

STUDENT ACTIVISTS

14.13 SOAT recorded the deaths and injuries caused by the excessive use of force by the security forces to suppress two student demonstrations in April 2005. [15f] (p9) SOAT also reported on the arrest of students in connection with the same demonstrations, and the arrest of students – also in April – who were believed to have participated in a demonstration in support of the referral of the Darfur crisis to the International Criminal Court. [15f] SHRO-Cairo reported on 20 June 2005 that on: “Wednesday the 15th of June [2005], students supporting the ruling National Congress Party exercised acts of violence in the Omdurman Ahliya University against students supporting democratic organizations, as well as faculty members.” [17e]

14.14 The SHRO-Cairo report continues:

“Regrettable reports indicated that the large destruction of the Ahlia [*sic*] University was carried out before eyes of the police and the security forces that did not move in any possible way to prevent the crime commission until a number of students and a few faculty members tried their best to stop the aggression. Strangely enough, the police force arrested a number of these students and staff members, including student Adison Joseph Garang and the

faculty members Tariq Osman and Abd al-Rafi' Mustafa who were further battered and abandoned in a remote area in the suburbs of Khartoum." [17e]

- 14.15 Amnesty International published a list of known political detainees in Sudan in June 2005 which contained a number of persons listed as students. An accompanying public statement, dated 1 July 2005, remarks that: "Students and members of marginalised groups, like the Nuba and people from Darfur, are most likely to be beaten and otherwise tortured after arrest." [16o-16p] Al, SOAT, OMCT SHRO-Cairo also recorded a number of incidents of arrest, detention, and suspected or actual cases of torture – some of which resulted in death – against politically active students, many of whom were of Darfuri origin, in 2004, 2005 and 2006. [16o, 16p, 16q] [15d 15h 15k, 15l-15m, 15n, 15o]
- 14.16 SOAT reported that: "On 17 October 2005 at 17.10hrs, security officers and security guards at Omdurman Islamic University, detained and reportedly tortured eight student activists from Khartoum University, Gazeera University, Omdurman Islamic University and Alahlia University." [15j] At least six of the eight were members of the Sudanese Students Democratic Front (SSDF). [15j] SHRO-Cairo's Human Rights Quarterly noted that: "Tens of citizens were severely beaten and subjected to tortures and degrading or inhumane treatment in detention [between March and November 2005]. Students from the marginal regions of the Nuba Mountains and Darfur were most vulnerable to these atrocities." [17a] (**Tortures and deaths in detention**)
- 14.17 On 13 February 2006 Amnesty International reported a raid by armed police and security forces at Juba University in Bahri, Khartoum on students who were gathered peacefully in front of the administration building awaiting a response to a letter concerning the relocation of the university back to Juba in south Sudan. The report noted that:

"According to a credible source, the detainees have been taken at night to unofficial National Security detention sites known as 'ghost houses', where they have been tortured. The detainees have reportedly also been deprived of food and denied access to legal counsel and their families. Reasons given for the continuing detention of the remaining 51 male students include destruction of public property, arson, public disturbance, and crimes against the state – which potentially carries the death penalty. They have not yet been brought before a judge to have the lawfulness of their detention reviewed." [16n]

THE POPULAR/PEOPLE'S NATIONAL CONGRESS (PC/PNC)

- 14.18 The Popular National Congress Party (PNCP) was created in 2000 by Dr. Hassan al-Turabi after being expelled from the National Congress (NC), which was formerly known as the National Islamic Front (NIF). (The US Department of State's Human Rights Report, 2000) [3c] (p1)
- 14.19 IRIN, SHRO-Cairo, the BBC, Amnesty International and SOAT all reported on the September 2004 government accusation that members of the Popular National Congress (PNC) were conspiring to overthrow the ruling regime. [16r] [10x-10y] [17f] [9h, 9i-9j] [15p] (p4) Amnesty International stated that: "Those targeted for arrest include high-profile members of the Popular Congress and lower-profile members of the Popular Congress, in particular students. Students and people from marginalised areas such as Darfur are particularly

at risk of torture: two students from the Popular Congress died in custody after their arrest in September 2004.” [16r] (p20)

- 14.20 At the end of June 2005, AI released a list of known political detainees in the Sudan. [16o] The human rights organisation’s accompanying public statement of 1 July 2005 states that: “Of 355 political detainees known to Amnesty International, only Shaikh Hassan al-Turabi, the founder of the Popular Congress, is known to have been released so far, after 15 months under house arrest in Khartoum without charge or trial.” [16p] However, a SOAT press release of 5 July 2005 reported that seven other members of the PNC had also been released. [15q]
- 14.21 On 1 July 2005 IRIN reported the release of al-Turabi, and further noted the President’s claim to have released all political detainees. [10z] After his release, Turabi was reported to have promised to only engage in peaceful opposition to the Khartoum government, although: “Analysts say the ghosts of a rift in 1999 between Turabi and Bashir still haunt the government, which is not sure who within its ranks might still be loyal to Turabi and who is loyal to the president. Turabi was secretary-general of the ruling National Congress Party’s (NCP) predecessor, the National Islamic Front.” (Reuters, 11 July 2005) [25a]
- 14.22 Amnesty International noted that: “For most of the 69 Popular Congress members on the list, arrested during mass government round-ups in September 2004, even the nine months detention period without access to a judge allowed in Sudanese law has now expired. The government linked these arrests to a plot against the State, but few of those still detained have been brought to trial; many have not even been charged.” [16p] The USSD report on Human Rights Practices 2005, stated that: “An appeals court upheld a judge’s October 2004 ruling that banned lawyers from representing 28 defendants on trial for allegedly plotting a coup and ordered them to pick new counsel or accept government-appointed lawyers. Thereafter 43 additional persons were charged. On May 15 [2005], 49 out of the 81 defendants were convicted of plotting a coup and sentenced to 5 to 15 years in prison. The others were released.” [3a] (Section 1e) SOAT also reported on individual cases of PNC members being arrested, detained and tortured – sometimes resulting in deaths – during 2004 and 2005. [15k, 15l-15m]
- 14.23 “During the year [2005] opposition parties became more vocal in the demanding inclusion, and the government sought the support of additional parties to add legitimacy to the CPA. Hassan al-Turabi’s PNC remained a proscribed political organization.” (The USSD report of 2005) [3a] (Section 3)

THE UMMA/UMMAH PARTY (UP)

- 14.24 “The Sudanese Patriots who established Umma Party in Feb 1945 as the fist Popular Political Party, aimed at attaining the country’s independence from the Condominium Reign. The Umma Party is the Party of Sudanese Independence. It championed that cause until it became the basis for Sudanese consensus in 1955. (The country’s Independence was announced in 1st Jan 1956)” (umma.org website) [26a]
- 14.25 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) recorded that: “Islamic

orders associated with opposition political parties, particularly the Ansar (the Umma Party) and Khatimia (the Democratic Unionist Party), continued to be denied permission to hold large public gatherings during most of the year. On April 6 [2005], riot police attacked Umma party members meeting at their party headquarters; four party members were detained for several hours before being released.” [3a] (Section 2b)

- 14.26 SOAT’s newsletter of March-April 2005 noted the arrest of three student members of the Umma Party (UP), stating that: “Reportedly, the detainees were badly beaten by security agents. The students were distributing posters announcing a UNP Conference to be held in Khartoum State on 24 April 2005.” [15f] (p10-11)
- 14.27 IRIN news reported on 7 April 2005 about the disruption of a UP celebration to commemorate the anniversary of the April Popular Uprising, which ended the dictatorial rule of the Sudan in 1985. The report stated: “Subsequently, [UP] officials received a notification banning all political activities by the party, claiming it had not been properly registered....Ummah’s leader, Sadiq al-Mahdi, had on Friday [1 April 2005] expressed support for a UN resolution calling for those implicated in crimes in Darfur to be tried by the International Criminal Court. ‘The Ummah Party is being targeted for their public support of the ICC resolution,’ a Sudanese official, who declined to be named, told IRIN” [10aa]
- 14.28 Nevertheless, subsequent reports appeared to indicate that the UP was still an active and important opposition political force, despite the reported banning of its activities. [6h] (p2) [19a] [10ab] [25a-25b] For instance, an IRIN report of 22 September 2005 noted that the UP of Sadiq al-Mahdi was not represented in the new Government of National Unity (GoNU), and a Human Rights Watch (HRW) report of March 2006 referred to the UP as one of the two largest political parties in Sudan, the other being the Democratic Unionist Party (DUP). [10ab] [19a]

ARMED OPPOSITION FACTIONS: WEST SUDAN (DARFUR)

- 14.29 Various sources reported on allegations that the Government was responsible for the arrest, detention and disappearance of persons suspected of supporting rebels in the Darfur region during 2004, 2005 and 2006, including, the US Department of State (USSD), Amnesty International (AI), and the Sudan Organisation Against Torture (SOAT). [3a] (Section 1c-1e) [16h-16s, 16i, 16t, 16o-16p, 16u-16v], [15k, 15l-15m, 15n] AI’s public statement of 1 July 2005, which accompanied the publication of a list of known political detainees, records that: “At least a third of detainees [named on the list] were arrested in Darfur, most of them held arbitrarily in connection with the conflict. Many are still detained in Darfur; others have been transferred to Khartoum. They include community leaders, critics of government policy and people – including members of Arab groups – seeking to engage in reconciliation. Most have been arrested on suspicion of sympathising with the Darfur armed groups, however only 26% have been charged or brought to trial.” [16o-16p]
- 14.30 Amnesty International (AI) and the Sudan Organisation Against Torture (SOAT) recorded in October and December 2004, and January 2005, that Darfuris residing in Khartoum and other areas of north Sudan were arrested and detained, apparently on suspicion of supporting the armed opposition

groups in Darfur. [16q] (p14-16) [15e, 15p, 15x] The vast majority of the cases reported by AI and SOAT involved students, educated persons, or influential members of a tribe or community, such as Sheiks and Omdas. [16q] (p14-16) [15e, 15p, 15x] AI recorded in June and July 2005 that many detainees of Darfuri origin in Khartoum were detained in connection with events in Soba Aradi in May 2005. [16o] SOAT also reported on the Soba Aradi detentions, torture and trial outcomes. [15m-15r, 15s, 15t, 15u-15v, 15w] The public statement produced by AI in July 2005 reports that: "Some 106 named in the list [of political detainees] were arrested in Soba Aradi squatter camp south of Khartoum, after clashes with the police that killed at least 14 policemen and possibly up to 50 residents. More than 100 others from Soba Aradi are believed to be detained. Some summary trials of those arrested in Soba Aradi have been held, where for the first time lawyers were able to meet the detainees who reported receiving daily beatings in police stations. Amnesty International is urging that these detainees be brought to fair trial on recognizable criminal charges or released, and that their reported torture be ended immediately." [16p]

ARMED OPPOSITION FACTIONS: EAST SUDAN

- 14.31 AI, the BBC, IRIN, SOAT and SHRO-Cairo all reported on the killing and arrest of demonstrators in Port Sudan, east Sudan in January 2005. [16h, 16i, 16j, 16w] [9k] [10u] [15e] [17a, 17b, 17g.] The BBC states that: "Security forces are said to have opened fire after protesters demanding greater autonomy for the local Beja community began rioting in Port Sudan." [9k] SHRO-Cairo stated on 30 January 2005 that: "Further reports indicated that the murdered citizens were hunted by the police even inside their own dwelling areas where 2 women and a number of children were killed by police firearms." [17b] AI condemned the use of excessive force to quell the demonstration and also reported that houses were attacked using grenades. [16h] In February 2005 SOAT recorded the details of those killed, the number of demonstrators who had been detained, and the locations of where the detained were thought to be held. [15e] (p5-6)
- 14.32 Amnesty International's May 2005 Report, 'Political Repression in Eastern Sudan', states that: "Scores of Beja were subsequently arrested between 29 January and 13 February by members of the National Security and Intelligence Agency in Port Sudan and Kassala. While the exact number of arrests is unknown, the semi official Sudanese Media Centre stated on 3 March that 199 of those arrested had been released and that four would be sent to court." [16j] (p1) However, AI went on to list 16 members of the Beja Congress party who had remained in detention, without charge, for more than three months. [16j] (p1)
- 14.33 "In the meantime, SHRO-Cairo received reliable reports that the Sudan Government has escalated military action against the Beja forces in Tandli and al-Gash as well as Makali and Degain in the neighborhoods of Jebel Await near the Mokram Mountains of Kassala." (SHRO-Cairo, 30 January 2005) [17b]
- 14.34 AI, SOAT and SHRO-Cairo all recorded the release of the remaining Beja Congress detainees, including General Secretary Abdullah Mosa, on 30 June 2005. [16w] [15q] [17a]

FREEDOM OF ASSOCIATION AND ASSEMBLY: SOUTH SUDAN

14.35 The UN's Integrated Regional Information Networks (IRIN) recorded the signing of the Interim Constitution of Southern Sudan (ICSS) on 5 December 2005. [10g] Although, no copies of the final version of the ICSS were available at the time of writing, a draft constitutional text, dated October 2005, was reproduced on the Sudan Tribune website. [12e] Article 29 of the ICSS states that:

- “(1) The right to peaceful assembly is recognized and guaranteed; every person shall have the right to freedom of association with others, including the right to form or join political parties, associations and trade or professional unions for the protection of his or her interests.
- (2) Formation and registration of political parties, associations and trade unions shall be regulated by law as is necessary in a democratic society.
- (3) No association shall function as a political party at Southern Sudan or state level unless it has:
 - its membership open to any Sudanese irrespective of religion, gender, ethnic origin or place of birth;
 - a programme that does not contradict the provisions of the interim National Constitution and this Constitution;
 - democratically elected leadership and institutions; and
 - disclosed and transparent sources of funding.” [12e] (p13)

14.36 The UN's Integrated Regional Information Networks (IRIN) reported that, on 29 September 2005: “The Interim Legislative Council of Southern Sudan, which brings together many former military and political adversaries, is officially inaugurated in Juba, the southern Sudanese capital.” [10ac] (September)

14.37 HRW's Report, ‘The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan’ of March 2006 records that:

“One of the most successfully executed aspects of the CPA appears to be putting the regional government of the south into southern ex-rebel hands and having NCP-appointed personnel in the south recognize the superior authority of the SPLM civilian authorities. Former rebels and their supporters from the diaspora have established residence in Juba and taken up work in government offices there: they are clearly in charge. Not only the SPLM is present: several other southern political parties are represented in the Southern Sudan Parliament pursuant to the CPA.” [19a] (p9)

14.38 The Report also states that, according to the residents of Juba: “Security and military intelligence are invisible for the time being, and gatherings of citizens, spontaneous or planned, take place without restrictions [in the city].” [19a] (p9)

14.39 The Report further noted:

“In Southern Sudan the regional government is forging ahead of the northern states and region in participatory democratic practices. As Southern Sudan's President (and national First Vice President) Salva Kiir directed shortly after his August 11, 2005 inauguration in Juba, the representatives for the southern

regional and state assemblies (and even the national assembly) were to be chosen by means of local consultations. The intention was to draw in hundreds of people in each location to participate in choosing their representatives from the candidates—local men (and a few women)—who put themselves forward to their communities. On short notice and with little formality, this experiment went well, although it was limited in scope. It reflected the customary participation of men in southern community decision-making that even the war could not entirely destroy.” [19a] (p10)

- 14.40 HRW noted that this process was not perfectly implemented or infallible: “On the whole, however, the broadened participation in selection of officials was an encouraging indication to southerners of the intentions of the new southern government to encourage popular participation in government.” [19a] (p11)

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FREEDOM OF SPEECH AND MEDIA

- 15.01 The Interim National Constitution (INC) was signed on 9 July 2005. [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune website. [12d] Article 39 of the draft INC states that:
- “(1) Every citizen shall have the right to the freedom of expression, reception of information, publication, and access to the press without prejudice to order, safety and public morals as determined by law;
 (2) The State shall guarantee the freedom of press and other media including the right to information in a competitive environment as shall be regulated by law in a democratic society;” [12d] (p16)
- 15.02 However, the Sudan Human Rights Organisation-Cairo’s (SHRO-Cairo) Human Rights Quarterly of January 2006 pointed to the various laws that had undermined the provision of freedom of expression and the media contained in the 1998 Constitution that, still being in place, would also undermine the equivalent articles in the July 2005 Constitution. [17a] (**Freedom of Expression, Association and Assembly**) Human Rights Watch (HRW) states in its March 2006 Report, ‘The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan’ that: “During the year since the CPA was signed, security agencies continue to play the lead role in preventing opposition to the NCP from developing. They persist in attacking and dispersing demonstrators and political gatherings, monitoring and arbitrarily arresting opposition suspects, conducting searches and seizures of opposition property, intimidating journalists and editors, and a range of other activities.” [19a] (p15)
- 15.03 The United States State Department report on human rights practices 2005, published on 8 March 2006 (USSD report for 2005) stated that: “The government exercised control of news reporting, particularly of political topics, the war, and criticism of the government—particularly regarding government actions and policies in Darfur through the National Press Council and security forces.” [3a] (**Section 2a**)
- 15.04 Reporteurs Sans Frontières, Sudan Annual Report 2006 stated that:
- The year 2005 was noteworthy for an extremely rare event: the official lifting of censorship. On 11 July, in front of a gathering of several African presidents, the UN Secretary General, Kofi Annan, and numerous US and European officials, President Omar al-Bashir lifted the emergency laws. However overnight on 5-6 August, Sudanese security forces burst into printers for two Arabic-language dailies, ordered a halt to printing and seized all the available copies. As in the censorship era, the agents gave no official reasons for their actions. That said, no act of censorship has been recorded since. What was previously routine for Sudanese journalists, has become an exception. [27a]
- 15.05 In June [2005], Sudanese justice officials cancelled the licence of Sudan's English-language daily, *The Khartoum Monitor*. *The Monitor* has been harassed by authorities repeatedly over the years. The newspaper had problems with its license which can be traced to its publication of articles on

slavery more than two years ago. The license was restored in July [2005] by order of President Omar Hassan al-Bashir, according to press reports. (CPJ – Attacks on the Press 2005) [28a]

- 15.06 SOAT also reported in its newsletter covering January 2005 to February 2005 that: “The newspaper [*Al-Mushahid*] was confiscated [on 18 January 2005] following the publication of a poem by the poet Hashim Siddig on 17 January 2005.” [15e] (p5)
- 15.07 Amnesty International noted, in April 2005, that: “The Sudanese media received a circular instructing them not to comment in favour of the resolution which refers the situation in Sudan to the Prosecutor of the International Criminal Court. The media coverage has been predominantly of criticism of the resolution. Reporting about Darfur is also heavily censored.” [16x] (p2) “It seems the lifting of censorship in July has not meant the end of police monitoring of the press, the organisation [RSF] said [in response to the December 2005 arrest of an *Al-Sahafa* columnist].” (RSF, 3 January 2006) [27b]
- 15.08 IRIN news reported on 24 May 2005 that the: “Sudanese authorities on Saturday [21 May 2005] shut down the Khartoum Monitor (KM), a newspaper located in Arkawait town near the capital, Khartoum, following a disagreement over two articles that the paper had planned to publish.” [10ad] SOAT also reported on the incident. [15f] The IRIN report further noted that the paper was able to resume business the following day. [10ad]

JOURNALISTS

- 15.09 CPJ, RSF and the Sudanese human rights organisation, SOAT, all reported on incidents of varying levels of censorship and harassment, including the imprisonment of the editor of the daily *Al-Sahafa*, during 2004, 2005 and 2006. [28a-28c] [27b-27f, 27g] [15e,15l,15p,15r,15x,] CPJ’s ‘Attacks on the Press 2004’ states that: “Sudanese authorities went to great lengths to suppress reports of atrocities in Darfur, including imprisoning journalists. Security forces admonished or threatened other journalists over reporting about the situation.” [28b] Whilst RSF’s Annual Report 2005 records that: “Opposition journalists were often thrown into jail in Sudan under repressive laws that permit inordinately long periods of preventive custody.” [27h] (Introduction Africa/The repressive reflexes of aging regimes)
- 15.10 In June 2005, SHRO-Cairo reported its belief that the: “Continuous harassment, including intimidating arbitrary arrests and meaningless security interrogation of journalists, besides a distasteful suspension of Afaq journal and a license withdrawal from the Khartoum Monitor by abusive legal decisions, clearly testifies to the aggressive, non-compromising methods of the government vis-à-vis the public efforts to pursue normal life in the transition to permanent peace and democratic governance.” [17i]
- 15.11 The BBC reported on 27 August 2006 that:

“An American journalist, arrested earlier this month in the Darfur region of Sudan, has been charged with spying by the Sudanese authorities. Paul Salopek, a Pulitzer Prize winner from the Chicago Tribune, was detained along with his driver and interpreter. At the time he was on an assignment for

the National Geographic Magazine on the Sahel region of sub-Saharan Africa.... A court in the town of El Fasher in Darfur charged Mr Salopek with criminal espionage, reporting false information and entering Sudan without a visa.... A judge in El Fasher said Mr Salopek would face another hearing in September on the charges of entering Sudan without a visa.” [9I]

FREEDOM OF SPEECH AND MEDIA: SOUTH SUDAN

- 15.12 The Interim Constitution of Southern Sudan (ICSS) was signed on 5 December 2005. [10g] Although no copies of the final version of the ICSS were available at the time of writing, a draft constitutional text, dated October 2005, was reproduced on the Sudan Tribune website. [12e] Article 28 of the ICSS states that:
- “(1) Every citizen shall have an unrestricted right to the freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to order, safety or public morals as determined by law.
 - (2) All levels of government in Southern Sudan shall guarantee the freedom of the press and other media as shall be regulated by law in a democratic society.
 - (3) All media shall abide by professional ethics.” [12e] (p12-13)
- 15.13 The US Department of State’s Human Rights Report 2005, published on 8 March 2006, noted that the Sudan People’s Liberation Movement/Army allowed reporting on its activities, and there were no reports that the movement restricted the freedom of speech of the populations it presided over. [3a] (Section 2a)

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FREEDOM OF RELIGION

16.01 The Interim National Constitution (INC) was signed on 9 July 2005. [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Reliefweb site. [12e] Article five of the draft INC records that:

“The State shall respect the following religious rights:

- (a) To worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes,
- (b) To establish and maintain appropriate charitable or humanitarian institutions,
- (c) To make, acquire and use the necessary articles and materials related to the rites or customs of a religion or belief,
- (d) To write, issue and disseminate religious publications,
- (e) To teach religion or belief in places suitable for these purposes,
- (f) To solicit and receive voluntary financial and other contributions from individuals and private and public institutions,
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief,
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of religious beliefs,
- (i) To communicate with individuals and communities in matters of religion and belief at national and international levels;” [12e] (p4-5)

16.02 Article 38 of the draft INC states that:

“Every one shall have the right to the freedom of conscience and religious creed, and shall have the right to declare his/her religion or creed and manifest the same, subject to requirements of law and public order, by way of worship, education, practice or performance of rites or ceremonies; no one shall be coerced to adopt such faith, as he/she does not believe in, nor to practice rites or services to which he/she does not voluntarily consent;” [12e] (p15)

16.03 The US Department of State report on International Religious Freedom 2006, published 15 September 2006 (US IRF report 2006), stated that:

“The July 9, 2005, Interim National Constitution provides for freedom of religion throughout the entire country, and there was some improvement in the status of respect for religious freedom in the period covered by this report. However, regional distinctions in the constitution, negotiated as part of the Comprehensive Peace Agreement (CPA) have resulted in disparities in the treatment of religious minorities in the North and South. Whereas the Government of Southern Sudan generally respected the rights of Christians and Muslims in the ten states of the south as provided for in its separate constitution, signed on December 5, 2005, the new Government of National Unity (GNU) continued to place restrictions on Christians in the North.” [3f]

ABUSE AND RESTRICTION OF RELIGIOUS FREEDOM

16.04 The US IRF report further stated that:

- “Although the GNU [Government of National Unity] has not banned any specific religious group, it favored Islam over Christianity in the North. Many southern Christians living in the North suffered from social, educational, and job discrimination, although religion was only one of the many factors leading to discrimination. Muslim religious organizations affiliated with opposition political parties, such as the Al-Ansar and its political wing, the Umma National Party, also claimed to suffer discrimination by Islamists in the governing National Congress Party, although it was unclear whether the alleged discrimination was due to religious or political affiliation.” [3f] (Section II - Restrictions on Religious Freedom)
- 16.05 The report also noted that: “The national government required that all students in the North study Islam in school, whether or not they were Muslim, and even if enrolled in private, Christian schools.” [3f] (p1)
- 16.06 Freedom House’s (FH) Freedom in the World Country Report for 2005, on events in 2004, stated that: “Under the 1994 Societies Registration Act, religious groups must register in order to legally gather. Registration is reportedly difficult to obtain.” [53b] (Overview - p5) The Report also stated that: “The government denies permission to build churches and sometimes destroys Christian schools, centers, and churches.” [53b] (Overview - p5) Whilst the USSD Religious Freedom Report of 2005, published on 8 November 2005, stated that: “The problems non-Muslims have encountered in obtaining legal permits for new church construction continued. The SIRC [Sudan Inter-Religious Council] reported that the Guidance and Endowment Ministry has new regulations for church construction permits. No permits had been requested under the new regulations by the end of the period covered by this Report.” [3g] (Section II - Restrictions on Religious Freedom)
- 16.07 The US IRF report of 2006 additionally noted that: “The Catholic Church in particular faced a shortage of priests, which it attributed to a lack of Christian religious education.” [3f] (Section II - Restrictions on Religious Freedom) And the Freedom House’s 2006 World Country Report on Sudan stated that: “Roman Catholic priests face random detention and interrogation by police.” [53b] (Overview - p5)
- 16.08 Furthermore, the US IRF report of 2006 also noted that: “The National Intelligence and Security Service routinely monitored religious activities at mosques and churches throughout the country, often posing as members of the congregations. Christian leaders acknowledge that they usually refrain from preaching on political or other sensitive topics to avoid harassment by the authorities. Some Muslim imams prefer to avoid political topics in their preaching as well though others seem to show less restraint.” [3f] (Section II - Restrictions on Religious Freedom)
- 16.09 “National government offices and businesses in the north follow the Islamic workweek, with Friday as a day of prayer. Employers are required by law to give their Christian employees two hours before 10:00 a.m. on Sunday for religious purposes, but many employers did not, and there was no legal remedy. Public schools are in session on Sunday and Christian students are not excused from classes. Most Christians instead worship on Friday, Saturday, or Sunday evenings.” (US IRF report of 2006) [3f] (Section II - Status of Religious Freedom)

VOLUNTARY AND FORCED RELIGIOUS CONVERSION

- 16.10 “Although there is no penalty for converting from another religion to Islam, converting from Islam to another religion is considered apostasy under Shari’a, and is punishable by death in the North. In practice, however, this penalty was rarely carried out. The last case of apostasy was prosecuted in 1985, and involved a Muslim who questioned Muslim beliefs but did not attempt to convert to another religion. Muslims in the North who do attempt to convert to another faith, however, were generally regarded as outcasts by their families and face severe social pressure to recant.” (US IRF report for 2006) [3f] (Section II - Restrictions on Religious Freedom)
- 16.11 “Muslims in the North, who express an interest in Christianity, or convert to Christianity, face severe social pressure to recant. Muslim converts to Christianity are typically regarded as outcasts by their families, and are sometimes forced to flee the country. Some Christian converts fear their Muslim families will beat them or report them to authorities for prosecution, though others note that many Muslim families were too embarrassed to draw public attention to the matter.” (US IRF report for 2006) [3f] (Section II – Abuses of Religious Freedom)
- 16.12 “There were reports that some conversions were taking place in order to secure jobs and more equal treatment, especially as to food, housing, and social support services, which are largely available only through Islamic charities. There were also reports that some Christian humanitarian groups distributing food in Darfur were seeking to convert Muslims to Christianity.” (USSD Religious Freedom Report 2005) [3g] (Section II - Restrictions on Religious Freedom) Furthermore, “There were complaints from Muslims that some Western church organizations operating humanitarian programs in Darfur had coupled relief assistance with distributing bibles in an effort to convert Muslims to Christianity.” (USSD Religious Freedom Report of 2005) [3g] (Section II - Forced Religious Conversion)
- 16.13 “There were reports that Sudanese Armed Forces in the South were rewarding Southerners who convert to Islam and inducing non-Muslims in the military to convert to Islam in advance of the 2011 referendum on Southern independence.” (US IRF report for 2006) [3f] (Section II - Forced Religious Conversion)
- 16.14 The United States Department report on International Religious Freedom 2005, published 8 November 2005, noted that: “Children who had been abandoned or whose parentage was unknown regardless of presumed religious origin were considered Muslims and could be adopted only by Muslims.” [3g] (Section II - Forced Religious Conversion)

See also Annex F: [Religions of Sudan](#)

FREEDOM OF RELIGION: SOUTH SUDAN

- 16.15 Following the signing of the Comprehensive Peace Agreement on 9 January 2005, Freedom House’s Center for Religious Freedom released a statement “‘This is a time of jubilation for the people of southern Sudan, and it is also a victory for religious freedom,’ said Center Director Nina Shea. ‘For the first

time in a generation, the south Sudanese people have guaranteed rights to worship. Critical to the peace deal is Khartoum's agreement to stop forcing Islamic sharia law on the south—the initial trigger for the 22 year-old civil war.” [53a]

- 16.16 The Interim Constitution of Southern Sudan (ICSS) was signed on 5 December 2005. [10g] Although no copies of the final version of the ICSS were available at the time of writing, a draft constitutional text, dated October 2005, was reproduced on the Sudan Tribune website. [12e] Article 27 of the ICSS states that:

“The following religious rights are guaranteed by this Constitution:

- (a) the right to worship or assemble in connection with any religion or belief and to establish and maintain places for these purposes;
- (b) the right to establish and maintain appropriate faith-based charitable or humanitarian institutions;
- (c) the right to acquire and possess movable and immovable property and make, acquire and use the necessary articles and materials related to the rites or customs of religion or belief;
- (d) the right to write, issue and disseminate religious publications;
- (e) the right to teach religion or beliefs in places suitable for these purposes;
- (f) the right to solicit and receive voluntary financial and other contributions from individuals, private and public institutions;
- (g) the right to train, appoint, elect or designate by succession appropriate religious leaders called for by the requirements and standards of any religion or belief;
- (h) the right to observe days of rest, celebrate holidays and ceremonies in accordance with the precepts of religious beliefs; and
- (i) the right to communicate with individuals and communities in matters of religion and beliefs in Southern Sudan and at national and international levels.” [12e] (p12)

- 16.17 The US Department of State report on International Religious Freedom 2006, published 15 September 2006 (US IRF report 2006), stated that:

The United States State Department report on Human Rights Practices 2005, published 8 March 2006, stated that: “The Government of Southern Sudan pursued policies that contributed to the free practice of religion during the period covered by this report, although some Muslims leaders in the south expressed concerns about the Government's treatment of Muslims. In January 2006 the government of Upper Nile State banned the use of public loudspeakers at mosques in Malakal and Nasir for announcing the call to prayer, claiming that they disturbed the public.” [3f] (**Section II - Restrictions on Religious Freedom**)

- 16.18 The United States State Department report on Human Rights Practices 2005, published 8 March 2006, stated that: “In SPLM/A-controlled areas, Christians, Muslims, and followers of traditional indigenous beliefs generally worshiped freely; however, many of the region's Muslim residents had departed voluntarily over the years. Although the SPLM officially favored secular government, Christians dominated the SPLM. Local SPLM authorities often had a very close relationship with local Christian religious authorities.” [3a] (**Section 2c**)

- 16.19 The United States Department report on International Religious Freedom 2005, published 8 November 2005, noted that: "In the south, there are reportedly three television stations featuring a number of Christian programs." [3g] (Section II - Restrictions on Religious Freedom) Also, "in the South, non-Muslim widows whose husbands were killed in the war receive no benefits, while Muslim widows may qualify for land and government benefits or for assistance from Islamic charities; some women are believed to have converted to be eligible for such private or governmental assistance." [3g] (Section II - Forced Religious Conversion)

See also Annex F: [Religions of Sudan](#)

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ETHNIC GROUPS

- 17.01 The British Broadcasting Corporation (BBC) Timeline recorded the signing of the Interim National Constitution (INC) on 9 July 2005. [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Reliefweb site. [12d] Article 13 of the draft INC records that:

- “(4) The State shall recognize the richness of the Sudan’s cultural diversity and shall encourage such multiple cultures to harmoniously flourish and find expression, especially through the official media and education;
- (5) The State shall protect the Sudan’s cultural heritage, such as monuments and places and objects of national, historic or religious importance, from destruction, discretion, unlawful removal or illicit export.” [12d] (p7)

- 17.02 Article 47 of the draft INC stated that: “Ethnic and cultural communities shall have the right to freely enjoy and develop their particular cultures, practice their beliefs, use their languages, observe their religions and raise their children within the framework of their respective cultures;” [12d] (p17) Article 156 of the draft INC states that:

“Without prejudice to the competency of any national institution to promulgate laws, judges and law enforcement agents shall, in dispensing justice and enforcing laws in the National Capital, be guided by the following:

- (a) tolerance shall be on the basis of peaceful coexistence between the Sudanese people of different cultures, religions and traditions,
- (b) behaviour based on cultural practices and traditions which does not disturb public order, is not disdainful of other traditions, and not in flagrant disregard of the law shall be deemed in the eyes of the law as an exercise of personal freedoms,” [12d] (p62)

- 17.03 The United States State Department report on Human Rights Practices 2005, published 8 March 2006, noted that:

“The population was a multi-ethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims, numbering approximately 16 million persons, traditionally dominated the government, while southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) numbered approximately 6 million. The fighting in Darfur was between Muslims who self-identify as either Arab or non-Arab.” [3a] (Section 5)

- 17.04 The report continued: “The Muslim majority and the government continued to discriminate against ethnic minorities in almost every aspect of society. Citizens in Arabic-speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas.” [3a] (Section 5)

See also Annex D: [Main ethnic groups](#) and Annex E: [Languages of Sudan](#)

- 17.05 An article in the November 2005 *Forced Migration Review* (FMR), produced by the Refugee Studies Centre of the University of Oxford, recorded that:

“While the North has been labelled Arab, even those who can trace their genealogy to Arab origins are a hybrid of Arab and African races and even their culture is an Afro-Arab mix. Significant portions of the country in the Nuba and Ingassana or Funj areas bordering the South are as African as any further south in the continent. The Beja in the Eastern part of the country are also indigenously Sudanese. The Fur and several other ethnic groups in Darfur to the far west are black African. And, in most cases, these non-Arab pockets of the North, though predominantly adherents of Africanised Islam, have been almost as marginalised as the people of the South.” [32a] (p6-7)

NORTH SUDAN: NUBIANS

17.06 The Nubians: “are a people of northeastern Sudan....They constitute the largest ethnic group in the northern part of the country. The Nubians of the Halfa District and Dungulah speak Nubian, although most Nubians speak Arabic. The Nubians, traditionally living in the Nile River valley linking Sudan with Egypt, have always been a settled people, living in towns and villages and cultivating irrigable land. The poverty of their region, however, encouraged them to migrate and they can now be found in all parts of Sudan and Egypt. The Nubians include many subgroups such as the Maha and, further south, the Dongolawin (Dangla). The Gerkid and the Midob of the Darfur area speak Nubian languages.” (The Encyclopedia of Peoples of the World) [29a]

17.07 The International Crisis Group (ICG) published a Report, ‘Sudan’s Other Wars’, in June 2003 which stated that the Nubian community had never fully recovered from its mass relocation from the banks of the Nile in the 1960s as part of the then government’s Aswan Dam programme. [14k] (p18) The ‘Urgent Action’, published on 29 September 2004 by SHRO-Cairo, outlined the threat of new dam-building projects:

“GOS [the Government of Sudan], like GOE [the Government of Egypt] is waging a secret war against Nubians in the north. Its deliberate policies to depopulate the Nubian lands through the persistent ! *[sic]* lack of economic and social development and making plans to construct more dams on Nubian land is meant to disrupt the stability of the area and an attempt to change the structure of the Nubian society by forcing Nubians to abandon their ancestral homes. In fact, an attempt to build Kajbar dam in the heartland of Nubia was suspended temporarily when the Nubians protested loudly and sent their out cry abroad to alert the international community to come to their help and stop the plans to construct the dam....GOS is actively working now to construct another dam in Hamadab area (Merowe Dam), which will devastate the Nubian antiquities and historical sites that have yet to be fully excavated.” [17]] (p1)

17.08 A December 2004 press release by the group the Movement of Displaced by Hamadab Dam (MOD) published on the International Rivers Network (IRN) website stated that three people had been detained by the government’s security forces and that: “MOD openly declares that these persons are innocent people and have no relation whatsoever with the movement. It has become clear that the Security Organ believes that, just being from the dam affected area warrants arrest.” [30a] IRN and the Corner House also published a Fact Finding Mission report in May 2005 that recorded the details of the

Merowe/Hamadab Dam Project, and its environmental, social and archaeological impact. [30b]

- 17.09 An IRIN news article of 19 May 2005 described the concerns from environmental groups about the environmental problems the Merowe/Hamadab dam being built on the River Nile in Northern Sudan could cause. The article stated: "The International Rivers Network (IRN) and the Corner House said in a report that once completed, the 67-metre-high dam would create a 174 km-long reservoir and flood an area of 476 sq km. It is currently the largest hydropower project being developed in Africa. According to the report, the dam was likely to cause 'sedimentation of the reservoir due to massive erosion, evaporation from the reservoir and infestation of the reservoir by water hyacinths. It could also lead to massive daily fluctuations of the water level downstream of the dam, with corresponding impacts on downstream agriculture and the spread of waterborne diseases.' In addition, the report said, the reservoir would inundate an area rich in history and antiquities dating back 5,000 years, "from the time of the ancient Nubian civilization that preceded Pharaonic Egypt." [10ae] A May 2005 *New York Times* article, reproduced on the *Sudan Tribune* website on 31 May 2005, states that: "Also to be submerged [by the Merowe/Hamadab dam] are some of Sudan's ancient sites, where archaeologists are working feverishly to find what they can while they still can. The affected locations, according to government scientists, include the noted towns and cemeteries from the Pharaonic period and the Napato-Meroitic era, which stretched from 900 B.C. to A.D. 350, at Gebel Barkal, the post-Meroitic tumuli, or grave mounds, of Zuma and the Christian monastery of Ghazali, among others." [31a]
- 17.10 A November 2005 IRN report recorded the escalation of tensions in the region, as a result of the dam authorities' and Chinese contractors' disregard for the humanitarian needs and rights of the Manasir (Manaseer) tribe:
- "On November 29 [2005], according to reports from the area, violence erupted on Sherri Island, a Nile island in the Manasir area. Since August 2004, the islanders had asked that the dam authorities close down their office on the island, which had been a constant source of tension. When representatives of the villagers delivered an ultimatum to close down the office, security forces attempted to arrest them. As the security forces searched houses and terrorized villagers, scuffles broke out. The dam offices in the area were set afire and destroyed. Large demonstrations against the dam authorities are currently taking place on the island. According to unconfirmed reports, the government has dispatched three army battalions to the area in an attempt to bring the situation under control." [30c]
- 17.11 On 16 August 2006 IRIN News had reported that due to rising floodwaters over 2,200 families from the Amari community living near the dam had been displaced. The families were left without shelter, clean water or food and much livestock had been lost. The report noted: "Some observers claim the flooding was a natural occurrence and resulted from the rising Nile waters, but [Peter] Bosshard [policy director of the International Rivers Network (IRN)], rejected this argument, saying it was localised and in the direct vicinity of the dam." [10af]
- 17.12 An article in the November 2005 FMR, which briefly noted the increased trend toward their original cultures by the marginalised and – wholly or partially –

‘Arabised’ tribes in north, east and west Sudan, stated that “Even the Nubians of the North, in recent generations close to Egypt and the Arab world, are reviving their pride in their ancient Nubian civilisation and disavowing the Arab label.” [32a] (p8)

- 17.13 The Human Rights Watch’s March 2006 Report, ‘The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan’, also noted the situation in the North, stating that:

“Security (Internal and External Security) and military services (particularly military intelligence) have continued to play a role in suppressing other civil and political rights and perpetrating abuses....In northern Sudan they attempted to replace locally-elected representatives through arrests, and called out the armed forces against local farmers who opposed the wholesale confiscation of land and wells for the (Chinese) construction of the Hamadab/Meroe dam in November-December 2005.” [19a] (p15)

EAST SUDAN: BEJA AND RASHAIDA

- 17.14 “The Beja, the Cushitic original inhabitants of eastern Sudan, are a traditionally nomadic group with some three million members living in southern Egypt, northeastern Sudan and northern Eritrea. Believed to be the first to domesticate the camel, the Beja live in a harsh and arid semi-desert, their survival dependent on unpredictable annual rainfall. Beja ethnic identity is on the rise as the urban population has grown as a result of conflict, marginalisation and drought....Like the people of Darfur, the Beja are non-Arab Muslims.” (FMR – Beja Sidelined by Peace Process, Issue 47, November 2005) [32a] (p62) IRIN news, in an article on the 4 May 2005 described the Beja as: “Originally a nomadic people, many Beja live in shantytowns on the outskirts of Port Sudan. They moved to the port to work as labourers after famine killed their cattle and mechanised farming took over their lands in the 1980’s. [10ag]
- 17.15 “The Beja region has been devastated by spillover effects from the North-South conflict and the presence of refugees from Eritrea and Ethiopia. Over a quarter of a million southerners moved into the area to escape fighting, cutting down trees and over-exploiting water resources. When the SPLM opened a second front against the Khartoum regime in eastern Sudan, over 300,000 Beja were displaced as fighting flared and now live in urban shanties in Port Sudan and Kassala.” (FMR – Beja Sidelined by Peace Process, Issue 47, November 2005) [32a] (p62)
- 17.16 “The three main groups making up the Beja are the Bishariyyin, the Amar’ar/Atmaan and the Hadendowa....The life of the Beja groups has been regulated by a customary law called *silif*, a complex but flexible body of rules based on Beja traditional values. *Silif* regulates access to and redistribution of resources, reciprocal use of environmental resources (grazing land, water points, arable land or firewood), conflict resolution and reciprocity around major social events (birth, marriage and death). Clear land rights codes embodied in the *silif* (*asl* and *amara*) have helped minimise conflict over land, supported by the mediation of the tribal authorities who were entrusted with the management of land rights. However, the resilience of this system has significantly weak-ened over the last three or four decades due to a number of external factors.” (Save The Children, September 2005) [24b] (p12-13) “*Asl* is the

customary right over a piece of land and its resources inherited from the ancestors for the entire lineage; *amara* is the usufruct right given to non lineage members to use pasture, water and cultivable land on the *as/* of another lineage against the payment of a tribute called *gwadab*.” [24b] (p12)

- 17.17 “In January 2005 Beja demonstrators in Port Sudan presented the governor of Red Sea State with a list of demands for an equal share of power, wealth and resources. Their protest was met with brutal force and 40 demonstrators were killed. The Sudanese government justified the killings by falsely claiming that the Beja were threatening oil exports. Amnesty International’s calls for the government to set up an independent commission of inquiry and to release Beja Congress representatives have gone unheeded. While the UN investigates atrocities in Darfur and the death of Lebanon’s president, they do nothing to bring perpetrators of anti-Beja violence to justice.” (FMR – Beja Sidelined by Peace Process, Issue 24, November 2005) [32a] (p62)
- 17.18 The ICG Report of June 2003 also recorded that: “Decades of negligence of their community, under both democratic and autocratic governments, has left the Beja highly vulnerable to malnutrition, famine and contagious disease.” [14k] (p16) A January 2006 Report by the same organisation noted that: “The East, like other mostly rural parts of the country, has received only paltry government investments for education, health and other services. The highly centralised nature of government in Sudan gives federal authorities a near monopoly on revenue collection and control over both how much money is distributed to the states and how it is used.” [14b] (p3)
- 17.19 Al’s May 2005 Report stated that:
- “Since the 1990s, there has been sporadic armed conflict in Eastern Sudan between the government army and the armed wing of the opposition, composed of the largest southern armed group SPLM, the National Democratic Alliance (NDA, an umbrella of northern opposition parties hosted by Eritrea including the eastern-based Sudan Alliance Forces and one segment of the Beja Congress which supports armed opposition). Some areas, in particular round Hameshkoreb and near the Eritrean border, are under the armed opposition.” [16j] (p1)
- 17.20 In late January and early February 2005, the BBC, SHRO-Cairo, AI, IRIN and SOAT all reported on the killings and arrests of demonstrators in Port Sudan, east Sudan. [9m] [10u] [17b] [16h-16i] [15k] (p16-20) The BBC recorded on 29 January 2005 that: “Members of eastern tribes – mainly Beja – presented a list of demands to the governor three days ago, including greater wealth and power sharing, Reuters news agency reported.” [9m] The report did not state whether those who presented the list of demands were members of the political party, the Beja Congress, but it did note that: “The Beja also want the government to recognise the Beja Congress as the only representative of the people of eastern Sudan, reports say.” [9m]
- 17.21 The same report also records that: “Security forces are said to have opened fire after protesters demanding greater autonomy for the local Beja community began rioting in Port Sudan.” [9m] SHRO-Cairo recounted that: “Further reports indicated that the murdered citizens were hunted by the police even inside their own dwelling areas where 2 women and a number of children were killed by police firearms.” [17b] Amnesty International condemned the use of

excessive force to quell the demonstration, which had turned violent, and also said that houses were attacked using grenades. [16h] On 1 February 2005 SOAT recorded the details of those killed, the number of demonstrators detained, and the locations of where they were thought to be held. [15k] (p16, 20)

- 17.22 SOAT noted in a May 2005 report that the Justice and Equality Movement (JEM) was part of the Eastern Front of the Beja Congress and the Free Lions, and was militarily active in the East. [15y] IRIN reported, also in May 2005, that: "A small rebel group from the non-Arab Beja tribe has been active in the poor region near the Eritrean border, but fighting has been sporadic and on a small scale." [10ag] In June 2005 IRIN recorded that: "Sudanese rebels who recently clashed with government forces in the east have accused Khartoum of using planes to bomb civilians near the Eritrean border." [10ah] In January 2006, the BBC reported on unconfirmed rebel claims that government forces had launched aircraft and artillery attacks against their main stronghold, Hamesh Koreb, resulting in the deaths of two children. [9d]
- 17.23 "Since the Port Sudan massacre in January 2005, the government has been spending a lot of money in the East. In February, it dispatched a committee, led by the former minister for roads and bridges and now governor of Red Sea State, Mohamed Tahir Aila, to promise development aid. At an April meeting in Kassala attended by most of the tribal, religious and political leaders and sponsored by the National Congress Party, Minister of Finance al- Zubeir Ahmed al-Hassan pledged \$88 million over three years." (ICG, Sudan: Saving Peace in the East, 5 January 2006) [14b] (p11-12)
- 17.24 ICG also reported on the attempts of the authorities to undermine the position of the region's leading political group the Beja Congress and to sow distrust between the Beja and non-Beja communities, and between the different Beja tribes themselves, for example, "Government agents and media intimate to the former [Tigre-speaking Beja] that the Beja Congress is solely a TuBedawiye-speaking organisation that will not represent their interests." [14b] (p12)
- 17.25 The Report further noted:
- "The NCP [National Congress Party] is also resorting to potentially more violent tactics. There are persistent reports of efforts to encourage tribal leaders to recruit militiamen in exchange for money and weapons, in order to create a rural force that can monitor the Eastern Front's activities and serve as a first line of resistance. Most of these attempts to form Janjaweed-like groups have not yet succeeded, probably because despite their communal divisions, the eastern tribes have an acute sense of their social and economic inter-dependence as part of the Beja nation. Such tribal militias as exist are weak, with members showing up once a month only to collect pay. The policy, and the rumours it engenders, have nevertheless contributed to the spread of weapons and fear among civilian populations." [14b] (p12)
- 17.26 The *Sudan Tribune* reported on 7 March 2006 on the temporary ceasing of operations by the International Rescue Committee (IRC), and rebel claims that this was as a result of Government pressure:

"In a letter shown to journalists by the Eastern Front, the IRC said that Khartoum had ordered the organisation to suspend its humanitarian activities

in the region. 'This sudden move creates a humanitarian disaster for the 45,000 people directly benefiting from the health, education, veterinary, water and local-capacity building programmes of IRC,' the rebel statement said. No reason was given for the expulsion *[sic]* and officials at Sudan's Humanitarian Affairs Ministry declined to comment." [12g]

17.27 However, an IRC press release of the same day stated that:

"The International Rescue Committee has decided to suspend humanitarian aid programs in an opposition-controlled region of northeastern Sudan while new access routes to the area are negotiated. Up until now, the IRC has been delivering basic health care, clean water, sanitation and education services for the area's ethnic Beja population via neighboring Eritrea, which has been the only humanitarian route available. The IRC's decision to temporarily halt programs follows a request by the UN Mission in Sudan to cease cross-border activities from Eritrea in light of negotiations underway with Sudanese authorities to gain access to the region from Sudan." [33b]

WEST SUDAN (DARFUR) – FUR, MASSALEIT AND ZAGHAWA

17.28 According to major reports by various organisations, the three main non-Arab groups in Sudan's Darfur region are the Massaleit (Masalit), the Fur (Four) and the Zaghawa (Zaghawa). [6e, 6i] [3d] [19g, 19h] [17a-17b] Human Rights Watch (HRW) noted in January 2005 that: "Numerous smaller ethnic groups, such as the Tama, Eringa, Berti, Bergit, Dorok and Tunjur, have also been targeted by the government-militia forces, especially as the conflict has broadened geographically over time." [19h] An article in the FMR of November 2005 noted that the mostly sedentary tribes of Darfur who are in conflict with the Arab centre – like the Beja in east Sudan – "Though Muslim and Arabised in varying degrees, they now see themselves as non-Arab, marginalised and discriminated against on racial grounds." [32a] (p8)

17.29 The Sudan Organisation Against Torture (SOAT) and the Sudan Human Rights Organisation-Cairo (SHRO-Cairo) reported throughout 2004, 2005 and into 2006 on the insecurity in the region, and human rights abuses committed in connection with the Darfur conflict. [16k, 15e-15g, 15l-15m, 15p, 15r, [17a, 17c, 17k-17l] SHRO-Cairo's Human Rights Quarterly, detailed the human rights abuses that occurred in the region between March and November 2005, whilst a statement released by SOAT in September 2005 asserted that:

"Regardless, of who or whom initiates these attacks, SOAT appeals to the rebel groups and to the government to bring an immediate end to all military activities and to immediately cease the continual violations of the Ceasefire Agreement. Failure by all parties to abide by their commitment will result in far ranging consequences which are unacceptable not least the complete breakdown in peace negotiations which are currently taking place in Abuja, the Nigerian Capital. Most importantly, the deteriorating security situation will further worsened *[sic]* the large population of displaced persons in Darfur further contributing to the climate of impunity which has produced widespread criminality, banditry and lawlessness." [15z]

17.30 The UN Secretary-General (UN SG) continued to report on the situation in Darfur throughout 2005 and 2006, and as of April 2005, was submitting monthly reports to the Security Council on the security and humanitarian

situation, and human rights abuses and the accompanying issue of protection. [6q, 6w, 6l-6o, 6f, 6x, 6p, 6r, 6y]

- 17.31 Some of these Reports have also highlighted the oversimplification of the conflict in Darfur as, although there is certainly a marked division along ethnic lines, this is not always the case. [16e] [19g-19h] For example, some Arab groups are fighting with the rebels and some African tribes have joined the Government's militia forces. [16e] (p32) There is also a marked suggestion of affiliation based on a tribe's land ownership and access to Darfur's scarce natural resources. [16e] (p22-24) Members of those tribes without their own Dar (homelands) appear to have mainly sided with the Government, whilst those tribes with a Dar have generally allied themselves with the rebels. [16e] (p20, 24)

- 17.32 The Report of the International Commission of Inquiry (UN ICI) on Darfur to the UN Secretary General listed a number of differing uses of the term 'Janjaweed' in connection with the conflict in Darfur, which further detailed that the conflict was not solely one of ethnicity:

"The fact that the Janjaweed are described as Arab militias does not imply that all Arabs are fighting on the side of the Janjaweed. In fact, the Commission found that many Arabs in Darfur are opposed to the Janjaweed, and some Arabs are fighting with the rebels, such as certain Arab commanders and their men from the Misseriya and Rizeigat tribes. At the same time, many non-Arabs are supporting the Government and serving in its army. Thus, the term 'Janjaweed' referred to by victims in Darfur certainly does not mean 'Arabs' in general, but rather Arab *militias* [Emphasis in original document, please refer to source reference, [annex I](#)]. raiding their villages and committing other violations." [6e] (p32)

- 17.33 A HRW Report, dated November 2004, recorded that the Sudan Liberation Army (SLA) had targeted particular groups ostensibly because the Janjaweed draw their forces, including leaders considered to be responsible for Janjaweed abuses, from groups of the same ethnic origin. [19h] (p32-38) The UN ICI Report noted that official and unofficial government actors, rebel actors, traditional tribal conflicts and armed persons committing acts of banditry have all been cited in reported violations: "However, it should be noted that the number of reported violations allegedly committed by the Government forces and the Janjaweed by far exceeds the number of cases reported on rebels." [6e] (p55)

- 17.34 The UN ICI Report further noted:

"Hundreds of incidents have been reported involving the killing of civilians, massacres, summary executions, rape and other forms of sexual violence, torture, abduction, looting of property and livestock, as well as deliberate destruction and torching of villages.... Except in a few cases, these incidents are reported to have occurred without any military justification in relation to any specific activity of the rebel forces. This has strengthened the general perception amongst observers that the civilian population has been knowingly and deliberately targeted to achieve common or specific objectives and interests of the Government and the Janjaweed." [6e] (p54)

- 17.35 The UN ICI Report also notes that:

“It is reported that amongst the African tribes, members of the Zaghawa, Fur and Masaalit tribes, which have a marked concentration of population in some areas, have been particularly targeted. This is generally attributed to the fact that the two main rebel groups in Darfur are ethnically African and are largely drawn from these three tribes. It is for this reason that some observers have concluded that a major objective of destruction and depopulation of targeted areas is to eliminate or pre-empt any possibility of support for the rebels.” [6e] (p56)

- 17.36 The UN SG’s March 2006 monthly Report on the situation in Darfur states that:

“Civilians living close to rebel territory and who share the same ethnicity as the rebels are particularly vulnerable to human rights violations by the Sudanese Armed Forces. A preliminary joint assessment, carried out by the Office for the Coordination of Humanitarian Affairs and the United Nations Mission in the Sudan (UNMIS) from 7 to 10 January in Golo, Eastern Jebel Marra (Western Darfur), identified human rights violations by the Sudanese Armed Forces, including arbitrary arrests and detentions, intimidation of the civilian population and limitations on freedom of movement.” [6b] (p2)

- 17.37 HRW’s January 2005 Report, ‘Targeting the Fur: Mass Killings in Darfur’, stated that:

“Many of the abuses against these groups amount to crimes against humanity and war crimes, as the attacks are deliberately and systematically directed against civilians on account of their ethnicity. Some abuses stand out for the extraordinary level of brutality shown by the perpetrators, suggesting an intention to destroy the civilian group targeted in a given locality. All these incidents should be investigated in depth, and prosecuted as exceptionally serious international crimes, including potentially the crime of genocide.” [19h] (p3-4)

NOMADIC GROUPS

- 17.38 In September 2005 and October 2005 respectively, the BBC and IRIN reported on the ongoing difficulties faced by Darfuri nomads due to the conflict. [9o] [10ai] Both reports noted that their nomadic way of life was being threatened because their freedom of movement had been restricted by the insecurity, and that these nomadic communities were at risk of attack by the rebels because they were believed to be members of the Janjaweed, or at least considered supporters of the Government. [9o] [10ai]

- 17.39 The IRIN report stated:

“Ninety percent of North Darfur, especially the countryside, is controlled by the SLM/A,’ a local observer noted, ‘so there is very little freedom for nomads to move around and they are frequently being attacked.’ [Abdul Abasar] Soror [wakir or deputy chief of the Riziegat-Aregat] indicated that there were many reasons why the SLM/A attacked nomadic communities so often: ‘They take our animals to feed their war and they clear us from the land so that they can control it.’ ‘They also see us as the Janjawid, as killers, rapists and people who abduct women and children,’ he continued. ‘And we are seen as supporters of the government and are therefore denied access to grazing

grounds and water, which leads to fighting. 'We have groups of young people who take care of the defence of our community,' Soror added. 'We don't depend on the government. We have our guns to protect ourselves.' He stressed, however, that there was no relation between the nomadic defence groups and the Janjawid, as the latter were mere bandits who attacked farmers and nomads, alike. 'The Aregat have been attacked by the Janjawid many times. They are thieves. They don't differentiate between the tribes. When they see the opportunity to steal, they will,' he said." [10ai]

THE QUESTION OF GENOCIDE

- 17.40 The Government of Sudan established a Commission of Inquiry, which accepted that the serious violation of human rights had occurred in Darfur but found that the abuses were not as widespread or systematic as claimed by news reports, international organisations and other countries. [5b] The Report's executive summary, published on the Sudan Embassy in London website in February 2005, pointed to the culpability of all actors in the conflict for such abuses. [5b] The US Department of State's (USSD's) Report on its investigation of the human rights abuses being committed in Darfur in September 2004 concluded that genocide had been committed, and the USSD Report of 2005 stated that: "While all sides in Darfur violated international law and international humanitarian law, the government and the *janjaweed* continued to bear responsibility for genocide that occurred in Darfur." [3d] [3a] (Section 1g) However, the January 2005 United Nations' ICI Report concluded that, although serious human rights abuses were committed and some of the perpetrators may have acted with genocidal intent, genocide itself had not occurred:

"There is no doubt that some of the objective elements of genocide materialized in Darfur. As discussed above, the Commission has collected substantial and reliable material which tends to show the occurrence of systematic killing of civilians belonging to particular tribes, of large-scale causing of serious bodily or mental harm to members of the population belonging to certain tribes, and of massive and deliberate infliction on those tribes of conditions of life bringing about their physical destruction in whole or in part (for example by systematically destroying their villages and crops, by expelling them from their homes, and by looting their cattle). However, two other constitutive elements of genocide require a more in depth analysis, namely whether (a) the target groups amount to one of the group[s] protected by international law, and if so (b) whether the crimes were committed with a genocidal intent." [6e] (p129)

- 17.41 With regard to the first constitutive element, the Report points to the shared religion (Islam), language (Arabic) and high incidence of intermarriage and coexistence that has blurred the ethnic lines along which the 'Arabs' and 'Africans' in Darfur are divided. [6e] However, the report also states that: "As noted above, in recent years the perception of differences has heightened and has extended to distinctions that were earlier not the predominant basis for identity. The rift between tribes, and the political polarization around the rebel opposition to the central authorities, has extended itself to issues of identity." [6e] (p130) Consequently the Report concluded that the victims of attacks in Darfur were a subjective protected group. [6e] (p130)

- 17.42 As to the second constitutive element whether there was genocidal intent the Report states that: "Some elements emerging from the facts including the scale of atrocities and the systematic nature of the attacks, killing, displacement and rape, as well as racially motivated statements by perpetrators that have targeted members of the African tribes only, could be indicative of the genocidal intent. However, there are other more indicative elements that show the lack of genocidal intent." [6e] (p130) The Report noted that the indicative elements included the selectivity of, and apparent reasons for, attacks and killings, and the ability of internally displaced people (IDPs) to collect in camps in which the government allowed humanitarian organisations to administer aid. [6e] (p130-132)
- 17.43 Nevertheless, the UN ICI did stress that:
- "The above conclusion that no genocidal policy has been pursued and implemented in Darfur by the Government authorities, directly or through the militias under their control, should not be taken as in any way detracting from, or belittling, the gravity of the crimes perpetrated in that region. As stated above genocide is not necessarily the most serious international crime. Depending upon the circumstances, *such international offences as crimes against humanity or large scale war crimes may be no less serious and heinous than genocide*. [Emphasis in original document, please refer to source reference, [annex I](#)]. This is exactly what happened in Darfur, where massive atrocities were perpetrated on a very large scale, and have so far gone unpunished." [6e] (p132)

CENTRAL SUDAN: NUBA

- 17.44 Europa 2005 recorded that the SPLM/A and the Government had agreed to a six-month renewable military ceasefire in the Nuba Mountains area after six days of negotiations in Switzerland during January 2002. [1a] (p1094) IRIN reported that the ceasefire resulted in the establishment of an international presence; a cessation of hostilities and reduction in violence; humanitarian access and aid; and a check on the alarming decline of the food security situation in the SPLM/A-controlled areas of the region. [10aj] (p1-2)
- 17.45 A June 2005 *Associated Press* news report, reproduced on the *Sudan Tribune* website, recorded that:
- "The 1983-2005 civil war was calamitous for the people of the Nuba Mountains in south-central Sudan. Squeezed between the pro-government northerners and the pro-rebel southerners, more than half of the local population fled. But during the past three years of cease-fire, life has returned almost to normal and the population doubled from 720,000 people to more than 1.4 million.
- Under the Jan 9 peace agreement, the UN is taking over from the Joint Military Commission this month by deploying peace monitors in southern Sudan, the Nuba Mountains and the areas known as Blue Nile and Abyei." [35a]
- 17.46 The United States State Department report on Human Rights Practices 2005, published 8 March 2006, stated that: "Non-Arab Muslims and Muslims from tribes and sects not affiliated with the ruling party, such as in Darfur and the

Nuba Mountains, stated that they were treated as second-class citizens and were discriminated against in government jobs and contracts in the North and government-controlled southern areas.” [3a] (Section 2c)

- 17.47 The Sudan Human Rights Organisation-Cairo (SHRO) released its Human Rights Quarterly, detailing human rights abuses committed between March and November 2005, which states that: “Tens of citizens were severely beaten and subjected to tortures and degrading or inhumane treatment in detention. Students from the marginal regions of the Nuba Mountains and Darfur were most vulnerable to these atrocities.” [17a] (Tortures and deaths in detention)
- 17.48 The United Nation’s Secretary General (UN SG) reported in September 2005 that whilst localised tensions persisted in the Nuba Mountains, the overall situation remained calm. [6k] (p11)
- 17.49 The USSD Report of 2005 stated that: “In parts of the South and the Nuba Mountains where civil authorities and institutions did not operate, there were no effective judicial procedures. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially for offenses against civil order.” [3a] (Section 1e)

SOUTH SUDAN: DINKA, NUER AND SHILLUK

- 17.50 The Dinka’s close proximity to cattle-herding Arabic tribes has made them vulnerable to attacks, which have resulted in the death of their men and the abductions and slavery of many of their women and children. (‘World Directory of Minorities’, 1997) [36] (p458)
- 17.51 “There were occasional reports of intertribal abductions of women and children in the South, primarily in the eastern Upper Nile. The abductions were part of traditional warfare in which the victor took women and children as a bounty and frequently tried to absorb them into their own tribe. There were traditional methods of negotiating and returning the women who were taken in these raids. Many of these women were raped and ‘chose’ to ‘marry’ their abductors, rather than return home where they would be stigmatized. There were deaths in conflicts between ethnic groups, such as continued fighting between Dinka and Nuer or among Nuer tribes.” (USSD Report of 2005) [3a] (Section 5)
- 17.52 It was reported by the British Broadcasting Corporation (BBC), IRIN, the International Federation for Human Rights (FIDH), SOAT and the Foreign and Commonwealth Office (FCO) that, following the Government’s announcement of the death of John Garang in an air crash at the end of July 2005, three days of deadly clashes in the capital Khartoum, Juba and other towns between southern African Sudanese and northern Arab Sudanese ensued. [9a] [11ak] [38a] [15aa-15ab] [4a] Garang was succeeded by Salva Kiir. (BBC Timeline, 18 September 2006) [9a] (p4) IRIN recorded on 5 August 2005 that: “Calm has returned to the Sudanese capital, Khartoum, after three days of bloody riots that left a total of 130 people dead in the city and a number of other towns, the International Committee of the Red Cross (ICRC) reported on Friday.” [10a]
- 17.53 The UN SG’s December 2005 report on the situation in Sudan states that: “In Abyei, UNMIS hosted the first meeting in many years between Dinka Ngok and Missiriya leaders to discuss the seasonal migration of Missiriya nomads through Dinka Ngok farming areas, and other issues that could lead to conflict

between the two tribes. The leaders agreed to revive the biannual tribal conferences that used to be held in the 1960s to solve problems between nomads and farmers.” [6c] (p4)

17.54 UN SG also reported that:

“In Equatoria, a number of intertribal conflicts have erupted into alarming violence, increasing insecurity across southern Sudan. Dozens of civilians were killed in clashes between Zande and Bor Dinka in Yambio, Western Equatoria, at the beginning of November. Further clashes, this time between Dinka and Moru tribes, claimed the lives of 18 civilians in Mundri county, Western Equatoria, in mid-November. Fifteen civilians were killed in fighting between Moro and Mbororo tribes in the first week of December near Mundri.” [6c] (p4)

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LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

- 18.01 The United States State Department report on Human Rights Practices for 2005, published on 8 March 2006, recorded that: "Homosexuality is a crime, but no one has been prosecuted on the charge; there is societal but not official discrimination against homosexuals." [3a] (Section 5)
- 18.02 According to a letter dated 23 January 2001 from the British Embassy in Khartoum, "The 1991 Criminal Code, proscribes penetrative sexual intercourse between two men or between a man and a woman anally." [4e] (p1) A first-time offence carried a penalty of up to five years' imprisonment and 50 lashes; the same again for a second offence, and for a third offence the death penalty or a sentence of life imprisonment is applied. [4e] (p1) There are no specific penalties that apply to lesbians, and lesbianism is a taboo subject, although the British Embassy understood that some, mainly high-class, women were known to be lesbians. [4e] (p2)
- 18.03 A letter dated 28 February 2005 from the Foreign and Commonwealth Office then stated that there had been no change to the law(s) regarding homosexuality since 2001 and that, whilst they were not aware of any specific cases of persons subjected to inhuman, degrading or persecutory treatment because of their sexual orientation, they would not be surprised to find that this was the case. [4b] (p1)
- 18.04 The International Lesbian and Gay Association's 'World Legal Survey' last updated in July 2000 contained dated and limited information on the situation of gay people in Sudan. [67]

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WOMEN

19.01 The Interim National Constitution (INC) was signed on 9 July 2005. (BBC Timeline, 18 September 2006) [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune site. [12d] Article 15 of the draft INC states that:

- “(1) The family is the natural and fundamental group unit of society and is entitled to the protection of law; the right of men and women of marriageable age to marry and to found a family shall be recognized, according to their respective family laws, and no marriage shall be entered into without the free and full consent of the intending spouses;
- (2) The State shall emancipate women from injustice, promote gender equality and encourage the role of women in family and public life;” [12d] (p7-8)

19.02 Article 32 of the draft INC states that: “The equal rights of men and women to the enjoyment of all civil and political rights and all social, cultural and economic rights, including the right of equal pay for equal work, shall be ensured;” [12d] (p14) An article in the *Forced Migration Review* (FMR) of November 2005, produced by the Refugee Studies Centre of Oxford University, stated that: “Women make up the majority of Sudan’s population and in some conflict-affected areas three quarters of the surviving inhabitants are women. Women head households, yet they do not have legal access to land or resources due to discrimination in Sudanese statutory and customary law.” [32a] (p44)

19.03 The United States State Department report on Human Rights practices 2005, published on 8 March 2006, stated that:

“There were no laws specifically prohibiting domestic violence. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women who filed claims were subjected to accusations of lying or spreading false information, harassment, or detention, which made many women reluctant to file formal complaints, although such abuse constituted grounds for divorce. The police normally did not intervene in domestic disputes. The government launched its Violence Against Women Action Plan in November; the program included awareness posters and a media campaign of zero tolerance for violence against women, increased the number of female police officers, and expanded training for police in Darfur.” [3a] (Section 5)

19.04 The report further stated:

“Women in Darfur were particularly vulnerable to abuse and rape. Many victims did not report their cases either to family or authorities for fear they would be punished or arrested for ‘illegal pregnancy.’ Local authorities often exacerbated the problem by requiring rape victims to file a police report before receiving medical treatment, despite an August 21 [2005] decree that waived the requirement. On October 24 [2005], the minister of justice formally declared that victims need not file a police report to receive medical treatment. UN and NGO sources confirmed that the decree was not regularly observed

because police at the working level were not informed of it. Women distrusted the police and rarely filed a police report. Although slow to acknowledge the magnitude of violence against women, in December [2005] the government did participate in the UN's '16 Days of Activism Campaign' to combat violence against women, which included multiple workshops....The police arrested unmarried pregnant women who claimed to have been raped. Unless she could provide proof of the crime, a rape victim could be charged with the capital offense of adultery." [3a] (Section 5)

19.05 Additionally the report added:

"Some aspects of the law discriminated against women, including many traditional law practices and certain provisions of Shari'a as interpreted and applied by the government. In accordance with Islamic law, a Muslim woman has the right to hold and dispose of her own property without interference, and women are entitled to inheritance from their parents. However, a widow inherits one-eighth of her husband's estate; of the remaining seven-eighths, two-thirds goes to the sons and one-third to the daughters. It is much easier for men than for women to initiate legal divorce proceedings." [3a] (Section 5)

19.06 The Sudan Organisation Against Torture (SOAT) released a Report in 2003 that detailed conditions in women's prisons in Omdurman, Kousti, Al fashir and Marawi. [15c]

19.07 Ms. Asha El-Karib, Director and Program Manager, Gender Centre for Research and Training and ACORD (Agency for Co-operation in Research and Development), Sudan who addressed Canada's Standing Senate Committee on Foreign Affairs in May 2005 stated that, in the mid-1990s:

"Creatively, and keeping a low profile at the beginning, women's groups emerged at all levels working on issues of poverty alleviation, women's cooperatives and so on. Later, women's advocacy groups started also to formulate research and advocacy organizations such as the gender centre, women's networks, women's peace groups and women's solidarity groups. The first movement that actually worked in an organized way for peace was established in the mid-1990s through the civil society women's network for peace." [39a] (p3)

19.08 The United States State Department report on Human Rights practices 2005, published on 8 March 2006, stated that: "Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly for NCP members. To obtain an exit visa, children must receive the permission of their father or their paternal uncle. Women cannot apply for exit visas for their children." [3a] (Section 5)

19.09 The Report further noted that:

"Although women generally were not discriminated against in the pursuit of employment, they were not legally permitted to work after 10 p.m., in theory limiting their employment opportunities. Nonetheless, many women did work after 10 p.m., and in official positions such as airport security. Women were accepted in professional roles; more than half the professors at Khartoum University were women." (USSD report of 2005, 8 March 2006) [3a] (Section 5)

FEMALE GENITAL MUTILATION (FGM)

- 19.10 The Sudanese Organisation Against Torture's (SOAT's) 1999 Report, 'Female Genital Mutilation in Sudan', contained a World Health Organisation (WHO) definition of female genital mutilation (FGM): "[FGM] Comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs whether for cultural, religious or other non-therapeutic reasons." [15ac] (p8)
- 19.11 A March 2005 IRIN Report records the different types of Female Genital Mutilation practised around the world and stated that type 3 – infibulation – was the most common in Sudan. [10am] (p4) The Report continues: "Type 3, also known as pharaonic circumcision, is extremely severe and involves binding a woman's legs for approximately 40 days to allow for the formation of scar tissue. Many of these communities use adhesive substances such as sugar, eggs, and even animal waste on the wound to enable it to heal." [10am] (p4)
- 19.12 SOAT's 1999 Report recorded that the common word for the FGM operation was 'tahur', meaning purification, and the girl enduring the procedure was referred to as the bride, 'al-arus'. [15ac] (p14) Families celebrated the operation with great festivity as the day of the operation was considered the most important day in the girl's life. [15ac] (p14) Girls often had no choice about undergoing FGM and were stigmatised if they did not submit to the procedure. [15ac] (p14) SOAT stated that: "The girls who have not undergone FGM are placed under enormous societal pressure to do so and are ridiculed with taunts of 'ghalfa' (uncircumcised) and 'nigisha' (unclean)." [15ac] (p14) The Report also recorded that traditional, rural practitioners typically performed the practice of FGM in improvised, unsanitary conditions causing severe pain, trauma and risk of infection to the girl, who was usually aged between four and seven. [15ac] (p15)
- 19.13 SOAT explained that: "Custom and tradition are by far the most frequently cited reason[s] for FGM and defines who is in the group; this is reinforced in Sudan where FGM is carried out as an initiation into adulthood." [15ac] (p14) It also stated that FGM had also attained a religious element, despite being practised by peoples of all faiths and having no recognisable root in Islam or any other religion. [15ac] (p13) The practice was apparently rooted more in Sudanese culture and tradition than any particular religion and was also considered to be of importance in controlling a woman's sexuality, for a variety of reasons. [15ac] (p14-15) SOAT's Report states that: "FGM symbolises the woman as obedient, docile, faithful and the upholder of tradition." [15ac] (p15)
- 19.14 UNICEF's FGM/C Profile on Sudan noted:
- "FGM/C varies across regional and ethnic lines in Sudan. With the exception of two regions, 95% of women have undergone genital cutting. These levels are significantly lower in Darfur (65%) and in the Eastern region (87%), indicating that the practice is not universal throughout Sudan's various ethnic groups. The prevalence of FGM/C also varies significantly according to religion – with 47% among Christian women, compared to 90% among Muslim women." [40a]

- 19.15 The United States State Department report on Human Rights practices 2005, published on 8 March 2006, stated that:

“FGM remained widespread, particularly in the North, although it was becoming less common as a growing number of urban, educated families abandoned the practice. In a compromise with tradition, some families adopted clitoridectomy, the least severe form of FGM, as an alternative to infibulation. Although no form of FGM was illegal, the health law prohibited doctors and midwives from performing infibulation.” [3a] (Section 5)

- 19.16 “Support for FGM/C varied significantly according to region, religion, and educational status. Urban, Christian and higher educated women were less likely to favour the continuation of FGM/C compared to rural, Muslim, and uneducated women. Support for FGM/C was lowest among women from Darfur (67%) and Khartoum (68%) and highest among women from the Central (86%) and the Kordofan (90%) regions. Among those who supported continuation, the type of circumcision preferred was influenced by tribal affiliation.” (UNICEF, FGM/C Profile) [40a]

- 19.17 According to Ms. Asha El-Karib, who addressed Canada’s Standing Senate Committee on Foreign Affairs in May 2005:

“Female genital mutilation in Sudan is a serious challenge for women and girls in the country. The rate of prevalence of female genital mutilation in Sudan is still over 80 per cent, despite years of work from activists, civil society and women’s groups to fight the practice. It has, of course, very serious impacts on women in different aspects. First, there are serious impacts on the health of girls and women. In most cases, the environment is very bad, the utensils used are unhygienic, and girls often die through or because of the effect of the practice. During adolescence and early marriage and throughout their reproductive lives, when women give delivery and also in situations where the health service is very poor, they suffer from bleeding and difficult labour and they die because of those....Female genital mutilation is psychologically harmful to women and girls. They live the trauma throughout their lives. They get very little support and assistance in this area. There are many incidents of psychological stress, depression and even mental breakdown because of the practice of female genital mutilation. It is a serious violation of girls’ rights, as it is practiced on very small girls. In some areas of Sudan, female genital mutilation is practiced on seven-day-old babies.” [39a] (p12)

Government attitude/policy to FGM

- 19.18 SOAT’s 1999 Report stated that: “Sudan was the first African country to outlaw FGM. It was first condemned by the Sudanese Medical Service as long ago as the 1930’s [sic] and in 1944 the Sudan Ministry of Health launched an intensive campaign to put an end to the practise [sic] of infibulation.” [15ac] (p12) The Report continued: “Legislation to proscribe FGM was finally enacted in the 1946 Penal Code, which prohibited infibulation, but permitted ‘Sunna’. The law was ratified again in 1957, when Sudan became independent.” [15ac] (p8)
- 19.19 “In 1991 the Sudanese government affirmed its commitment to the eradication of the traditional form of FGM, however, the 1993 Penal Code, does not mention FGM, leaving its status unclear. Originally punishment for carrying out

infibulation was a seven years imprisonment and/or a fine, this sentence was reduced to 5 years in 1974, but no one has yet to be found guilty. [sic]” (SOAT, 1999) [15c] (p8)

- 19.20 “In Sudan, the National Plan of Action on FGM/C, endorsed by the Ministry of Health in 2001, has promoted the establishment of mechanisms at all levels to end FGM/C. At the federal level, a steering committee ensures coordination among government departments, networks of NGOs and civil society groups. At the state level, there are councils and steering committees for FGM/C, while at the community level, community-based organizations bring together women’s groups, religious leaders, midwives, community leaders, as well as children and youth to promote behavioural change. Media campaigns are promoted at the federal and state levels, while at the community level, radio programmes featuring key community members are broadcast in local languages.” (UNICEF Innocenti Digest, 2005) [40b] (p32)
- 19.21 In September 2003, the Government reaffirmed its commitment to eradicate the practice of FGM and, according to a September 2003 IRIN report, Sudanese newspapers contained articles stating that the national Human Rights Advisory Council had said it would support the drafting of a specific law to criminalise FGM. [10an] The US State Department’s (USSD’s) Human Rights Report 2005 noted that the government actively campaigned against the practice and stated that: “Although no form of FGM was illegal, the health law prohibited doctors and midwives from performing infibulation.” [3a] (Section 5)
- 19.22 RIN’s March 2005 report states that: “In Sudan, where 89 percent of women are infibulated, steps have been taken to prohibit only the most drastic types of circumcision. The 1946 Sudanese Penal Code prohibited infibulation, but allowed the practice of ‘Sunnah circumcision’ (the removal of the clitoral hood) to continue.” [10am] (p10)

WEST SUDAN (DARFUR)

- 19.23 IRIN News reported on 24 August 2006 that:
- “More than 200 women have been sexually assaulted in the past five weeks alone around Kalma camp, Darfur’s largest for internally displaced persons (IDPs), the International Rescue Committee (IRC) warned....Another 200 women and girls reported being beaten, punched and kicked by unidentified armed men who confronted them a few miles outside the camp near Nyala, the capital of South Darfur State....The women have no choice but to leave the relative safety of their camp to search for firewood - forcing them to walk several miles into the bush. If men went instead, they would be killed.” [10ao]
- 19.24 The Sudan Tribune reported on 19 July 2006 that:
- “Darfur peacekeepers should include more women and should be trained in women’s rights to help reduce widespread rape and sexual slavery, rights group Amnesty International said.... Thousands of women have been raped during three years of violence in Darfur, a region the size of France in west Sudan, and an underfunded 7,000-strong African Union (AU) peacekeeping mission has struggled to protect civilians.” [12h]

- 19.25 Amnesty International (AI) released two reports in July and August 2004 that specifically dealt with the systematic rape of women in Darfur. [16y, 16z] In August 2004 the Integrated Regional Information Networks (IRIN) reported on a three-man UN mission to Darfur led by Dennis McNamara, special adviser on displacement to the UN Emergency Relief Co-ordinator. [10ap] IRIN reported that rapes were still widespread in Darfur, and that the perpetrators of these and other abuses continued to act with impunity. [10ap] IRIN reported McNamara's comments: "He said the overall response to sexual crimes had been ineffective and perpetrators acted with impunity. 'There has been no serious attempt to prosecute,' said McNamara, whose mission visited IDP camps in four locations in South Darfur – Kass, Kalma, Nyala and Otash – on 25 and 26 August." [10ap]
- 19.26 During 2004 and 2005, AI and the Sudan Organisation Against Torture (SOAT) released reports on the abuse of women and girls in Darfur. [16y, 16z, 16aa, 16ab] [15k, 15l, 15r, 15p 15x, 15e-15g, 15m, 15ad, 15ae, 15af, 15ag] The UN's February 2005 'Report of the independent expert on the situation of human rights in the Sudan, Emmanuel Akwei Addo' recorded that, according to other UN and human rights groups' reports, thousands of women had been raped during the 20-month conflict in Darfur. [6i] (p14) A March 2005 Médecins Sans Frontières (msf) report on sexual violence in Darfur concludes: "Rape destroys individual lives, traumatises the population and fractures society. Rather than care, the women and children who are subjected to sexual violence receive rejection. The horrific practice we have seen in Darfur of actually imprisoning the victims of rape rather than providing them medical care, adds to an already appalling pattern of neglect and abuse. All too frequently the victims of rape find inadequate care even when they do make their way to a clinic. In many places the fear of mistreatment and stigma stops people from searching for necessary assistance." [41a] (p7)
- 19.27 In September 2005, the United Nation's Children's Fund released a Report based on a survey of conflict-affected persons in Darfur, noting: "This situational analysis aimed to gain a deeper understanding of the how the conflict in Darfur has affected the health and well-being of girls and women." [40c] (p5)
- 19.28 "Generally there was an overall sense that the community was helpless and not able to do anything to improve safety and security and that it was the task of the international organizations and the Government to ensure their safety. Some of the health problems mentioned by women were: physical injuries due to beatings, rape, miscarriages, excessive bleeding or injuries sustained during flight from the enemies. Sexually transmitted diseases, malnutrition, irregular menstrual cycles and psychological disturbances such as nightmares were mentioned frequently by women as some of the health problems they were experiencing due to the conflict." [40c] (p6)
- 19.29 MSF reported in December 2005 that: "Rape and sexual violence remain pervasive [in Darfur], inflicted on women and girls who must venture beyond the borders of camps to find firewood, water and food for their families." [41b] An article in the FMR of November 2005 concurs, "Women comprise the majority of Sudanese IDPs and refugees. Even when housed in refugee and IDP camps, women are not safe from gender-based violence. Reports abound of women being abducted and/or raped while collecting firewood near camps while little or nothing is done to bring perpetrators to justice." [32a] (p44)

- 19.30 As of April 2005, the UN Secretary General (UN SG) began producing monthly reports on the situation in Darfur in which he reported on issues such as the insecurity in the region, the protection of civilians, the humanitarian situation, forced returns and relocation, and the peace process. [6f 6k-6o] In his March 2006 report, the UN SG remarks that: "The attitude of high-level state authorities towards sexual and gender-based violence appears to have shifted, with the Governors of the three Darfur states acknowledging the existence of the problem. However, there is still no evidence that systematic measures are being taken on the ground, including legal proceedings against suspected perpetrators. Children remain targets of sexual violence. In particular, UNMIS was following up on five separate cases in Northern and Western Darfur between late November 2005 and January 2006, in which strong evidence has emerged that children under 15 years of age were raped." [6b] (p3)

WOMEN: SOUTH SUDAN

- 19.31 A Study of Customary Law in Contemporary Southern Sudan of March 2004 notes that:

"Within southern Sudanese society the role and status of women is seen as a reflection of a culture that places a premium on the cohesion and strength of the family as a basis of society. The male is the undisputed head of the family and marriage as [a] means of strengthening the bonds between families and clans within tribes. The role of women in this social pattern is that of cementing family ties through 'bride-wealth' and of producing children. To the outside observer, particularly one whose culture is based upon the rights of the individual, the status of women in this role is that of property. Notwithstanding the fact that these cultural practices have evolved over countless generations and survived twenty years of war, some in the international arena view their effects upon the status and role of women to be repugnant and clamour for change." [18i] (p7-8)

- 19.32 Two of the main problems identified by IRIN's 2003 special report were marriage and education. [10aq] IRIN stated that the former, which was often entered into at a young age, was an indicator of the virtually powerless position of women. [10aq] According to the same IRIN report, the bride dowry, paid by the groom to the bride's family, meant marriage was more a material transaction between the two families than a personal bond between husband and wife. [10aq] The report continued by recording that education was out of the reach of most girls as they were expected to work at home and then to marry not long after reaching puberty, where they are expected to continue working. [10aq] The IRIN special report did state that the situation was slowly improving but emphasised that long-held societal and familial attitudes would be difficult to overcome. [10aq]

- 19.33 The March 2004 study on customary law in southern Sudan states that:

"There is no doubt the current status and role of women and children in southern Sudanese society must and will change. There are however, considerable questions concerning how best to bring these changes about. Much of southern Sudanese customary law has evolved to deal with personal issues of family, marriage[,], children and wealth. To attempt to impose

revolutionary change in human and individual human rights, particularly those of women, would come in direct conflict with most customary law systems and impact upon the very foundations of the majority of southern Sudanese tribal societies.” [18i] (p8)

- 19.34 The United States State Department report on Human Rights practices 2005, published on 8 March 2006, stated that: “Displaced women from the South were particularly vulnerable to harassment, rape, and sexual abuse while returning home.” [3a] (Section 5) Whilst the November 2005 FMR report records that: “During resettlement, women face specific challenges including increased burdens as female heads of household, little access to healthcare and education, and few economic opportunities.” [32a] (p44)

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CHILDREN

- 20.01 The Interim National Constitution (INC) was signed on 9 July 2005. (BBC Timeline, 18 September 2006) [9a] Although no copies of the final version of the INC were available at the time of writing, a draft constitutional text, dated 16 March 2005, was reproduced on the Sudan Tribune website. [12d] Article 14 of the draft INC states that: "(1) The State shall direct policies and provide facilities for youth welfare and ensure that they develop morally and physically; the State shall also protect children from moral and physical abuse and abandonment." [12d] (p7)
- 20.02 The United States State Department report on Human Rights practices 2005, published on 8 March 2006, stated that: "A large number of children suffered abuse, including abduction, enslavement, and forced conscription." [3a] (Section 5)
- 20.03 The report further noted:
- "The law provides for free basic education, but students have been expelled from class for failing to pay school fees. On August 8 [2005], the government issued a decree prohibiting dismissal of students for nonpayment of school fees. There were wide educational disparities among states and sometimes between genders, particularly in the eastern and western regions; for example, enrollment was 78 percent in Khartoum State and only 30 percent in the eastern part of the country. In the North boys and girls generally had equal access to education (enrollments of 50 and 47 percent, respectively), although girls were more affected by early marriage and the fact that many families with restricted income chose to send sons and not daughters to school." [3a] (Section 5)
- 20.04 The report also stated that: "Although mandated by the constitution to protect children from exploitation, the government did not effectively do so, and child labor was a serious problem. The legal minimum age for workers was 18 years, but the law was not enforced in practice. Young children worked in a number of factories, and severe poverty produced widespread child labor in the informal and rural farming economy." [3a] (Section 6d) Save the Children (UK)'s September 2004 Report recorded that: "According to recent assessments, some children in North Darfur have been abducted to drive looted animals." [24a] (p5) In comments to the Advisory Panel on Country Information (APCI) on 8 March 2006, UNHCR pointed to the exacerbation of child labour by the conflict in Darfur and "... notes that in the IDP camps children are working who would not have worked at home." [20a] (p5)
- 20.05 The USSD report of 2005 additionally noted that: "FGM [Female Genital Mutilation] on girls was performed commonly in rural areas and less in the cities" [3a] (Section 5) Also that: "The law establishes the legal age of marriage as 10 for girls and 15 or puberty for boys. There were no reliable statistics on the extent of child marriage." [3a] (Section 5)
- 20.06 The USSD report of 2005 further noted that:
- "The government operated 'reformation camps' for vagrant children. Police typically sent homeless children who had committed crimes to these camps,