



**International Covenant on  
Civil and Political Rights**

Distr.: General  
16 October 2012  
English  
Original: Arabic

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**Human Rights Committee**

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

**Fourth periodic reports of States parties**

**Sudan\*, \*\***

[21 September 2012]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

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

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## I. Background

1. The Sudan is one of the largest countries in Africa. After the secession, it lost roughly one quarter of its surface area, which fell from 2,500,000 to 1,881,000 square kilometres. Its borders with Ethiopia diminished from 1,605 to 725 kilometres and with the Central African Republic from 1,070 to 380 kilometres. Borders remained the same with Chad, at 1,300 kilometres; Libya, at 380 kilometres; Egypt, at 1,280 kilometres; Eritrea, at 605 kilometres; and also the South, at 2,000 kilometres.

2. Owing to the secession, the Sudan is now bordered by seven countries: Egypt and Libya to the north; South Sudan to the south; Chad and the Central African Republic to the west; and Ethiopia and Eritrea to the east. It is separated from the Kingdom of Saudi Arabia by the Red Sea.

3. According to the census of 1956, the population amounted to 10.25 million inhabitants. It then rose to 14.11 million in 1973, 20.59 million in 1983, and 25.1 million in 1993. The fifth population census had been due to take place in 2002, but owing to the circumstances in the country at that time, it was postponed until after the signing of the Comprehensive Peace Agreement, which provided for a full census covering the whole of the Sudan as it then was. The fifth census was conducted in April 2008 and showed that the population of the Sudan stood at 39.1 million inhabitants. As to the population of northern Sudan, which is the current Republic of the Sudan, it amounted to approximately 30.9 million inhabitants in April 2008.

4. The annual population growth rate was estimated at 2.1, 2.13, 2.57 and 2.88 per cent, respectively, in the four censuses. In the Republic of the Sudan, it was estimated at 2.4 per cent according to the fifth population census, conducted in 2008, meaning that the population doubles every 27 years. This is a high growth rate insofar as the global average is 1.4 per cent.

5. There are three possible population projection scenarios (low, medium and high growth), according to which, respectively, it is estimated that the population in 2031 will amount to roughly 55.5, 58.6 or 61.7 million inhabitants. On the basis of the medium scenario, which is the most likely to occur, the population figure as at 2008 will double over 31 years, i.e., to approximately 117.2 million by 2062. This projection is based on the assumption that fertility will gradually decline, that mortality will decline at the same pace as now, and that net foreign migration will be zero or near-zero. These assumptions will materialize only with concerted national efforts and the integration and harmonization of overall and sectoral policies.<sup>1</sup>

6. Since ratifying the International Covenant on Civil and Political Rights in 1986, the Sudan has worked consistently hard to fulfil its obligations under the Covenant. It has also taken an increasing interest in the efforts and activities of the Human Rights Committee, with which it endeavours to cooperate and to maintain an objective and constructive dialogue in order to strengthen and promote human rights in the Sudan.

7. Under article 40 of the Covenant, the Sudan submitted to the Committee its initial report and its second and third periodic reports. After considering the third periodic report, the Committee adopted its concluding observations thereon at its 2479th meeting, on 26 July 2007. We now present the fourth periodic report, covering the period 2007–2012, and would like at the outset to explain the approach followed in preparing the report, which is encapsulated in the following:

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<sup>1</sup> *Source of information:* The Central Bureau of Statistics.

- (a) Avoiding duplication of information included in previous reports, except where necessary in order to eliminate ambiguity or provide updates;
- (b) Observing the order of the articles in the discussion of fundamental rights and referring to each article by title;
- (c) Responding to some of the concluding observations for the previous report under a separate heading and to others in the course of dealing with the articles of the Covenant, as appropriate, in order to avoid duplication;
- (d) Using short paragraphs and numbering each new paragraph for ease of reference;
- (e) Convening a discussion group composed of 34 individuals, including representatives of civil society organizations and governmental agencies, in addition to academics and legal advisors, to whom the draft report was presented for consideration. Proposals and amendments were also incorporated.

8. The Government of the Sudan affirms its sincere desire to comply and cooperate with the Committee inasmuch as it is a tool designed to guarantee the promotion and protection of human rights, guided by the principles of universality, impartiality, objectivity, non-selectivity and the elimination of politicization, with a view to enhancing and defending human rights on the basis of the principles of cooperation and genuine dialogue. We are also mindful of the fact that these rights, as acknowledged by the Vienna Declaration and Programme of Action, are “universal, indivisible and interdependent and interrelated”, and that the Committee’s modus operandi is a strategic option aimed at the protection of human rights, which entails the rejection of any form of exploitation for political, ideological or other ends.

9. This report describes the human rights situation in the north of the Sudan, covering the five-year period during which Southern Sudan continued to enjoy full independence with respect to the administration of its internal affairs after the signing of the Comprehensive Peace Agreement in 2005 and the proclamation of the Interim Constitution of the Republic of the Sudan, also in 2005, which affirmed this principle until Southern Sudan seceded from the Sudan and formed a newborn State.

10. This report presents an overview of the key aspects of progress achieved in the area of promoting and protecting civil and political rights in the Sudan, exemplified in the efforts of the State at the legislative, judicial and executive levels to protect these rights at a time when the country faces a host of constantly emerging challenges and difficulties. The Sudan nonetheless remains undiminished in its will to pursue resolutely the advancement of human rights and the development of cooperation with all national, regional and international actors by passing legislation and adopting measures and initiatives.

11. After the signing of the Comprehensive Peace Agreement in Nairobi in January 2005, the Interim Constitution of the Republic of the Sudan was proclaimed on 9 July 2005. Information on all of its relevant provisions was included in the previous report.

12. Rather than setting out in an annex the various laws that provide the framework for human rights and the modalities for their implementation, we have opted to indicate the website where they can be consulted, which is [www.moj.gov.sd](http://www.moj.gov.sd).

## **II. Human rights conventions ratified by the Sudan during the reporting period**

13. During the reporting period, the Sudan ratified the African Charter on the Rights and Welfare of the Child, the Convention on the Rights of Persons with Disabilities and its

Optional Protocol, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The ratification of several other international and regional conventions is currently under consideration.

### **III. Response to the concluding observations of the Committee**

#### **A. Status of international conventions in the Sudanese legal system**

14. In its concluding observations for the Sudan's report, the Committee referred to the status of international conventions in the State's legal system and to the fact that domestic legislation should give full effect to the rights recognized in the Covenant. We wish to state that these conventions are regarded as an integral part of the Bill of Rights set forth in the Constitution, pursuant to article 27 (3) thereof, and of the practical application of all legal measures, as will be later explained in this report, thereby settling any debate on this matter. The Constitution also provides for the domestication of myriad provisions of these conventions. The Constitutional Court is the guardian and protector of the Constitution and the Bill of Rights and several other competent courts likewise seek to protect these rights and to monitor their application in the State in accordance with the Constitution.

15. Pursuant to the Constitution, several new laws have been formulated and numerous existing laws have been reviewed in order to align them with the Constitution and relevant international conventions. Examples include:

- The Voluntary Work Regulation Act of 2006;
- The Armed Forces Act of 2007, which devotes an entire section to crimes perpetrated during military operations, such as war crimes, crimes against humanity and the crime of genocide, and affirms individual responsibility and accountability for these crimes. It also provides for the protection of civilians and civilian facilities in times of international and non-international armed conflict;
- The Political Parties Regulation Act of 2007, pursuant to which the foundation was laid for an important democratic transformation that paved the way for the holding of the general elections in April 2010;
- The Electoral Act of 2008, pursuant to which the National Electoral Commission was established;
- The National Council for Child Welfare Act of 2008;
- The Sudanese Criminal Code of 1991, which was amended in 2009 by the addition of a full chapter on crimes against humanity, war crimes and the crime of genocide;
- The National Human Rights Commission Act of 2009;
- The Press and Publications Act of 2009;
- The National Persons with Disabilities Act of 2009;
- The Southern Sudan Referendum Act of 2009;
- The Abyei Area Referendum Act of 2009;
- The Children's Act of 2010.

Further information on these and other laws can be found by visiting the website [www.moj.gov.sd](http://www.moj.gov.sd).

16. The process of harmonizing legislation is still ongoing; a number of technical and expert committees are engaged in studying various laws, as will be described later in this report.

## **B. Situation of displaced persons**

17. Displaced persons are Sudanese citizens who enjoy all the rights and duties guaranteed to citizens by the Constitution. The provision of protection and assistance to these persons is primarily the responsibility of the State, with partners delivering national and international humanitarian aid. In order to deal fully with the problems of displaced persons, a displacement and voluntary return unit was established in 2003, as a body attached to the Humanitarian Aid Commission, with the aim of following up the voluntary return programmes for these persons. After the signing of the Policy Framework between the Government of the Sudan and the Sudan People's Liberation Movement (SPLM) in July 2004, it was agreed to establish two units for displaced persons, one in Khartoum and one in Rumbek, that would plan, coordinate and follow up the voluntary return programmes. In the second half of 2005, the unit was upgraded to become the National Centre for Displacement and Voluntary Return. The following are typical examples of the Centre's activities:

- Active involvement, in July 2004, in preparing the State's unified policy with SPLM on voluntary return, which resulted in the signing of the Policy Framework;
- Active involvement in discussing the details of the memorandums of understanding signed with the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees (UNHCR) on the voluntary return of displaced persons from Darfur to their homes;
- Full coordination with Khartoum state, and with the organizations operating in the state, in order to consider the best solutions for the integration of displaced persons into the state, in line with their wishes;
- Opening of branches in Kosti and the eastern states;
- The establishment of a joint task force, composed of United Nations agencies and voluntary organizations and operating under the leadership of the Centre, to coordinate the process of voluntary return to South Sudan;
- The conduct of two polls, in collaboration with partners in each of the northern states, to determine whether displaced persons wished to return voluntarily or to remain in the host communities;
- Participation in preparing the national policy on displaced persons, which was approved by the Cabinet.

### **Organized and assisted voluntary return and spontaneous voluntary return**

#### *Voluntary return and terms of reference*

18. The importance of voluntary return is confirmed by the terms of reference that secured the right of displaced persons to return to their places of origin. These are:

- The Comprehensive Peace Agreement;
- The Interim Constitution;
- The report of the Sudan Joint Assessment Mission (JAM).

19. Each of these terms of reference secured for displaced persons and refugees in neighbouring countries the right of voluntary return to their places of origin, which is the joint responsibility of the Government of National Unity and the Government of South Sudan (and international partners). In accordance with international instruments and the Sudanese Constitution, return is voluntary (optional). In order to base these policies on objective principles, identify the size of the problem and find out whether displaced persons wished to return voluntarily to their homes of origin, a random sample survey was conducted in 2005. The survey revealed that the number of displaced persons amounted to roughly 4 million, a figure that included all of the northern states, apart from Darfur. Concerning the wish to return voluntarily, the findings were as follows:

**First survey (2005):**

- (a) 66.7 per cent wished to return voluntarily;
- (b) 21.6 per cent wished to remain in the host communities;
- (c) 10.9 per cent were as yet undecided.

**Second survey (2006):**

- (a) 62.07 per cent wished to return voluntarily;
- (b) 25.3 per cent wished to remain in the host communities;
- (c) 12 per cent were as yet undecided.

**The start of organized return**

*Displaced persons from Dinka Bor*

20. The return of 134,000 displaced persons and their livestock from Eastern and Western Equatoria to the area of Bor was organized by land in order to avoid conflict between the Equatorial and Dinka Bor communities. Some 4,000 women and children were also returned by river from Juba to Bor.

21. Implementation of the voluntary return programmes began with a media campaign designed to raise awareness concerning the return areas and inform displaced persons about the security situation, the level of essential services and the presence or otherwise of mines, as well as enlighten them to the optional and voluntary nature of the return process. The campaign is run jointly by the National Centre for Displacement and Voluntary Return, the South Sudan Relief and Rehabilitation Commission (SSRRC) and the United Nations, in cooperation with leaders of displaced persons. Thirty-five permanent centres and five mobile teams are involved in the voluntary return arrangements and registration is supervised by five teams composed of representatives of the National Centre for Displacement and Voluntary Return, SSRRC and the United Nations. As at April 2008, 137,627 households, amounting to 568,225 individuals, had been registered.

22. To assist the leaving preparations, three departure centres were established in Khartoum (Ombada al-Salam), Jabal Awliya' and Mayo. Their job is to assemble returnees in order to prepare them for the journey and carry out medical checks, and to distribute humanitarian assistance during the journey. Way stations were also established along the return route as rest stops offering basic assistance, including medical and food services. The Central Police Reserve Forces are at hand to ensure the safety of convoys transiting the states, while local community police forces ensure the safety of departure and the way stations. All available means are used for transfer purposes, i.e., land, air and the Nile corridor.

23. River transfer is along two basic corridors:



- (a) Kosti – Renk – Malakal – Shambi – Bor;
- (b) Juba – Terekeka – Bor;
- (i) In the case of air transfer, 15 flights were made from Khartoum airport to Juba;
- (ii) 1,529 returnees were transferred to Juba, Yambio, Tambura, Maridi, Yei and Mundri.

#### Achievements of the National Centre for Displaced Persons and Returnees for 2011

24. The following provides an outline of the projects and programmes of the National Centre for Displaced Persons and Returnees in core areas.

#### Project for voluntary return to the State of South Sudan from April 2011 to date and details of the project

<i>No.</i>	<i>Type of journey</i>	<i>Number of individuals</i>	<i>Number of families</i>	<i>Number of journeys</i>
1	Total return journeys by river	22 700	5 747	16
2	Total return journeys by air	21 132	4 065	13
3	Total return journeys by rail	7 036	1 507	6
<b>Total</b>		<b>50 868</b>	<b>11 319</b>	<b>35</b>

#### Project for the voluntary return of displaced persons in Blue Nile state and details of the project

<i>No.</i>	<i>Journey number</i>	<i>Journey date</i>	<i>Number of buses</i>	<i>Number of families</i>	<i>Number of individuals</i>	<i>Participating bodies</i>
1	I	16 September 2011	5	62	311	The National Centre for Displaced Persons and Returnees, the Women's League, and the Rihab organization
2	II	21 September 2011	1	15	75	The National Centre for Displaced Persons and Returnees, and a benefactor
3	III	24 September 2011	10	142	712	The National Centre for Displaced Persons and Returnees, the Birr and Tawasul organization, and the Welfare and Reform Organization
4	IV	5 October 2011	6	31	283	The Cabinet Commissioning Committee
<b>Total</b>			<b>22</b>	<b>250</b>	<b>1 381</b>	

25. Surveys were conducted in order to calculate the number of displaced persons in Blue Nile, Gedaref and Kassala states and find out whether they wished to return or to integrate. The State also approved the national policy for displaced persons for 2011, which sets out the basic principles pertaining to the rights of displaced persons at every displacement stage and the principles governing work among partners, as well as activities and the modus operandi. A voluntary return programme for the Darfur states was also elaborated, in accordance with the Doha Agreement.

26. The challenges are exemplified in the following:

**Challenges**

- (1) Continuation of the offensive by rebel movements;
- (2) Provision of security in the return locations and the conduct of local reconciliation;
- (3) Provision of minimum services in the return locations;
- (4) The international community's commitment to its obligations and announced financial pledges;
- (5) Mine clearance;
- (6) The spread of epidemics, such as enteritis and meningitis, in some of the southern states, which has to some extent delayed schedules;
- (7) The shortness of the dry period (December–May), which means that land transport cannot be used to the utmost advantage;
- (8) The need for additional effort to prepare the return destination areas so that the number of returnees in each convoy can be increased, especially in the cases of South Kordofan state and Darfur;
- (9) The shortage of river barges and rail vehicles.

**C. Protection of persons with disabilities**

27. Before the Republic of the Sudan's ratification of the Convention on the Rights of Persons with Disabilities, on 25 April 2009, the Government of the Sudan had already incorporated into various articles of the Interim National Constitution of 2005 all articles protecting human rights in general, followed by the enactment of a succession of domestic laws concerned with human rights in general and the rights of persons with disabilities in particular, including the Children's Act of 2010, the Penal Code of 1991 and the Persons with Disabilities Act of 2009. All of these laws took care of addressing the international commitments entered into by the Republic of the Sudan.

28. The observance of the rights of persons with disabilities stems from the importance attached by the State to all groups of such persons, including those with motor disabilities, the blind, the deaf and those with mental disabilities. An analysis of the data provided by the census of 2008, which included a special form for information on persons with disabilities, showed that these persons made up 4.8 per cent of the population, with males accounting for 52.2 per cent of the proportion and females for 47.8 per cent. The proportion of disability was higher in rural areas, at 66.7 per cent, than in urban areas, where it stood at 26.3 per cent. The proportion of disability among nomads was 7 per cent.

**Legal framework**

29. The legal framework in the Sudan provides full protection for persons with disabilities, starting with the Constitution in that it incorporates the Bill of Rights, which protects and promotes the rights of all, among them persons with disabilities. Other pertinent laws include the Persons with Disabilities Act of 2009 and the National Prosthetic Limb Board Act of 2002. A number of additional laws also relate to disability rights, such as the Youth and Sports Authorities Act of 2002, the Voluntary Work Regulation Act of 2006, the Civil Service Act of 2007, the Code of Criminal Procedure of 1991, the Children's Act of 2010, the Civil Transactions Act of 1984, the Traffic Act of 2010 and the Medical Commission Act of 2008.

### **Measures taken by the State to guarantee access to job opportunities for persons with disabilities**

30. With respect to participation in economic activity, the population census showed that among persons with disabilities in the age group of 10 years and above, 700,042 were job ready, 600,791 were employed and 58,587 were economically inactive. The Constitution provides for access to appropriate education and employment for persons with disabilities and guarantees their full participation in society. Under the Civil Service Act, persons with disabilities are allocated a minimum of 2 per cent of jobs, subject to the nature and requirements of the job and the disability.

### **Measures to modify laws, customs and practices constituting discrimination**

31. The principle of equal opportunities is one of the fundamental principles provided for in the Constitution and laws. In pursuit of this goal, the State has set about amending several laws.

(a) The Persons with Disabilities Act provides that all relevant actors are required to give effect to rights, privileges, facilities and exemptions, in addition to which certain conditions of public service that were discriminatory have been removed, such as the medical fitness requirement;

(b) In order to address and modify practices and customs that serve as a framework for discrimination, numerous workshops and seminars were organized and the media mobilized in order to educate the public on the rights of persons with disabilities and reflect their creative abilities, which had a positive impact with respect to matters of early upbringing and acceptance of others;

(c) The State annually observes the commemoration of the International Day of Persons with Disabilities, routinely focusing on one of the challenges facing persons with disabilities and highlighting the artistic and sporting talents of such persons;

(d) The Traffic Regulation was amended for blind persons and includes the five signals, which are now among the conditions for obtaining a vehicle driving licence;

(e) The National Council for Disability is tasked with determining legislation, policies and plans and has a set time limit for achieving these goals.

### **Positive discrimination to promote job opportunities for persons with disabilities**

32. The State is endeavouring to strengthen the principle of positive discrimination for this important segment of society. In this context, it strives to create a suitable environment for persons with disabilities, including through the elaboration of a national plan for implementation of the Sudanese building codes with the aim of ensuring easy access to and within buildings.

33. In order to offer the greatest possible access to the benefits of technology, the importation of enabling equipment has also been simplified by exempting from tax and customs duty all materials and equipment for persons with disabilities, such as special computers.

34. The Children's Act provides for the right of children with disabilities to social, health and psychological care. The State has placed itself under obligation to protect children against all that is detrimental to their health or growth, to deliver psychosocial and occupational services and to provide assistive equipment free of charge.

35. Child education centres have been established in order to enhance and develop children's abilities, with a focus on children with disabilities.

36. During the elections held in the Sudan in 2010, the Higher Electoral Commission adopted measures to guarantee political participation of persons with disabilities, running programmes to raise awareness of voting procedures and providing escorts for voters with disabilities, failing which the task was undertaken by the head of the polling station, without any influence being brought to bear on the person being escorted to vote.

37. Insofar as education forms the basis for exercise of the right to work, the State instituted a set of measures to strengthen educational opportunities for children with disabilities whereby they must be admitted on the strength of only one half of the basic certificate score to the school closest to their home. They are also exempted from the payment of fees at all stages of education, including university.

38. Sign language has been introduced through various programmes and a section for children with disabilities has been established at the National Centre for Children's Culture. This section is involved in developing children's creative talents and representing the Sudan at the regional and international levels.

#### **Continuous occupational training measures for enabling children with disabilities**

39. The State endeavours to create opportunities for continuous training in all spheres. For example:

(a) It provides access to opportunities for training in the manufacture of prosthetic limbs;

(b) In recognition of the importance of psychosocial, educational and occupational rehabilitation, an annual percentage has been set, in association with technological and technical training institutes, for training children with disabilities, which is carried out by a number of organizations, such as the National Centre for the Rehabilitation of the Blind, organizations for children with disabilities, and civil society organizations;

(c) A technical institute for prosthetic limbs has been established in order to ensure that qualified personnel are available to provide motor disability training, and a van containing a mobile prosthetic workshop has been designed and travels around every state in the country;

(d) Through the Higher Council for Vocational Training and Industrial Apprenticeship, approximately 2,000 persons with disabilities have received training in various occupations, including the electrical trade, welding, the clothing industry, computing, radio, television and video work, and air-conditioning services. The training also comprised women's development programmes in numerous areas, such as food and clothing.

#### **Measures to promote special job opportunities for persons with disabilities**

40. With respect to promoting employment and access to self-employment opportunities for persons with disabilities, the local municipalities in every state accord priority to these persons when it comes to granting premises for engaging in an occupation compatible with their disabilities, such as the sale of fruit and vegetables, shoes and ready-made clothes.

#### **Measures taken by the State to provide adequate housing to assist access from and to work**

41. A proportion of the land in the public housing plan was allocated exclusively for the benefit of persons with disabilities.

### **Decline in the poverty rate for persons with disabilities**

42. In order to address the impact of poverty on persons with disabilities, the State carried out the following:

(a) By 2011, 20 per cent of persons with disabilities had benefited from free health care provided at all medical establishments in the capital and the states, as well as from the services offered at the seven prosthetic limb centres;

(b) In the context of fighting poverty among persons with disabilities, 403 persons with disabilities received training funded by the Higher Institute of Zakat Sciences for income-generating projects of a socioeconomic nature in smithery, commerce, the electrical trade, refrigeration, computing, ceramics, glass-making, perfumery and leather goods production;

(c) The Ministry of Welfare and Social Security, in collaboration with the Ministry of Finance, provided financial support amounting to over 1 billion Sudanese pounds for the period 2009–2011 to enable the following centres for persons with disabilities to carry out their activities: the National Centre for the Rehabilitation of the Blind; the National Federation for the Blind; the National Federation for Persons with Motor Disabilities; and the National Federation for the Deaf. Homes for persons with disabilities also received 45 million Sudanese pounds for support and maintenance;

(d) The Zakat Office provided financial assistance by transferring the ownership of motorcycles, bicycles, recording equipment and white canes, in addition to supplying prosthetic limbs.

### **Right of persons with disabilities to exercise the right of association**

43. Laying a firm foundation for ensuring that all citizens, especially persons with disabilities, exercise their political rights and participate in public life, the Interim Constitution of the Sudan of 2005 recognizes freedom of assembly and association. It thus guarantees the right of peaceful assembly, the right to freedom of association with others and the right to form and join political parties, associations, trade unions and professional federations for the protection of their interests.

44. With respect to participation in public affairs, article 41 (2) of the Constitution provides that every citizen has the right to participate in public affairs through voting, as prescribed by law. Every citizen who has attained the age specified by the Constitution or the law has the right to vote in periodic elections guaranteeing the free expression of the will of the electorate and conducted by a secret public ballot.

45. The Voluntary and Humanitarian Work Regulation Act of 2006 establishes the role of associations in the area of disability, stating in article 17 that civil society organizations with common issues, a grass-roots geographical reach and overarching purposes may not form a federation on that common issue. Special needs organizations are similarly permitted to establish a federation to tend to their joint affairs and defend their issues.

46. In order to strengthen this right, the Higher Electoral Commission adopted various measures to guarantee the participation of persons with disabilities in the elections recently held in the Sudan by raising awareness of voting procedures and providing escorts for voters with disabilities, failing which the task was undertaken by the head of the polling station, without any influence being brought to bear on the person being escorted to vote.

47. Having exercised the right to run for election and hold office, a number of persons with disabilities were elected to national and state councils and as members of parliament, which was achieved through:

- Measures to guarantee voting;
- Measures to guarantee the conduct of voting procedures and matters;
- Indicators for measuring enjoyment of the right to participate in public life by persons with disabilities.

48. Neither the Sudanese Constitution nor Sudanese laws, including the Electoral Act of 2008, place any restriction on persons with disabilities with respect to voting, standing for election or taking up public office on an equal footing with all citizens. On the contrary, it is a requirement under the Electoral Act to provide assistance to enable persons with disabilities to vote in elections. There are several persons with disabilities in the National Assembly and the state assemblies who were elected in the various geographical constituencies.

#### **Right of persons with disabilities to participate in the development, implementation and oversight of legislation and policies**

49. In order to involve persons with disabilities in all legislation and policies of relevance to them, the State engaged actors concerned with disability issues and a comprehensive disability strategy was drawn up, comprising programmes for detection, early intervention and maternal and child health.

50. The Sudan likewise attaches great importance to international cooperation and to the need to strengthen such cooperation, harness international and regional capacities and expertise, and transfer them to the national level. Technologies and technological development must also be harnessed in order to create a qualitative shift and conduct scientific research. In this respect, the State entered into several partnerships and cooperation with United Nations organizations in support of the service infrastructure. A cooperation agreement was also signed with the Republic of Turkey in order to promote disability activities in the Sudan and open up areas for cooperation and the exchange of expertise between the two States.

### **D. Fighting impunity**

51. In order to fight impunity and also fulfil the Sudan's obligations under the Doha Document for Peace in Darfur, the Ministry of Justice issued a number of decisions and orders to drive forward the process of accountability for human rights violations. Among these was a decision, in January 2012, to appoint the Public Prosecutor of the Special Court for Darfur, who is empowered to investigate and to represent the indictment before the Court with respect to crimes committed since February 2003. These crimes are exemplified in the following:

- (a) Crimes against humanity and war crimes as set forth in the Penal Code of 1991;
- (b) Gross violations of international humanitarian law;
- (c) Crimes under the Counter-Terrorism Act of 2001;
- (d) Any other crimes punishable under penal law.

52. The Office of the Prosecutor is seated in the town of El Fasher and he is also authorized to set up offices in the Darfur state capitals in order to facilitate justice.

53. Affirming the principles of the sovereignty of the rule of law and of accountability, and in order to strengthen the policy of non-impunity, members of the security apparatus, the police and others are subject to the provisions of both criminal and civil law. Examples

of cases in which persons responsible for civil and criminal violations of the law have been punished are cited in the annexes (annexes 1–3).

## **IV. Civil and political rights as set forth in the Covenant**

### **Article 1**

#### **Right of self-determination**

54. The war between north and south continued for over half a century, which affected the State's political, economic and social stability, constituting as it did a major drain on the country's human and material resources. A series of difficult negotiations, held with the aim of ending the war and achieving a comprehensive lasting peace, culminated in the signing of the Comprehensive Peace Agreement, which accorded to southerners the right of self-determination in a free and fair referendum. In that referendum on 9 January 2011, the citizens of Southern Sudan opted to secede from the mother State and to form their own independent State.

55. The right of self-determination is a constitutional right that was exercised by the people of Southern Sudan through the referendum to determine their future status in accordance with the Comprehensive Peace Agreement, the Interim Constitution of 2005 and the Southern Sudan Referendum Act of 2009, which provided for the conduct of a referendum in Southern Sudan and elsewhere on 9 January 2011. The referendum was organized by the Southern Sudan Referendum Commission and was monitored by international and local observers. The choice was between uniting with or seceding from the Sudan. Votes in the referendum were cast across all regions of the Sudan and in the countries of the diaspora on the appointed date of 9 January 2011.

56. Voting took place in a prevailing climate of freedom and security, witnessed by international, regional and national observers, and no incidents of violence were detected. The Southern Sudan Referendum Commission declared the final result of the referendum, which guaranteed to southerners the establishment of their own independent State after 9 July 2011. Over 99 per cent of southerners voted for secession, while 0.43 per cent voted for unity. In the north, 57.65 per cent voted for secession and 42.35 per cent for unity. In the eight countries of the diaspora, 98.55 per cent voted for secession and 1.45 per cent for unity. Overall, 98.83 per cent voted in favour of secession and 1.17 per cent in favour of unity. The Government accepted the result of the referendum and the Sudan was the first country to recognize the State of South Sudan.

57. In Darfur, a number of positive changes have been witnessed in that the situation is normalizing and vitality is being restored to the region, which has been affected in the past years by the war and tribal conflicts inflamed by arms proliferation and competition for limited resources. The Sudanese Government made numerous efforts to achieve peace and stability in the region through various initiatives and agreements, including the first and second Abashi agreements and the Ndamena agreement, all of which culminated in the Abuja agreement on peace in Darfur, concluded in 2006 with the main armed movements in Darfur. Given the continuing presence of several non-signatory movements to the Abuja agreement and the splintering of others, the Sudanese Government sought to create a negotiating platform that brought together all of these movements and it was agreed with the Joint United Nations-African Union Chief Mediator to adopt Doha as a forum for the negotiation. The Doha peace agreement was reached between the Government of the Sudan and the Liberation and Justice Movement, and the machinery of the Transitional Regional Darfur Authority was formed in accordance with its clauses. A number of field agreements

were also signed with various combatants, in turn promoting the restoration of peace and security in Darfur.

58. Free and fair elections were held in Darfur in 2010 and elected institutions were established. The new circumstances created on the ground encouraged the Government to formulate a new strategy for Darfur, which was widely discussed among individuals, groups and institutions from Darfur and with all national political forces. The Government also held consultations on the strategy with its partners in the peace process, primarily the African Union/United Nations Hybrid Operation in Darfur (UNAMID) and the high-level African Union Panel on Darfur. The strategy was greatly supported and encouraged by many of the peace partners from the international community.

59. The new strategy is based on five key elements, namely: achievement of security; consolidation of development; resettlement of displaced and war-affected persons in the interest of a decent life; and internal reconciliation activities to promote the climate of social peace.

60. This strategy built a practical approach to application based on two cornerstones: first, adopt the idea of partnership with States and organizations; and second, devote special efforts to the involvement of Darfur citizens, particularly at the grass-roots level and with respect to deputies elected to legislative bodies, civil society organizations and displaced persons. It is worth mentioning that the new strategy for Darfur was not intended to replace negotiations; the Doha forum continued as the mechanism agreed upon by the parties, alongside the efforts to achieve peace from within. As a result, a just and lasting peace agreement was reached among all the negotiating parties.

61. By conducting the elections and referendum with transparency and fairness, as confirmed by international and regional reports, the Sudan has provided a practical response to the earlier observations of the Committee, which recommended deployment of all the human and material resources required to hold the referendum provided for by the Interim National Constitution.

## **Article 2**

### **Respecting and ensuring rights**

62. Reference has already been made to the articles of the Interim National Constitution of 2005 pursuant to which all rights and freedoms enshrined in the international human rights conventions, treaties and instruments ratified by the Republic of the Sudan are considered an integral part of the Bill of Rights set forth in the Constitution. The provision made for the Bill of Rights in the Interim National Constitution has also been mentioned and all rights provided for in the International Covenant on Civil and Political Rights have been incorporated into the Constitution and other laws. Mechanisms for monitoring the State's performance of these obligations have likewise been established and will be discussed in detail subsequently.

## **Article 3**

### **Equality and non-discrimination**

63. Article 1, paragraph 2, of the Interim Constitution of the Republic of the Sudan provides that: "The State is committed to respect for and promotion of human dignity, is founded on justice, equality and the advancement of human rights and fundamental freedoms, and assures multipartism." This affirms the State's commitment to justice and equality, with no form of discrimination on any ground, such as race, ethnicity, colour, sex,



language, religion or political opinion. The State has put in place a number of programmes and policies to ensure that this principle is applied in practice.

64. Concerning women's rights, women enjoy such fundamental rights as the right to life and liberty; the right to a nationality; the right of movement, work, expression and worship; the right to form political, social and trade union associations; the right to own property; the right to communication, privacy, a fair trial, legal remedy, education and health care; and the right to hold high political office.

65. Epitomizing this fact are the Sudanese women who have held the position of governor and the numerous women currently holding ministerial office at the federal and state levels. Women also hold hundreds of seats in legislative institutions at both those levels and, according to figures for 2010, there are 57 women judges of various ranks.

66. In terms of legislation, the Government adopted the quota system in the Electoral Act of 2008, which guarantees to women 25 per cent of the total number of seats. Women's representation in the elections held in 2010 was over 28 per cent.

67. Since the independence of the Sudan in 1956, Sudanese women have acquired the right to participate in elections as both voters and candidates. In 1964, women won parliamentary seats in a number of constituencies and continue to hold prized seats in the National Assembly and the state assemblies. They have furthermore presided over various committees of the National Assembly, such as the Family and Child Protection Committee, the Legislation and Justice Committee, and the Human Rights Committee. Women also hold a substantial number of seats in the state legislative assemblies.

68. Although women in the Sudan have been accorded constitutional and legal rights, they nonetheless continue to endure certain harmful customs for reasons connected with educational attainment and social traditions. Of these customs, the most conspicuous is female genital mutilation (FGM), which is historically and traditionally widespread throughout the Horn of Africa and some West African countries and a cause of profound physical and psychological damage. The State and women's organizations, among others, have made tremendous efforts to eradicate the practice, which is now steadily declining. The national campaign against it is essentially based on the dissemination of information and awareness concerning its disadvantages and the fact that it is prohibited by law.

69. The Penal Code of 1991 was amended to include provisions on special protection for women during armed conflict (art. 186) and against war crimes (art. 188 (i)).

70. The State has strengthened its regulatory structures in order to combat violence against women and children. A Violence against Women Unit was accordingly established and the State plan for combating such violence was elaborated in consultation with the United Nations Mission in the Sudan (UNMIS). This plan was first implemented in December 2005 with the aim of raising women's awareness of their rights and means of protecting those rights. The State also enacts the necessary legislation to facilitate and simplify measures for the protection of women's rights. In addition, the Government adopted a national policy for women's empowerment and a national policy for girls' education.

71. State committees have been established to combat violence against women in the states of Darfur. Their membership includes official state entities, such as the governor, the police and the health authorities, in addition to civil society organizations, a representative of UNMIS and a representative of the African Union forces.

## **Article 4**

### **In time of public emergency**

72. There are fundamental rights that cannot be suspended, even if a public emergency is declared under the terms of article 211 (a) of the Constitution, which provides that, during a state of emergency, the President of the Republic may, with the approval of the First Vice-President and pursuant to the law or an exceptional order, take any measure that does not restrict, partially abolish or limit the effects of the provisions of the Constitution or the Comprehensive Peace Agreement, excluding the suspension of a part of the Bill of Rights, in which case there must be no derogation from the right to life, protection against slavery and protection against torture, or from the right not to be subjected to discrimination on grounds of race, sex, religious belief, the right to legal remedy and the right to a fair trial. The Sudanese Constitution is thus distinct from the International Covenant on Civil and Political Rights in that it additionally includes the right to legal remedy and to a fair trial among the rights that may not be suspended, even in states of emergency.

73. As a result of the war imposed on the Republic of the Sudan in the South Kordofan and Blue Nile regions, a state of emergency was declared in those regions, and indeed in Darfur, in accordance with the Constitution and the Sudan's obligations under the Covenant.

74. In the light of this situation on the ground, in the reasons for its decision in constitutional case No. MD/QD/41/2007 of 21 September 2009 (*Mayor Hussein Ishaq Yahya Sago et al. v. the Government of the Sudan and the governor of North Darfur state*), the Constitutional Court stated that: "In all circumstances, however, the decision to declare a state of emergency must spell out three key points: (1) the grounds for declaring the state of emergency; (2) the area covered by the declaration; (3) the date on which the state of emergency is to take effect and the duration." The Court also decided that the declaration of a state of emergency is subject to parliamentary oversight. As to measures taken by the authority empowered to implement the declaration of a state of emergency, they are administrative decisions subject to judicial oversight.

## **Article 5**

### **Non-violation of the rights set out in the Covenant**

75. The constitutional order in the Sudan laid a firm foundation for ensuring that rights are not violated and for guaranteeing their implementation. The Bill of Rights is also regarded as a covenant among citizens and between them and the State. Article 27 (4) of the Interim National Constitution furthermore provides that legislation regulates the rights and freedoms enshrined in the Constitution and may neither derogate from nor withdraw them. This right was affirmed in constitutional case No. MD/QD/4/1999 of 23 March 2000 (*Mu`iz Hamdan Sa`d v. the Government of the Sudan*). Interpreting the provision of article 23 (2) of the Constitution of 1998, the Constitutional Court stated that: "The article excludes any person under 18 years of age from the death penalty in general, while the same paragraph excludes any person over 70 years of age from the death penalty except for *qisas* offences [for which the penalty is retribution] or *hadd* offences [for which a mandatory penalty is established under Islamic law], because the comma after the phrase 'under 18 years of age' creates a distinction." This article is identical to article 36 (2) of the Constitution of 2005, prescribing different treatment for persons under 18 years of age, who may not be executed, even in the case of *qisas* or *hadd* offences. The Court also saw fit to apply this precedent to the constitutional case of Najm al-Din Qasam al-Sayyid in 2008, the rule being that the interpretation of a constitutional provision must generally be upheld in subsequent cases, as long as the provision has not been amended. The Constitutional Court further stated in one

of its opinions that the provision of article 27 (3) is permissible, as drafted, and consistent with the approach of the international conventions ratified by Sudan that became part of its laws and subsequently part of the Bill of Rights in the Constitution after the Interim Constitution of the Republic of the Sudan was proclaimed in 2005. The decision also referred to the Convention on the Rights of the Child and article 6, paragraph 5, of the International Covenant on Civil and Political Rights.

## **Article 6**

### **Right to life and personal integrity**

76. The Constitution emphasizes the inherent right of every human being to life, dignity and personal integrity, which is a right protected by law. No person may be arbitrarily deprived of life (article 28 of the Constitution).

77. In common with many countries of the world, the legislature in the Sudan sees no reason to abolish the death penalty. It has restricted it, however, to the most serious crimes that threaten security or the rights of individuals in society, such as premeditated murder, drug trafficking and high treason.

78. Under the heading “Restriction on the death penalty”, article 36 of the Constitution provides that the death penalty may not be imposed other than for *qisas* or *hadd* offences, or as punishment for extremely serious crimes. Nor may the death penalty be carried out on pregnant women or on lactating women until after two years of breastfeeding.

79. Although the Sudan has not abolished the death penalty, stringent rules are in place to ensure that it is not applied and that it is restricted to the utmost, in accordance with the Constitution. These rules are that:

- (a) It must be in accordance with the law;
- (b) It must be for the most serious crimes;
- (c) It does not apply to pregnant or lactating women until two years after giving birth;
- (d) It does not apply to minors under 18 years of age or to anyone over 70 years of age.

80. In accordance with Islamic law, the application of the death penalty stems from the legislature’s concern for the life of Muslims and for ensuring that their killing is not legitimized. The penalty also serves as a measure to prevent the perpetration of the crime for fear of the punishment. Its application therefore works to preserve life.

81. The family of the victim has the right, under Islamic law, to waive any sentence of death or retribution handed down by a court. This is what frequently happens in practice, in which case the death sentence is commuted to imprisonment or a fine.

82. Concerning application of the death penalty, statistics for 2011 show that the death sentence was pronounced in a total of 142 cases. The details are as follows:

- (a) Of these 142 sentences, only 11 were carried out;
- (b) In 10 cases, the sentence was suspended by the Constitutional Court;
- (c) In 98 cases, an appeal against the sentence is still ongoing;
- (d) In 5 cases, enforcement of the penalty of retribution (*qisas*) was waived by the aggrieved parties;
- (e) In 15 cases, the sentence was commuted from death to life imprisonment;

(f) In 3 cases, the conviction and the penalty were overturned.

83. In order to limit wider use of the death penalty, article 36 (2) of the Constitution provides that it may not be imposed on anyone under 18, or on anyone over 70 years of age except for *hadd* and *qisas* offences. This article was invoked in a famous judgement delivered by the Constitutional Court in the above-mentioned case of Najm al-Din Qasam al-Sayyid (No. MD/QD/18/2005), dated 2 December 2008, in which it decided to set aside the death sentence on the ground that it was unconstitutional.

84. Annex 4 contains statistics for the years 2006–2010 on the total number of reported crimes. Annex 5 includes tables for 2010 showing the status of cases in the various courts, the work of appeal courts in the judicial machinery and the work of the Federal Supreme Court and its chambers.<sup>2</sup>

## **Article 7**

### **Torture and inhuman treatment**

85. The Constitution and laws clearly provide for the prevention of torture and inhuman treatment, specifically in article 33 of the Constitution and in the Code of Criminal Procedure, the Prisons Regulation and Treatment of Prisoners Act, the Regulation on Persons Detained by the Internal Security Apparatus, the Evidence Act, and other laws already mentioned in previous reports.

## **Article 8**

### **Prohibition of slavery**

86. Sudanese legislation — starting with the Constitution — forbids slavery and deems it a crime. Article 30 (1) of the Constitution prohibits slavery and all forms of slave trade, as well as forced labour. The Sudan has also ratified several international conventions on the prevention of slavery and racial discrimination. The Code of Criminal Procedure of 1991 likewise emphasizes that persons detained for investigation must be treated in a manner that preserves their dignity and causes them no physical or moral harm. It further states that they must be provided with adequate medical care.

## **Article 9**

### **Right to liberty and security of the person**

87. The Sudanese legislature believes that the right to liberty and security of a person is an intrinsic fundamental right and that a violation of that right may lead to the violation of other rights, especially at the stage of penal enforcement, which is one of the most crucial stages of criminal proceedings and a powerful basis for penal reform. The rights and humanity of convicted persons may be open to various kinds of arbitrariness and abuse. On that basis, the objectives and duties of the Directorate-General of Prisons and Reform were defined and prison laws, regulations and work rules have kept pace with the newest methods for the treatment of prisoners, in accordance with the principles of Islamic law and the international instruments and treaties guaranteeing the rights of all prisoners.

88. As explained in our previous report, the Interim Constitution of the Sudan of 2005 provides for the right of every person to liberty and security, stipulating that no one may be

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<sup>2</sup> Source: The judicial authority.

arrested, detained, deprived of his liberty or have his liberty restricted except on such grounds and in accordance with such procedures as are established by law. In keeping with this constitutional principle, the Code of Criminal Procedure of 1991 sets the period of detention to a minimum and guarantees release or release on bail if the charge is not established. The Constitution and the Penal Code also lay down a set of principles and safeguards relating to liberty.

89. In addition, the Minister of Justice issued an order pursuant to which prosecutors are required to place custodial facilities under 24-hour inspection in order to prevent any potential abuse of detainees in those facilities and preserve their human dignity.

## **Article 10**

### **Treatment of persons deprived of their liberty**

90. The Constitution and the laws dealing with the rights of prisoners all make provision for a number of safeguards, exemplified in the following:

(a) Prisoners must be treated in accordance with the principle that the purpose of prison is reform, correction and rehabilitation pursuant to the laws and the international instruments and conventions relating to the treatment of prisoners;

(b) Prisons must be organized in a manner appropriate to the dignity and humanity of prisoners;

(c) Order in prisons must be maintained without any more action than needed being taken to establish security;

(d) All health, educational, social, religious and teaching capacities and materials must be harnessed for the rehabilitation, reform and correction of prisoners;

(e) Prison inmates are categorized by the segregation of women from men and juveniles from adults, as well as by age, term of punishment, type of offence, number of previous convictions and state of health, in order to identify the most successful means of accomplishing the rehabilitation and reform of convicted persons.

91. With respect to women prisoners, they are singled out for special treatment and all necessary measures are in place for ensuring their welfare. Those who are pregnant are also afforded special care and give birth in hospital, where possible. The place of birth is not stated on the birth certificate if the child is born in prison.

92. Children staying with their imprisoned mothers are provided with health care, as well as social and psychological care. If the mother so wishes, her child is kept with her in prison out of consideration for the best interests of the child, who is looked after in the prison kindergarten. Concerning juveniles, they are placed in education homes where all activities in the social, educational, spiritual, sports, cultural and artistic spheres are offered in accordance with the principles of the Convention on the Rights of the Child of 1989 and the Sudanese Children's Act of 2010. Those with mental and psychological disorders are placed under observation and treatment in separate sections where health and treatment facilities are fully available. As to unconvicted persons, they are placed in special sections where they receive particular treatment appropriate to their circumstances and where they are afforded many freedoms and rights.

### **Education and training for prisoners**

93. Convicted persons and juveniles are entitled to pursue all levels of basic education, following the curricula of the Ministry of Education, and examination centres have been

established for all academic stages (basic, secondary and university). Several prisoners have obtained doctorates and master's degrees from inside Sudanese prisons.

#### **Health care and prisoners' needs**

94. All prisoners are entitled to health care and the Prisons Department delivers all requirements for such care. Food is provided to prisoners on the basis of daily menus drawn up in advance by the competent State authorities (the Medical Commission). Prisoners whose state of health so requires are given special food and all categories of prisoners (men, women and juveniles) are given a full set of clothing (individual items, coverings, etc.). All prisoners are entitled to social and psychological care through groups specializing in this field, in accordance with integrated social and psychological programmes that are subject to continual assessment.

#### **Work and visits**

95. Convicted persons have the right to work in the various prison facilities for an appropriate wage set by the prison administration in accordance with the regulation in force. Unconvicted persons may be employed if they so wish. The Labour Code is applicable to prisoners in the event that they suffer a work injury, for which they receive compensation accordingly. A prisoner's family and friends are permitted to make periodic visits in addition to visits approved by the director of the prison.

#### **Conjugal visits**

96. Convicted persons (men and women) are permitted to receive conjugal visits (in privacy) after the prison administration has established that the couple is married.

97. Convicted persons are permitted to communicate with their relatives via the official channels and also have access to news through daily newspapers, periodicals and the audiovisual media.

#### **Religious and moral correction**

98. The Prisons Department seeks to correct the religious and moral conduct of inmates through moral instruction and religious guidance programmes. It also establishes places of worship for the performance of Islamic and Christian observances.

#### **Sports, cultural and leisure activities**

99. The Prisons Department secures access to all sports grounds, theatres and facilities needed for the implementation of sports programmes and cultural activities.

#### **Security classification of prisoners**

100. Under certain conditions, first offenders and reoffenders may be granted the privilege of either an individual security classification that allows them to move about without being under guard, or a group security classification whereby the members of a group of five prisoners with a relationship in common, such as their tribe, act as safeguards for one another.

#### **Prisoners' home leave**

101. Convicted persons who have been given an individual or group security classification may be granted an annual 15-day period of home leave to spend with their family. The prison administration is liable for the costs incurred for travel and sundries relating to such leave.

**Temporary leave**

102. Convicted persons may be granted temporary leave from prison under guard in order to deal with their affairs or visit their families.

**Aftercare**

103. Aftercare is regarded as an important means of reform. The Aftercare Department works with civil society organizations to ensure that prisoners have sources of income after their release. In this context, the following has been carried out:

- (a) Ownership transfer of means of production and small projects;
- (b) Ownership transfer of various means of production.

**Special release**

104. The prison laws provide for several kinds of special release for convicted persons as an incentive for them to maintain consistently good behaviour in prison. These are described below.

**Release for memorization of the Holy Koran**

105. A convicted person who has memorized the Holy Koran is eligible for release on the basis of a waiver of one tenth of his sentence term for every three parts of the Holy Koran memorized, provided that this does not conflict with the provisions of Islamic law.

**Release for memorization of the other divine books**

106. A non-Muslim sentenced to imprisonment as due punishment is eligible for release if it is established that he has attained a high degree of commitment to his belief while serving his sentence.

**Release by a waiver of one quarter of the sentence term**

107. Persons sentenced to a term of more than six months are eligible for release on the basis of a waiver of one quarter of the sentence term for good behaviour in prison. This applies to all prisoners.

**Release on health grounds**

108. A convicted person who has an incurable disease or a permanent and life-threatening disability is eligible for release by a waiver of his remaining sentence, provided that he was not convicted of an offence under a special law.

**Release on the ground of old age**

109. After reaching 70 years of age, persons convicted of a common law offence are recommended for special release on the advice of a medical committee that determines their age.

**Temporary release on health grounds**

110. On the basis of a medical recommendation, convicted persons may be temporarily released on health grounds for a period of six months in order to receive treatment for any serious and potentially life-threatening illness. Such persons may be treated outside the Sudan.

## **Article 11**

### **Prohibition of imprisonment on the ground of inability to fulfil a contractual obligation**

111. Contractual obligations are governed by the Civil Transactions Act and, pursuant to article 244 (d) of the Code of Civil Procedure of 1983, no one may be imprisoned on the ground of his inability to fulfil a contractual obligation.

112. In constitutional case No. MD/QD/6/2006 of 18 May 2008, the Court debated at length the inadmissibility of imprisonment on the ground of inability to fulfil a contractual obligation. In the final judgement, the proceedings were quashed on the ground that the defendant in those proceedings had not been imprisoned because of his inability to fulfil a contractual obligation but because he had violated the Penal Code. The grounds of the judgement dealt exhaustively with this subject, however, and three judges held that the articles of the Civil Transactions Act permitting imprisonment are unconstitutional in that they clearly contradict article 11 of the Covenant, which is part of the Sudanese Constitution.

## **Article 12**

### **Right to liberty of movement**

113. The Constitution guarantees the right of every citizen or alien to liberty of movement and the freedom to choose his residence within the country and to leave and enter the country. This freedom may not be restricted except for reasons of health and public safety, in accordance with the law, specifically the Passports and Immigration Act of 1993.

114. In order to facilitate the movement of citizens and aliens, the exit visa system was abolished and exit visas are now granted at ports of exit, which has facilitated the procedures. Travel ban lists have also been abolished. A woman travelling to join her spouse abroad must prove that he is abroad and show a statement of his consent, validated by the consular authorities at the embassy of the Sudan in the country concerned, for her to accompany him. Women participating in conferences and training courses are exempted from the above conditions. The President of the Republic has issued a decision abolishing the Women's Travel Committee.

## **Article 13**

### **Rights of aliens**

115. The Constitution guarantees the right of every citizen or alien to liberty of movement and the freedom to choose his residence within the country and to leave and enter the country. This freedom may not be restricted, except as prescribed by law (article 42 of the Constitution). There are no restrictions on the entry of aliens to the Sudan other than the requirement to obtain an entry visa as recognized internationally. There are also no restrictions after entry to the Sudan, except that persons staying longer than one month must obtain a residence permit.

116. Matters raised by the Committee in its concluding observations for the previous report included that of information concerning the situation of refugees, which is set out below.



### Situation of refugees<sup>3</sup>

117. Asylum is among the important topics preoccupying the domestic and international communities. It is a long-standing issue, having spanned more than four decades affected by the repercussions of the perennial presence of refugees. The Sudan remains, as ever, one of the countries with the longest record of working with and embracing the refugee movement with a conviction derived from the values of our Islamic faith and deep-rooted customs and traditions bequeathed by Sudanese society. It is by virtue of those bequeathed values, customs and traditions that we precede the international and regional instruments governing the situation of refugees, such as the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967, and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969. Moreover, the Sudan was the first African State to promulgate a law on asylum, in 1974. The Sudan widely participated in and contributed in various fields to the development of those conventions, protocols and laws in line with the new situations in the refugee movement.

118. The Sudan is a major donor in the area of asylum and refugees. It has provided land to refugees for accommodation, farming and pasture, in addition to providing security and delivering services by sharing with refugees, notwithstanding the scarcity of resources, those services that it provides to its citizens. The State also established a Commission on Refugees (CoR) as a governmental body that cares for, protects and assists refugees and formulates plans and policies to that end, in cooperation and coordination with relevant entities. The State furthermore approved the establishment of the UNHCR Office in Khartoum and the opening of branches in several of the country's states.

119. The Sudan's refugee experience has centred on the following elements:

- International and regional cooperation, especially with refugee-exporting States, as regulated by conventions and laws, and consideration of the grant of asylum as a humanitarian and civilian matter;
- Emergency migration management in the event of disaster, conflict or instability in neighbouring States;
- The preparation and organization of reception centres for asylum seekers and the establishment of camps catering to the welfare of refugees in terms of sustenance and the provision of essential services, employment and means for self-sufficiency;
- Moving refugees on from the stage of receiving aid to that of development through adoption of the self-sufficiency policy, in which context the Sudan, in cooperation with UNHCR and various States and organizations, established several projects aimed at fostering self-sufficiency and self-reliance in refugees. Examples include International Labour Organization projects, the circular credit project and projects for refugee-affected areas. These projects foundered, however, for foreign political reasons;
- Working with UNHCR to find durable solutions to the problems of asylum and refugees, such as voluntary return, resettlement in a third country and local integration;
- Supervision of the return of Sudanese refugees from neighbouring States.

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<sup>3</sup> *Source of information:* The Ministry of the Interior – Office of the Commissioner for Refugees.

## **Current situation of refugees in the Sudan**

### **Refugees in camps and towns**

120. There are 15 refugee camps in the Sudan: 8 in Gedaref and Kassala states; 4 in Gezira and Sennar states; and 3 in West Darfur state.

121. The number of refugees registered in camps amounts to 85,374, as follows: 64,413 refugees living in refugee camps in eastern Sudan (Kassala and Gedaref states); 2,298 refugees living in camps in the central states (Sennar and Gezira); and 18,636 refugees living in camps in West Darfur state.

122. The number of refugees living in towns and urban areas outside the camps is estimated at 150,000. These refugees receive no assistance from the international community and depend on sharing with citizens the public social services in the towns, even though those services are in short supply.

### **Challenges facing the State**

123. Implementation of the UNHCR decision to halt international assistance (the cessation clause) to Ethiopian and Eritrean refugees has led to the closure of some refugee camps and their merger with other camps. Not enough thought was given as to how those refugees will proceed with their lives and no equitable alternatives were created. Consequently, the majority of refugees from the closed camps head for the main towns in search of work and stability.

124. Influxes of asylum seekers have continued along the country's eastern borders in Kassala, Gedaref and Red Sea states and in the central states. UNHCR has also continued the policy of running down essential services in the refugee camps by approving an inadequate amount of financial resources for the services required. The humanitarian services in the camps (water, health, education, food etc.) are consequently meagre and inferior. The current situation in the camps in Kassala state discourages refugees from staying for multiple reasons. In particular, most recent refugees are youngsters from main towns who are educated and highly ambitious, whereas the camps are located in remote rural areas where there is no sort of town life, where efficient control and monitoring are difficult and where the essential services delivered to refugees are inferior, both in the old camps and in the new Shagarab camp. Refugees are therefore driven to leave these camps and gravitate towards the towns in search of better living conditions.

125. The challenges facing the State are typically as follows:

- The phenomenon of illegal migration, which has led to the emergence of organized gangs whose smuggling and human trafficking activities start from within the countries in the Horn of Africa and continue within the Sudan;
- Environmental degradation in the refugee-affected areas and the failure of the international community to fulfil its obligations with respect to this programme;
- The socioeconomic impact on refugees and on their security and health, in particular those in towns who receive no assistance from the international community and benefit from sharing the already inadequate services provided to citizens by the State;
- The lack of any real statistics on refugees in the Sudan, for which reason we had looked forward to assistance from UNHCR for the conduct of a true census of refugees in the Sudan;
- Although several special workshops have been run on the integration of refugees into local communities, no clear policy on the subject has been drawn up. The

international community has begun to exert pressure in this direction and it is now essential for the Sudan to have a clear policy on the integration of refugees into the local community.

126. The CoR efforts to end those problems are exemplified in the following:
- Working with UNHCR and the international community to improve the situation with respect to services for the refugees in camps;
  - Working with UNHCR and the international community to combat smuggling and human trafficking operations by organizing workshops to create awareness of the dangers of illegal migration and ensuring the availability of assistance for tackling gangs involved in such activities;
  - Working with UNHCR to implement self-reliance projects for refugees in the camps, encompassing the following:
    - (a) Rain-fed and irrigated farming through the supply of agricultural machinery, land, seeds and fertilizers;
    - (b) Animal husbandry;
    - (c) Small-scale activities and the development of skills in such areas as smithery, smelting, the electrical trade, car mechanics, building and construction, and computer programming;
    - (d) Women's activities, such as weaving, sewing and palm-weaving;
  - Seeking with UNHCR to generate durable solutions to the problems of asylum and refugees through a resumption of the programme for Ethiopian and Eritrean refugees wishing to return voluntarily, in addition to working with UNHCR and donors to increase opportunities for the resettlement of refugees in a third country;
  - Seeking to ensure that the economic, social and security consequences of refugees are fairly and equally shared between the Sudan and the international community through subsidy of health, educational and rehabilitation services and a resumption of projects in refugee-affected areas in all states hosting refugees;
  - Capacity-building and refresher training for CoR personnel through the creation of training opportunities at home and abroad so that they increase their expertise.

#### **Sudanese refugees in neighbouring States (eastern Chad)**

127. As part of the Darfur peace strategy, a Higher Committee was formed under the chairmanship of the Minister of the Interior to ensure the voluntary return of displaced persons and refugees to the states of Darfur.

128. In the interest of enabling the Subcommittee on Refugees to discharge its functions, two action plans were elaborated, comprising the following:

- (a) A short-term plan for January to June 2011 to repatriate the Sudanese refugees stranded on the Sudanese-Chadian borders;
- (b) A long-term plan for 2011 to repatriate the Sudanese refugees in the camp in eastern Chad.

129. After the Higher Committee had provided some of the necessary financial allocations, implementation of the short-term plan commenced, in cooperation and coordination with the local authorities in West Darfur state, civil institutions and the Office of the Assistant Commissioner for Refugees in Geneina, and 4,000 families stranded on the borders were repatriated to the areas of Noro, Tarbiba and Angamei in West Darfur state.

130. After the success of the spontaneous return, a tripartite meeting of the Government of the Sudan, the Government of Chad and UNHCR was held in Khartoum, from 26 to 27 July 2011, to discuss means of implementing the voluntary return of the Sudanese refugees in Chad within the framework of the Tripartite Agreement, which is the legal instrument for the organized return of refugees, the aim being to protect refugees, the host State and the mother State.

131. The final communiqué signed by the parties referred in its introduction to the development of cooperation between the Government of the Sudan and the Government of Chad, which led to the establishment of bilateral relations between the two countries for the purpose of discussing the matter of the voluntary return of Sudanese refugees. The communiqué attested to the improvement of the security situation on the borders, which culminated in the signing of a bilateral agreement between the Sudan and Chad for implementation of the voluntary return of refugees stranded on the borders between the two countries.

132. Meetings of the Sudan, Chad and UNHCR continued on this subject; a tripartite meeting was held in Khartoum in July 2011, in addition to a further meeting of the three parties in November 2011, in Ndjamena, in order to pursue the talks on the organized voluntary return of Sudanese refugees from Chad under the Tripartite Agreement, which is the legal framework for voluntary return. Meetings of the three parties on this subject will continue.

#### **Article 14**

##### **Right to a fair hearing**

133. All of the constitutional and legal provisions affirming the right to a fair hearing were reflected in the previous report.

134. The swift completion of legal proceedings is also part of a fair hearing. Annexed hereto are statistics on cases heard by the courts in Darfur during 2011 (annex 6).

135. Annex 7 contains a list of the instances in which permission was granted for removal of the immunity of members of the police. The Ministry of Justice was notified of criminal proceedings taken during the years 2009–2012.

136. In constitutional case No. MD/QD/26/2006 of 5 July 2007 (*Shaikh Taha al-Mahal collective v. the Governor of Khartoum state*), the petitioner had brought the proceedings for the violation of his constitutional right to a fair hearing because he had not been afforded the opportunity to reply to the review application. The Constitutional Court decided that this was a clear violation of the guarantees of a fair hearing.

137. Similarly, in constitutional case No. MD/QD/104/2009 of 25 March 2010 (*Sami Abdul Majid v. Taha al-Shaikh al-Mujtabi*), which, in short, concerned the alteration of a judgement by the court of merits on the ground that a witness had been further questioned in the absence of both parties to the proceedings, the Constitutional Court unanimously decided that the judgement violated the terms of article 34 (3) of the Interim National Constitution concerning a fair hearing.

#### **Article 15**

##### **Non-retroactivity of criminal laws**

138. Article 34 (3) of the Constitution provides that no person may be charged on account of an act or omission that did not constitute an offence at the time of its commission other than in accordance with a pre-existing law under which the act is a punishable criminal

offence. The Code of Criminal Procedure also stipulates this same principle. Article 4 (3) of the Penal Code furthermore provides for application of the law most favourable to the accused in the case of offences with respect to which no final judgement has been delivered.

## **Article 16**

### **Recognition as a person before the law**

139. All Sudanese persons have a legal personality pursuant to article 18 of the Civil Transactions Act of 1984. The personality of a human being starts with his live birth and ends with his death.

## **Article 17**

### **Right to privacy**

140. Article 37 of the Constitution provides for the full privacy of the individual; his home, private life, property and family are inviolable and may not be interfered with, except pursuant to the law. Violation of privacy is also an offence punishable by law. Any person whose right to privacy is violated may file a complaint with the executive and administrative authorities and also has right of recourse to the Constitutional Court.

## **Article 18**

### **Freedom of belief and of religious observance**

141. The Sudan is a multicultural and multifaith country where Muslims constitute the majority of inhabitants and where Christianity and traditional beliefs have a substantial number of followers, as affirmed in the Constitution, which states that citizenship — not religion, ethnicity or colour — is the basis for rights and duties in the Sudan.

142. The de facto religious tolerance in the Sudan is evidenced by the presence of churches and socio-educational institutions belonging to over 10 Christian denominations. In the context of voluntary work, a religious coexistence council was formed, pursuant to the Voluntary Work Regulation Act of 2006, as an independent voluntary organization that aims to promote and build trust among the various religious leaderships and to protect religious freedom.

## **Article 19**

### **Freedom of opinion and expression**

143. Freedom of opinion and expression is one of the most fundamental freedoms and is essentially the starting point for other freedoms. It is a tool for communication and dialogue involving free discussion within society through which individuals can create some kind of influence and control over the machinery of government. This freedom is also the true underpinning of rational governance in that the exchange of opinions and ideas promotes sound decision-making. Expression of opinion means the right of the individual to express his ideas and convey his principles and beliefs in the manner of his choosing, within the limits prescribed by law. The press is one of the most important media of expression and the one with the most influence on public opinion. This importance stems from the difficulty of balancing freedom of the press, as an essential human freedom provided for in constitutions, international instruments and the laws of civilized countries, with the public

interest and with protecting the public against any evils that it entails and any damaging consequences that it brings for them.

144. In actual practice, some 50 newspapers are published in the Sudan: there are 26 broadly political newspapers representing the different shades of political opinion in the country; 9 sports journals; 4 state newspapers; 6 social affairs publications; 3 publications covering an assortment of economic, recreational and propaganda issues; and a number of specialist periodicals in such areas as health and law (annex 8).

145. There are also six Internet service providers operating throughout the Sudan and 4.08 million individuals with Internet access. The Sudan is the fifth African country to have afforded its citizens the right of Internet access. There are also 8 television broadcasting stations and 18 radio broadcasting stations in the country's states. Furthermore, the Communications Act of 2001 permits direct connections to the Internet by satellite, a method utilized by a large number of commercial companies and establishments.

146. Relevant pieces of legislation regulating freedom of expression include the Press and Publications Act of 2009 and the National Security Act.

147. The Press and Publications Act of 2009 essentially seeks to initiate self-monitoring of the publishing process by journalists themselves through the Press Council, which has a membership comprising representatives of the profession rather than any government involvement. In accordance with the Act, the only body empowered to hold to account and monitor the activity of the press is the independent Press Council. Any party injured by the decisions of the Council may seek legal redress (article 34 of the Act).

148. Under the Act, it is prohibited to subject any journalist to an unlawful act in order to influence his fairness, impartiality or commitment to his professional duties. It assures to journalists the right to protect their sources of information and guarantees that they may not be arrested until after the General Federation of Sudanese Journalists has been notified. The Act also requires public entities to provide journalists with access to information, except if it is confidential (article 25 of the Act). In addition to protecting journalists, the Act requires them to aspire to truth and impartiality, to observe the values and rules of professional conduct, and not to publish any confidential information relating to the country's security.

149. The Complaints and Disputes Settlement Committee, which is part of the National Council for Press and Publications, is the journalistic and legal experiment that has aroused the most controversy in legal and press circles. Opinion is divided over this experiment between those who praise and those who malign the Committee's performance, and through it the Council's performance insofar as the Committee is delegated by the Council to consider and settle complaints from parties injured by the publication of any material constituting a violation of the provisions of the law and to impose the sanctions prescribed in the Council's statute.

### **Rights, immunities and duties of journalists**

150. Article 25 of the Press and Publications Act of 2009 provides for the rights and immunities guaranteed to journalists by law. It reads as follows:

“(1) Journalists enjoy the following rights and immunities:

- Not to be subjected to any act designed to influence their performance, impartiality or commitment to their professional duties;
- Protection of their journalistic information sources;

With the exception of cases of *flagrante delicto*, no journalist may be arrested in connection with any charge relating to the practice of his journalistic profession

until after the General Federation of Sudanese Journalists has been notified in writing;

(2) Journalists are entitled to obtain information from official sources in accordance with the law;

(3) The Council must take appropriate measures to guarantee the rights and immunities of journalists;

(4) No journalist may be dismissed until after the General Federation of Sudanese Journalists has been notified of the reasons for the dismissal. If, within a period of one month, the Federation fails to reconcile the newspaper and the journalist, the parties shall invoke the provisions of the Labour Code in force.”

151. A key right provided for in the Press and Publications Act of 2009 is the right to a hearing and a defence. Article 33 (2) provides as follows: “Before imposing any sanction on a person, the Council must accord to him the right to be heard and to defend himself.” The Council is therefore obligated to provide the right to a hearing and a defence before imposing any sanctions on a newspaper. As a result of the invocation of this right by newspapers, the competent court — the Press and Publications Court — has set aside many of the decisions imposed on them by the Complaints Committee, overturning verdicts of guilt or reducing the sanction against them in the light of their pleas and arguments.

152. With respect to the National Security Act, the Sudan, as is no secret to the Committee, is a country that suffers from a security imbalance as a result of the wars and internal conflicts. Any intervention by the security apparatus is therefore in the interest of protecting national security and public order, in accordance with the constitutional and legal rules and the exceptions provided for in the Covenant relating to the protection of national security and public order, fully subject to the principle of accountability whenever the exercise of this right is taken too far.

**Appeals against decisions of the Complaints and Dispute Settlement Committee before the competent court (Press and Publications Court)**

<i>Newspaper</i>	<i>Complainant</i>	<i>Committee decision and date</i>	<i>Appeal number and date</i>	<i>Type of violation</i>	<i>Decision of the competent court</i>	<i>Remarks</i>
<i>Al-Ahram al-yawm</i>	Monitoring Department	Three-day suspension of publication 28 April 2010	ASJ/50/2010 11 May 2010	Press release	The guilty verdict was upheld, the sanction of suspension was set aside and the papers were returned to the Council for it to impose any of the sanctions set forth in article 33, paragraphs (a), (b) and (c) of the Act.	The penalty is too harsh and is not commensurate with the violation. The Council heard none of the depositions and statements of the editor-in-chief.
<i>Al-Hurrah</i>	Monitoring Department	Three-day suspension of publication 11 May 2010	ASJ/52/2010 13 May 2010	Press release	The guilty verdict was upheld, the sanction of suspension was set aside and the papers were returned to the Council for it to impose any of the sanctions set forth in article 33, paragraphs (a), (b) and (c) of the Act.	The penalty is too harsh and is not commensurate with the violation. The Council failed to comply with article 33, paragraph 4, of the Act.
<i>Al-Watan</i>	National Council for Child Welfare	Three-day suspension of publication 30 September 2010	ASJ/106/2010 22 May 2010	Press release	The guilty verdict pronounced by the Complaints Committee was upheld.	The Court saw no grounds for intervention.
<i>Al-Sada</i>	Monitoring Department	One-day suspension of publication	ASJ/120/2010 6 December 2010	Press release	The guilty verdict pronounced by the Complaints Committee was upheld.	The Court saw no grounds for intervention.
<i>Al-Mirrikh</i>	Monitoring Department	Three-day suspension of publication 4 May 2010	ASJ/1/12/2010 19 December 2010	Press release	The Committee's decision to suspend publication for one day was overturned.	The decision failed to state the object of the press release.
<i>Al-Za'im</i>	Khalid al-Γaysar	Two-day suspension of publication 16 January 2011	ASJ/8/2011 6 February 2011	Press release	The guilty verdict was upheld and the penalty was reduced to one day.	



<i>Newspaper</i>	<i>Complainant</i>	<i>Committee decision and date</i>	<i>Appeal number and date</i>	<i>Type of violation</i>	<i>Decision of the competent court</i>	<i>Remarks</i>
<i>Al-Hurrah</i>	Monitoring Department	One-day suspension of publication 2 February 2011	ASJ/16/2011 27 February 2011	Press release	The guilty verdict was upheld, the sanction of suspension was set aside and the papers were returned to the Council for it to impose any of the sanctions set forth in article 33, paragraphs (a), (b) and (c) of the Act.	
<i>Al-Hilal</i>	Monitoring Department	Suspension of publication for a period 2 February 2011	ASJ/14/2011 1 March 2011	Press release	The decision of the National Press and Publications Council to suspend publication was overturned.	The press release did not constitute a violation, falling instead into the category of legitimate criticism.
<i>Al-Intibahah</i>	Monitoring Department	Three-day suspension of publication 13 March 2011	ASJ/33/2011 31 March 2011	Press release	The decision of the National Press and Publications Council to suspend publication was overturned.	The press release did not constitute a violation, falling instead into the category of legitimate criticism.
<i>Habib al-Balad</i>	Monitoring Department	Two-day suspension of publication	ASJ/42/2011 19 April 2011	Press release	The decision of the National Press and Publications Council to suspend publication was overturned.	The press release did not constitute a violation, falling instead into the category of legitimate criticism.
<i>Habib al-Balad</i>	Monitoring Department	Caution	ASJ/44/2011 19 April 2011	Press release	The decision of the National Press and Publications Council to caution the newspaper was overturned.	The press release did not constitute a violation, falling instead into the category of legitimate criticism.
<i>Al-Intibahah</i>	Monitoring Department	Caution 14 January 2011	ASJ/50/2011 8 May 2011	Press release	The decision of the National Press and Publications Council to suspend publication was overturned.	The Committee did not hear the statements of the editor-in-chief.

<i>Newspaper</i>	<i>Complainant</i>	<i>Committee decision and date</i>	<i>Appeal number and date</i>	<i>Type of violation</i>	<i>Decision of the competent court</i>	<i>Remarks</i>
<i>Habib al-Balad</i>	Monitoring Department	One-day suspension of publication 24 April 2011	ASJ/70/2011 31 May 2011	Press release	The decision of the National Press and Publications Council to suspend publication was overturned.	The Committee did not hear the statements of the editor-in-chief.
<i>Habib al-Balad</i>	Monitoring Department	Two-day suspension of publication	ASJ/79/2011 22 June 2011	Press release	The guilty verdict was upheld, the sanction of suspension was overturned and the papers were returned to the Council for it to impose any of the sanctions set forth in article 33, paragraphs (a), (b) and (c), of the Act.	The Committee did not hear the statements of the editor-in-chief.
<i>Al-Mushahid</i>	Secretariat-General of the Council (Press Committee and service and incoming publications centres)	Suspension until satisfaction of the publication requirements set forth in the Act and in the Regulation on the Development of Journalistic Work 12 September 2011	ASJ/107/2011 28 November 2011	Administrative violations of the licence conditions	The appealed decision was returned to the Council, together with the papers, for review in accordance with the content of the memorandum.	The Committee did not hear the statements of the editor-in-chief.
<i>Alam al-Nujum</i>	Secretariat-General of the Council (Press Committee and service and incoming publications centres)	Suspension until satisfaction of the publication requirements set forth in the Act and in the Regulation on the Development of Journalistic Work 12 September 2011	ASJ/108/2011 28 November 2011	Administrative violations of the licence conditions	The appealed decision was returned to the Council, together with the papers, for review in accordance with the content of the memorandum.	The Committee did not hear the statements of the editor-in-chief.

<i>Newspaper</i>	<i>Complainant</i>	<i>Committee decision and date</i>	<i>Appeal number and date</i>	<i>Type of violation</i>	<i>Decision of the competent court</i>	<i>Remarks</i>
<i>Al-Za`im</i>	Secretariat-General of the Council (Press Committee and service and incoming publications centres)	Suspension until satisfaction of the publication requirements set forth in the Act and in the Regulation on the Development of Journalistic Work centres) 12 September 2011	ASJ/110/2011 28 November 2011	Administrative violations of the licence conditions	The appealed decision was returned to the Council, together with the papers, for review in accordance with the content of the memorandum.	The Committee did not hear the statements of the editor-in-chief.
<i>Habib al-Balad</i>	Secretariat-General of the Council (Press Committee and service and incoming publications centres)	Suspension until satisfaction of the publication requirements set forth in the Act and in the Regulation on the Development of Journalistic Work centres) 12 September 2011	ASJ/111/2011 28 November 2011	Administrative violations of the licence conditions	The appealed decision was returned to the Council, together with the papers, for review in accordance with the content of the memorandum.	The Committee did not hear the statements of the editor-in-chief.
<i>Habib al-Balad</i>	Monitoring Department	Censure of the publication 11 September 2011	ASJ/119/2011 29 November 2011	Press release	The decision to censure the publication was overturned.	The Committee did not hear the statements of the editor-in-chief.

**Decisions of the Appeal Court concerning decisions of the court of merits (Press and Publications Court) in cases filed against and by the Council**

<i>No.</i>	<i>Newspaper</i>	<i>Decision of the court of merits</i>	<i>Appeal number and date</i>	<i>Decision of the Appeal Court</i>
1.	<i>Habib al-Balad</i>	Return of the appealed decision to the Council, together with the papers, for review in accordance with the content of the memorandum	MA/ASJ/22/2012 19 January 2012	The decision of the court of merits was upheld and the application was cancelled.
2.	<i>Al-Za`im</i>	Return of the appealed decision to the Council, together with the papers, for review in accordance with the content of the memorandum	MA/SJ/23/2012 22 January 2012	The decision of the court of merits was upheld and the application was cancelled.
3.	<i>`Alam al-Nujum</i>	Return of the appealed decision to the Council, together with the papers, for review in accordance with the content of the memorandum	MA/ASJ/24/2012 23 January 2012	The decision of the court of merits was overturned and the papers were returned to the court for action in accordance with the majority view.
4.	<i>Al-Mushahid</i>	Return of the appealed decision to the Council, together with the papers, for review in accordance with the content of the memorandum	MA/ASJ/25/2012 11 February 2012	The decision of the court of merits was upheld and the application was cancelled.
5.	<i>Ajras al-Hurriyah</i>	Cancellation of the licence of the newspaper <i>Ajras al-Hurriyah</i>	MA/ASJ/2368/2011	The Press and Publications Court upheld the Council's decision, as the Council had the authority and jurisdiction to make that decision and the decision was sound.

**Decisions of the National Supreme Court concerning appeals filed by and against the Council**

<i>Newspaper</i>	<i>Decision of the court of merits</i>	<i>Appeal number and date</i>	<i>Decision of the Appeal Court</i>
<i>Al-Mushahid</i>	<ol style="list-style-type: none"> <li>The appealed decision was returned to the Council, together with the papers, for review in accordance with the content of the memorandum.</li> <li>The decision of the court of merits was upheld.</li> </ol>	MA/TJ/788/2011 20 March 2012	The appeal was admitted, the judgement of the Appeal Court was set aside, as was the judgement of the General Court, and the decision of the National Press Council to suspend publication for three days was upheld.
<i>Habib al-Balad</i>	<ol style="list-style-type: none"> <li>The appealed decision was returned to the Council, together with the papers, for review in accordance with the content of the memorandum.</li> <li>The decision of the court of merits was upheld and the application was cancelled.</li> </ol>	MA/TJ/295/2012 20 March 2012	The decisions of the Court of Appeal and the court of merits were upheld and the appeal filed by the Council was quashed.
<i>Ajras al-Hurriyah</i>	<ol style="list-style-type: none"> <li>The licence of the newspaper <i>Ajras al-Hurriyah</i> was cancelled.</li> <li>The decision of the Press and Publications Court was upheld, as the Council had the authority and jurisdiction to make that decision and the decision was sound.</li> </ol>	MA/TJ/326/2012 20 May 2012	The decisions of the Court of Appeal and the court of merits were upheld and the newspaper's application was cancelled.

153. Also considered a right is the establishment of a court competent to hear press and publication cases, as stipulated in article 34 of the Act. All press and publication cases are regarded as summary cases and may be heard in brief, regardless of the value or any other ground. The head of the judiciary appoints a court with jurisdiction to consider violations under the provisions of this Act. The Act also provides that all press and publication cases are regarded as summary cases. Under the terms of article 33 (4), any party injured by any sanction imposed by the Council may lodge an appeal with the competent court within 30 days of being notified of the decision to impose the sanction.

#### **Duties of journalists**

154. The Act places a number of other obligations on journalists. Specifically, they must:

(a) Aspire to truth and impartiality in their performance of the journalistic profession and remain committed to the principles and values set forth in the Constitution and the law;

(b) Not publish information relating to national security or the movements, plans and operations of the armed forces, other than from authorized sources;

(c) Not influence or obstruct the course of justice when reporting on court sessions or on inquiries or investigations conducted by the police or the Department of Public Prosecutions;

(d) Undertake not to be provocative or exaggerate in reporting news about crime or civil violations;

(e) Not comment on inquiries, investigations or trials until after their final conclusion;

(f) Not disseminate any material that conflicts with religions, cherished beliefs, customs or knowledge and leads to smear-mongering;

(g) Be committed to the values and rules of professional conduct set out in the journalistic code of honour approved by the General Federation of Sudanese Journalists;

(h) Not fuel religious, ethnic or racial strife or advocate war or violence;

(i) Respect and protect public decency, public morals and religious values; safeguard honour, confidential information and the sanctity of individuals and entities; and not violate the fundamentals of public modesty;

(j) Avoid raising matters prejudicial to the public interest when dealing with negative phenomena and reporting news of crime;

(k) Not accept money or gifts from foreign entities that might influence their fairness, impartiality or neutrality.

155. The manifold challenges to freedom of opinion and expression are exemplified in the following:

- The security situation, which calls for certain restrictions;
- There are a number of suspended newspapers, which are being kept track of by the National Human Rights Commission as part of the national monitoring of the human rights situation in the Sudan;
- The exploitation of various political situations for political party gain;
- The difference between political and professional loyalties is unclear in terms of approach;

- The economic situation and its impact on the rights of journalists and on publication and circulation requirements.

## **Article 20**

### **Prohibition of propaganda for war**

156. The Constitution provides that the foreign policy of the State includes non-interference in the affairs of other States and the promotion of good-neighbourliness. The Penal Code punishes the incitement of hatred, contempt or hostility on the grounds of race, colour or language as an act that endangers public peace. The State also seeks to enhance its relations with neighbouring States, notwithstanding any potential of attack against its territory and violation of its sovereignty.

## **Article 21**

### **Right of peaceful assembly**

157. In compliance with and implementation of the right of peaceful assembly, the Sudan takes this right into special account in legislation and in practice, affirming it as a human right that must be enjoyed by all, as enshrined in article 40 of the Interim Constitution of the Sudan of 2005. Article 23 of the Constitution also provides that violence must be foresworn and efforts directed towards the achievement of harmony, fraternity and tolerance among all people of the Sudan. With respect to laws, the Political Parties Regulation Act of 2007 provides in article 26 (2) that political parties have the right to organize peaceful processions, hold internal meetings and run social and cultural activities insofar as these are all indispensable and essential activities with respect to exercise of the right of peaceful assembly.

158. While indeed affirmed by the Government of the Sudan, this right is not absolute but restricted by conditions set out in the provisions of the Constitution and international covenants, specifically: respect for the rights and reputation of others; the protection of national security, public order, public health, public morals or public safety; and the protection of legal commitments and public property. We likewise affirm that measures are not applied arbitrarily but are taken to protect the security of the State, which has suffered from internal conflicts and struggles and continues to do so.

159. In accordance with the legal and statutory rules observed by the police to ensure the right of peaceful assembly and guarantee psychological and physical integrity, and in order to ensure that law enforcement officials do not overstep their authority, the Government of the Sudan organizes high-level training courses and programmes in international humanitarian law and human rights. A number of courses have been run at home and abroad, in association with United Nations organizations, civil society and non-governmental organizations. To that end, work is coordinated through a special mechanism at the Ministry of the Interior, namely the Coordinating Council for Human Rights and International Humanitarian Law. Training programmes are still ongoing and are part of the technical assistance programme presented by the Government of the Sudan to the Human Rights Council. The aim is to ensure more control over practices in accordance with laws and international conventions.

160. The Government of the Sudan affirms its full commitment to this right and asserts that it will work through its various mechanisms to ensure that the exercise of the right is controlled by a trained and qualified police force.

## **Article 22**

### **Freedom of association**

161. The Constitution guarantees to citizens the right to form trade unions and professional, social and economic associations and has assigned the function of regulating that right to various laws, such as the Workers' Trade Union Act of 2001, the Voluntary and Humanitarian Work Regulation Act of 2005 and the Political Parties Regulation Act.

162. The establishment of the Political Party Affairs Council, which was fully operational throughout the period of elections in 2010, is viewed as a major legal development, as the previous law entrusted the task of registering political organizations and parties to a registrar appointed by the President of the Republic, without any requirement for approval by the National Assembly. Conversely, such approval is now a prerequisite under the current law, which has furthermore tasked the Council with registration, subject to the approval of at least four of the members present.

163. There are numerous political parties in the Sudan that exercise their powers in accordance with the law. The number of registered parties is shown in annex 9, which also includes information on these parties.

164. In constitutional case No. MD/QD/172/2008 of 16 January 2010 (*members of the Sudan People's Liberation Movement for Democratic Change v. the First Vice-President of the Republic, the President of the Government of Southern Sudan, the Chairman of the Sudan People's Liberation Movement and others*), the facts indicate that the First Vice-President issued a decision requesting the governors of the 10 southern states to cooperate with political parties, with the exception of SPLM for Democratic Change. Constitutional proceedings were brought on the grounds that this decision violated the constitutional rights relating to personal liberty, equality before the law, freedom of expression and information, and freedom of assembly and of association. The Constitutional Court decided to set aside the appealed decision in that it clearly violated the provisions of the Constitution.

## **Article 23**

### **The family**

165. The family is the microcosm of society, and its well-being and protection are a solid guarantee for building a sound and healthy society. To that end, the Constitution requires the State to cater to the family system, facilitate marriage, devote attention to children's education, care for pregnant women and for children, liberate women from injustice in any situation or purpose in life, and promote their role in the family and in public life.

166. Women are the foundation of society and their well-being and protection serve as primary protection for the family. The Sudan has therefore endeavoured to accord to women full constitutional and legal rights. For reasons relating to educational attainment and social customs, however, women in the Sudan endure various abuses and harmful customs, in particular FGM, which is historically and traditionally widespread throughout the Horn of Africa and some West African countries and a cause of profound physical and psychological damage. The State and women's organizations, among others, have made tremendous efforts to eradicate the practice, which is now steadily declining. The national campaign against it is essentially based on the dissemination of information and awareness concerning its disadvantages. The Sudan is among the countries with a high percentage of females who have undergone FGM; the figure stood at 90 per cent in 1999 and was down to 69.4 per cent in 2006. According to the family health survey of 2010, however, 65.5 per cent had undergone FGM, which is still a high percentage. The reason is that cutting



operations continue to be advocated because they are associated with chastity, marriage and religious devotion, which are positive values, albeit for a harmful act.

167. In response to the concluding obligations, we are providing some information here on FGM in the Sudan and on the State's efforts in this domain, beginning with the national Salima campaign, which reflects the promising social change towards the Salima standard. It involves an alternative culture that is laden with positive values, namely chastity, marriage and religious devotion, and focuses on change in the framework of society, and not the individual, so that change becomes socially acceptable. The campaign also sends a new message: "Every girl is born whole and intact [i.e., *salima*]. Let her grow whole and intact." The Salima campaign is a wide-scale information and education initiative being implemented in all states in the Sudan and its aim is to raise family awareness of the merit and virtue of not cutting female genitalia by using a positive term (Salima). The campaign employs open communication channels, including radio and television (both state and national), opening up discussion and providing space for the voices of families and communities and for local cultural productions of song, folklore and theatre. Posters and paper stickers are also used in the campaign. In addition, the National Council for Child Welfare collaborated with the United Nations Children's Fund (UNICEF) to develop a training guide on positive social change (Salima) with the aim of training influential groups in the community with respect to grass-roots organizations.

168. In the context of eliminating FGM, the National Council for Strategic Planning and the National Council for Child Welfare elaborated a national strategy for the elimination of FGM in the Sudan (2008–2018). This strategy seeks to ensure the capacities of institutions and civil society structures and to develop skills and capabilities within the community in order to engage all individuals in promoting the abandonment of this custom. The objective of the strategy is to:

- (1) Enact legislation and laws prohibiting FGM and criminalizing anyone who practises any type of FGM;
- (2) Sensitize all segments of society to the issue of protecting children against all forms of violence, abuse, exploitation and neglect, with an emphasis on FGM;
- (3) Build partnerships and the exchange of expertise at the local, regional and international levels;
- (4) Address more widely the issue of FGM in educational curricula and teacher training;
- (5) Mobilize the religious sector to perform its role as an effective partner in sensitizing the community to the importance of abandoning FGM;
- (6) Disseminate the positive values and benefits of not practising FGM;
- (7) Raise health awareness in order to assist health professionals.

169. This strategy was first implemented in the core religious, information and health areas and several works by noted Islamic theologians were published, including a fatwa on FGM by Shaikh Dr. Yusuf al-Qaradawi, President of the International Union of Muslim Scholars, a book on FGM by Dr. Yusuf al-Kudah, and a book by Shaikh Abdul Jalil al-Nathir al-Karuri on the Sunni tradition of circumcising boys and exempting girls from the practice. Numerous training activities and information programmes on the Salima campaign were also organized.

170. The Government rolled out the national strategy for the elimination of FGM (2008–2018) at the federal and state levels in the core areas of health, education, media, law, religion, information and social affairs, in conjunction with ministries, governmental institutions, states and formal partners, including civil society organizations, community

sectors and legislative institutions. At the religious level, the Fatwa Council issued a fatwa prohibiting infibulation, which is the most extreme type of FGM.

171. Sixty-one voluntary organizations, or 14.3 per cent, are involved in women's issues; 43 national organizations, or 20.8 per cent, are headed by women; 15 out of 30 grass-roots organizations, or 50 per cent, have women in charge of them; 2 out of 8 networks, or 25 per cent, are headed by women; and 8 out of 61 foreign and United Nations organizations, or 12.1 per cent, are headed by women.<sup>4</sup>

172. The number of active women's organizations has increased, creating a powerful impetus and additional gains for women's empowerment. Women's networks have also been established, representing a partnership between State institutions and civil society organizations. The General Federation of Sudanese Women, for example, is one of the biggest women's grass-roots organizations. It is a national voluntary organization working for a society in which justice, equality and equal rights and duties are the order of the day.

173. Women's involvement abroad at the ministerial, leadership and expert levels and in civil society organizations in regional and international forums has helped to shape a number of concepts and views about women, their functions and their role in public and private life, together with frames of reference that take on board all that that serves the public interest of the Sudanese nation, is non-prejudicial to its integrity and the future of its generations, improves the image of the Sudan in the national mind and reflects the gains of Sudanese women.

174. Women are still faced with a number of challenges, which demand measures to:

- Operationalize policies, strategies and programmes designed to increase and broaden women's engagement;
- Strengthen and empower the role of relevant actors, remembering that work in the realm of women cuts across all efforts at the official, voluntary and popular levels;
- Establish a database;
- Improve and develop structures, mechanisms and personnel in the field of women at all levels in the centre, the states and civil society organizations;
- Initiate women's literacy programmes focused on rural women.

175. In its previous concluding observations, the Committee asked about the State's position and efforts with respect to combating violence against women in the Sudan. The following part deals with the main developments during the period 2008–2011. One of the most important mechanisms operating in this sphere is the Unit for the Suppression of Violence against Women and Children. Examples of the Unit's key functions are:

- Following up implementation of the national plan and establishing units for the suppression of violence against women and children in the three states of Darfur;
- Following up implementation of the plan at the national and state levels and coordinating with all ministries, governmental authorities and civil society organizations at the national level;
- Conducting research and studies on the phenomenon;
- Establishing an information base at the national and state levels and coordinating with United Nations organizations;

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<sup>4</sup> *Source:* The Ministry of Humanitarian Affairs and the Humanitarian Aid Commission.

- Writing periodic reports and responding to reports and queries received from abroad.
176. With respect to legislative measures, the following has been carried out:
- The Attorney General issued Criminal Circular No. 7, in July 2008, in furtherance of the protection of victims of gender-based violence in Darfur;
  - The Penal Code of 1991 was amended by the addition of crimes of genocide, crimes against humanity and war crimes, including rape;
  - Article 149 of the Penal Code of 1991 concerning rape and adultery was reviewed and it was agreed that it must be amended;
  - The Ministry of the Interior issued decisions making it clear that there is no immunity for State officials who commit offences against women and human beings in general.
177. Plans emanating from the national plan for combating violence against women were elaborated for the three states of Darfur in January 2009 and work is now under way to establish units, with funding from UN-Women, in the new Central and East Darfur states and in Blue Nile and North Kordofan states. Local committees were also established and sensitization workshops organized in the local municipalities of Kutum, Kabkabiya, Dar al-Salam, al-Lu`aib, Mallit and El Fasher.
178. The Advisory Council for Human Rights ran a sensitization workshop for civil community leaders in El Fasher and Nyala on combating violence against women, national and international laws guaranteeing women's protection, and legal protection measures. A number of crucial issues were discussed at these workshops, namely:
- Victims' rights;
  - Violence against women in international, regional and domestic laws;
  - Legal aid and victims.
179. In coordination with the Unit for the Suppression of Violence against Women and Children, the United Nations Population Fund (UNFPA) and the Advisory Council for Human Rights, three sensitization workshops on Circular No. 2 of the Minister of Justice concerning Criminal Form No. 8 were organized for personnel in governmental agencies and civil society organizations in El Fasher, Geneina and Nyala. A workshop on combating violence against women was also held in the three Darfur states, with the support of the National Unit for the Suppression of Violence against Women and Children, UNFPA and the UNMIS Human Rights Office, and a plan derived from the national plan was elaborated for the three Darfur states. A training workshop on psychosocial treatment for victims of violence was organized in Khartoum for 45 civil society leaders from the three Darfur states, and state plans were drawn up for holding workshops with civil society organizations in local municipalities in order to ensure access for villages and camps to personnel specializing in psychosocial treatment. Forty-five community police officers, both women and men, also received training in international humanitarian law, human rights and the protection of civilians, particularly women.
180. In August 2009, in collaboration with the Federal Ministry of Health and UNFPA, the Unit developed a guide for the clinical treatment of rape cases and training in documenting the medical condition of victims of violence was started for doctors and other health personnel. All drugs needed for treatment and prevention are provided free of charge to victims of violence at the health institutions in the three Darfur states.
181. In coordination with the Ministry of Justice and the Ministry of Welfare and Social Security, committees were formed to: review the laws relating to violence against women, in particular the Penal Code, in order to harmonize them with international conventions and

protect women in conflict zones; work for the implementation of those laws; and engage with stakeholders for the adoption of laws whereby the authors of these crimes are held to account.

182. Investigation offices for women were opened in the states of South and North Darfur. Funded by the Swiss Government, training was started for women police officers in the three Darfur states in the subjects of international humanitarian law, human rights, protection of civilians, especially women, and investigation in order to encourage women to demand legal measures.

183. In collaboration with the state-based legal offices of the Ministry of Justice and committees on combating violence against women, six workshops were organized to brief personnel working in ministries, authorities, civil society organizations and women's organizations in the Darfur states about the legal measures taken to combat violence against women, in particular Circular No. 2 of the Minister of Justice and the national plan for combating violence. Fourteen legal advisors were made available to work in local municipalities and 38 female social workers were also trained to work with women in the camps and with boys and girls in 10 secondary and basic schools.

184. As a result of coordination with state-based anti-violence and media committees, eight radio programmes and six television programmes were aired in each state to sensitize the community to the importance of combating violence against women and to the fact that such violence is an offence for which the perpetrator is answerable under the law. Five hundred stickers and posters were also disseminated across the three Darfur states, which is testimony to the State's concern to combat violence.

185. Two seminars were held in Zalingei for personnel in governmental agencies and women's civil society organizations in order to raise awareness of the issues involved in combating violence against women. A workshop was also held in association with Zalingei University on protection for women during conflicts and on the peaceful coexistence of tribes.

186. A community police unit was established at the Ministry of the Interior and a curriculum was developed by the Ministry and UNFPA in 2009 for training women police officers in criminal investigation matters and international humanitarian law. A training guide on offences involving violence against women and children was also developed by UNAMID for public prosecutors and police.

187. In 2009, a survey was conducted in the various sectors of the community in Khartoum state on the understanding of the phenomenon of violence against women in the Sudan and its definition. A technical committee was also formed to carry out studies and research and gather information in order to work with universities and academic institutions on research into the phenomenon of violence against women, train personnel working in that area and promote information-gathering and documentation. Work is currently under way on a study of gender-based violence in Khartoum state, in cooperation with the Central Bureau of Statistics.

188. The State continues to face various challenges, exemplified in the following:

- Inadequate funding from global, regional and national actors;
- Lack of trained personnel to implement plans, particularly in local municipalities;
- The major impact of the security situation in some areas, with the result that various plans were not implemented;
- Poor coordination among the actors concerned with implementation of the plan;
- Sudanese refugee women, especially in the refugee camps in Chad.

## Article 24

### Rights of the child

189. In conformity with the Sudan's obligations under the Convention on the Rights of the Child, a Children's Act was passed in 2010 in order to fill the omissions and gaps in the Children's Act of 2004. The most salient feature of this Act is that it came in response to the needs of children for protection, welfare and legal redress in line with the national legislation, customs, traditions, values and cherished beliefs of the Sudanese people, as well as the relevant international laws, conventions, protocols and rules relating to children. It explicitly provides for implementation mechanisms and prescribes harsher penalties for persons who violate children's rights and abuse children. It specifies the age of criminal responsibility with a view to achieving the best interests of the child.

190. This Act gives broad legal protection to children; article 60 provides for the establishment of a child prosecution office in every state in the Sudan. The Ministry of Justice accordingly issued an order for the establishment of special child prosecution offices in South and West Darfur states and Gedaref state. These prosecution offices oversee investigations by the authorities in cases involving children, pursuant to the Code of Criminal Procedure of 1991 and the Children's Act of 2010, and are now in place in all states.

191. Article 62 provides for the establishment of a special children's court in every state, composed of a first-instance judge and two members with experience in children's affairs. It further provides for special measures with respect to the trial, defence and punishment of children, prohibiting the death penalty for any child under 18 years of age (articles 65, 67, 76 and 86 of the Children's Act).

192. In accordance with the Constitution, the Nationality Act was amended so that children have the right to acquire Sudanese nationality if their mother is Sudanese, even if the father is not. Similarly, article 5 of the Children's Act provides that a child born out of wedlock has the right to be entered in the birth register as related to whichever parent acknowledges filiation and under any name if neither parent does so. The same article also stipulates the child's right to the usual form of birth certificate, which is provided to his relatives free of charge.

193. Article 28 of the Civil Register Act of 2001 provides legal safeguards for the registration of a newborn infant immediately on birth. Under article 29, notification of the birth is a legal requirement and the persons responsible for the notification are specified. Article 42 also prescribes the penalties for a breach of the above obligations. The establishment of agencies and institutions for performing the required registration is separately provided for in the Act.

194. The Civil Register Regulation provides for specific measures to guarantee the registration of those who are not on record. In areas where there are no routine medical services, the Civil Register Department appoints persons in accordance with certain rules to register all births taking place within the scope of their local or personal remit. Special rules are also in place for the registration of births occurring on aircraft and vessels, births of children whose identity is unknown, births occurring outside the country and births of aliens.

195. After the Civil Register Act of 2001 and its statutory regulations were passed, new birth registration forms were designed. These comprise the basic elements of the child's identity, without stigmatization or discrimination against the child. The Civil Register Regulation also lays down rules for according the necessary elements of identity to children whose identity is unknown, again without stigmatization or discrimination. Children of

unknown fathers now have their own special entry in the civil register as a new family and are given a family identity card and a national identity number.

196. On the basis of the Civil Register Regulation, if a person comes forward claiming paternity or maternity of a child of unknown identity and his or her claim is established by a court judgement, the situation is rectified accordingly. The Children's Act of 2010 also requires a father to take care of his children until they are able to support themselves. Matters concerning the acquisition of nationality have greatly improved since the Sudanese Nationality Act was amended in accordance with the Constitution.

197. Measures taken by the Government include the development of a national plan for promoting the registration of births and improving the existing birth registration system at the national and state level. It also considered the possibility of abolishing or reducing fees for birth certificates and extending the birth registration service to remote communities and regions as part of the Five-Year Plan for Children (2007–2011).

198. In addition to the aforementioned article 5-2 (e) of the Children's Act of 2010, other provisions of the Act safeguard and prevent any unlawful interference with the child's identity. Article 5-2 (f), for instance, provides that a child belonging to an ethnic, religious or linguistic minority is entitled, together with the other members of the community, to enjoy his culture, proclaim and practise his religion, and use his language.

199. In 2009, a coordinating committee was established to implement a project to promote birth registration in the Sudan. Its membership is composed of the Ministry of the Interior (civil register), the Federal Ministry of Health, the Ministry of General Education, the Central Bureau of Statistics, the National Population Council, the Advisory Council for Human Rights, the Family and Child Protection Unit, UNICEF, Plan Sudan, UNHCR, the General Federation of Sudanese Women and the Media Personnel Society for Children. The project has a four-year duration and consists in:

- Raising awareness among families and communities;
- Reviewing the legislation on birth registration;
- Working for the issuance of birth certificates free of charge;
- Providing technical support, rehabilitating administrative structures and building institutional capacities for birth registration at the federal and state levels.

This project started operation in early 2009, in cooperation with the states and all bodies connected with birth registration.

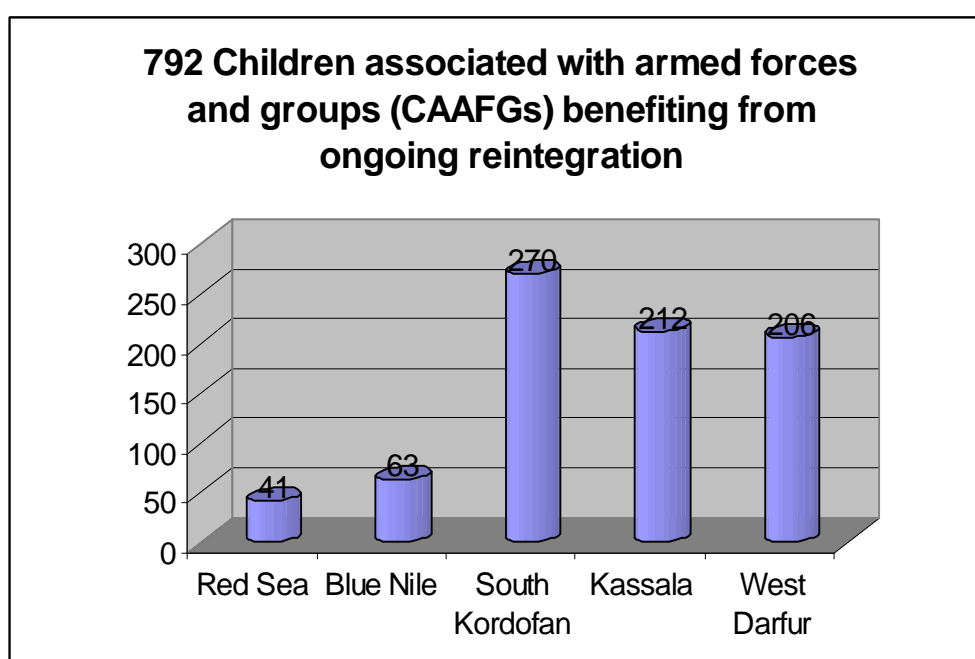
200. The Children's Act of 2010 set the age of criminal liability at 18 years and categorically prohibits imposition of the death penalty on any person under 18 years of age. Welfare and reform measures for juveniles are at the discretion of the judge and range from a reprimand to delivery into the custody of a parent or a trustworthy person who has undertaken to ensure the juvenile's well-being. The juvenile may also be placed in a correctional or social welfare institution in the interest of reforming and correcting his behaviour.

201. With respect to eradicating the recruitment of child soldiers, deterrent laws have been put in place and mechanisms, including the Sudan Disarmament, Demobilization and Reintegration (DDR) Commission, have been established to demobilize children from armed forces and groups, reconnect separated children with their families and communities, prevent the recruitment or re-recruitment of children and reintegrate the target group of

children both socially and economically through a community-based approach. The programme was initiated in 2003 between the Government of the Sudan and SPLM and the committee was reconstituted in 2006 as a commission attached to the Presidency of the Republic. The programme was implemented in cooperation with UNICEF and a child rights unit was established in the Military Justice Department at the Ministry of Defence in March 2007.

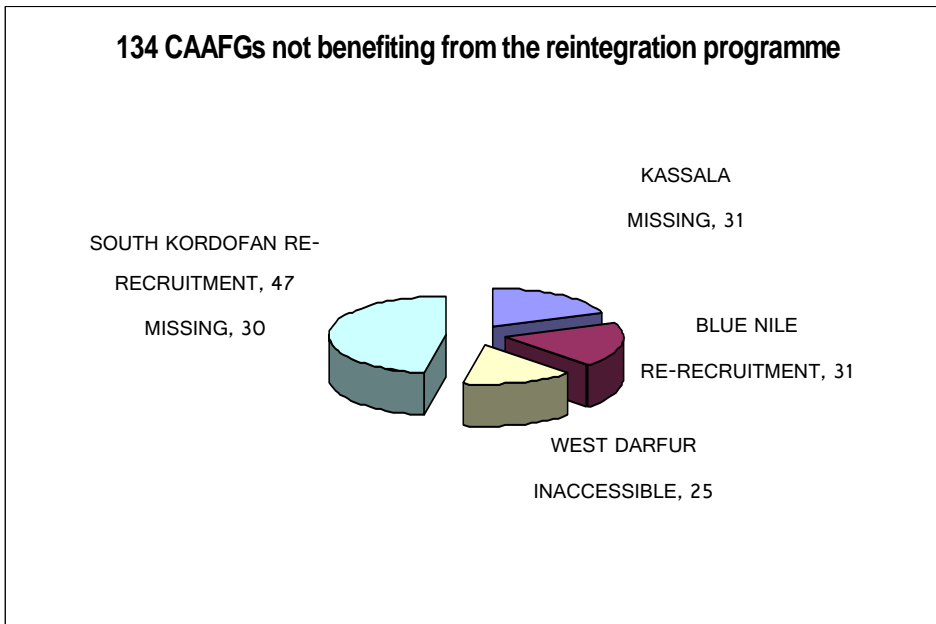
202. Main achievements of this programme include the reintegration programme for the target children and the focal point's adoption of the concept of community-based reintegration, which in turn facilitates the reintegration of demobilized children and children from vulnerable groups into the community. The programme includes psychosocial support, formal and informal education, life-skills training and industrial apprenticeship.

203. The following diagram illustrates the cases of children benefiting from reintegration programmes.



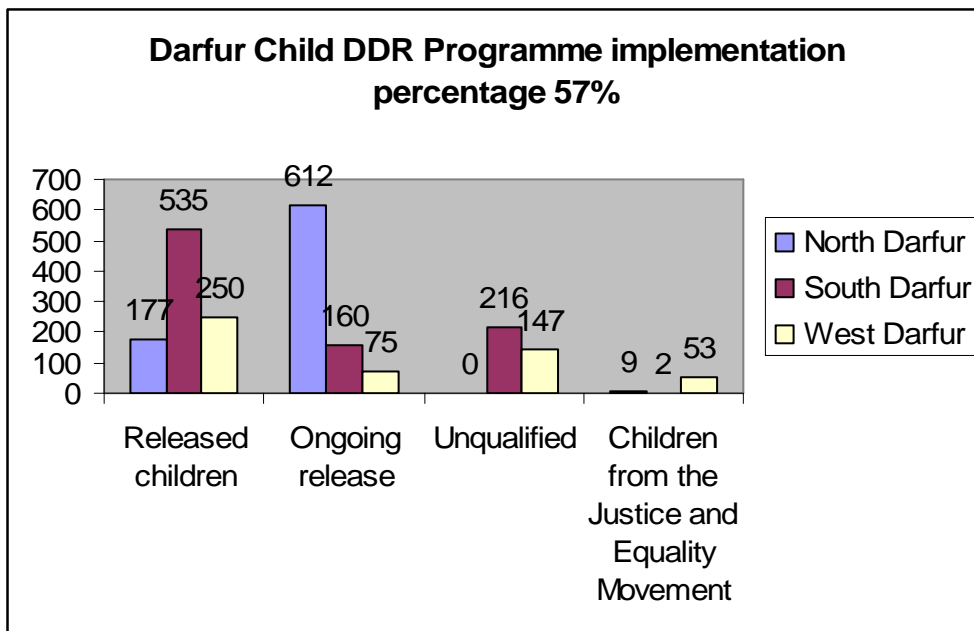
204. Despite the efforts made with respect to the services and activities of the reintegration programmes, a number of children have not been reintegrated for various reasons, inter alia:

- They have been re-recruited;
- They are inaccessible;
- They have gone missing.



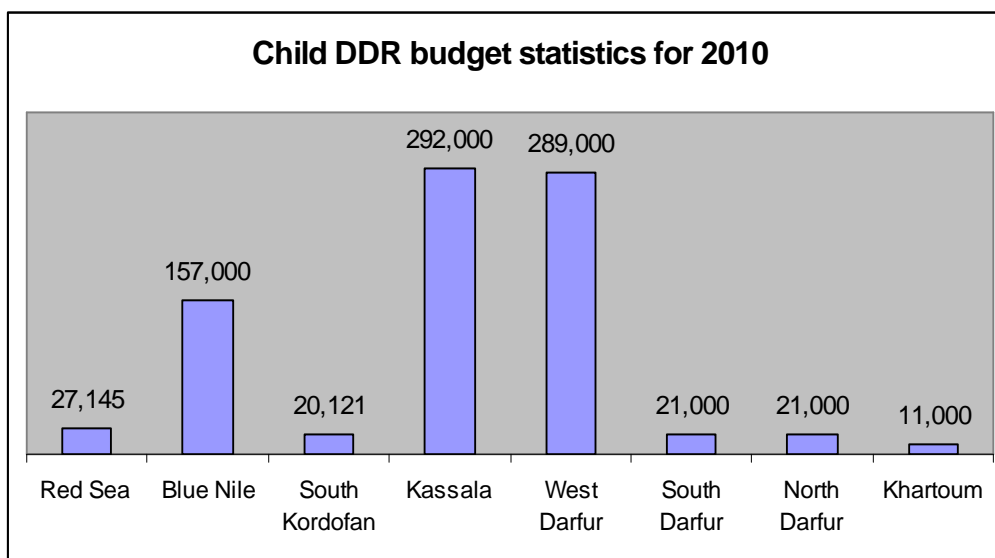
205. The focal point established a database of child soldiers, into which data-processing personnel of the focal points for child soldiers then entered all of the data relating to child soldiers, starting with the registration and integration forms and ending with the periodic entry of follow-up data every 15 days.

206. The following diagram illustrates the DDR programme in Darfur.



207. UNICEF financed the programme activities in accordance with the following diagram. A total of 838,266 Sudanese pounds was received and distributed among the affected states as follows:





208. There are a number of obstacles and challenges to the work, such as:

- Instability of funding for implementation of the reintegration and the cost of the Commission's operations, which has created an obvious gap at the direct programme level;
- Instability of the security situation in some regions;
- The late payment of dues to the representatives of the movements has impeded the registration and demobilization of the target group in Darfur;
- Administrative friction in the joint offices in the contact areas has adversely affected the management and follow-up of the implementation of reintegration programmes;
- The ongoing recruitment of child soldiers by armed groups who exploit situations of poverty or the need for security;
- The absence of economic integration from the components for return to the Sudan has made the programme less attractive to demobilized children and their families.

209. Established at the initiative of the National Council for Child Welfare, the Ministry of the Interior and UNICEF, in addition to state partners (social affairs ministers, United Nations agencies and voluntary organizations), the family and children protection units of the police force are a key mechanism and a genuine bonus. They provide a comprehensive package of services, supervised by police officers, doctors and social workers providing psychosocial care at all legal stages, for child victims, delinquent children and child witnesses. These units were established in all 14 northern states, including the three states of Darfur. There are also three such units in Khartoum state.

210. Children's courts and child prosecution services have been established in Khartoum (three courts) and in Gezira and Blue Nile states. The head of the judiciary also issued an order pursuant to which the judge of original jurisdiction in each state is responsible for child cases. The Minister of Justice similarly issued orders for the establishment of child prosecution services in 15 northern states in order to ensure friendly measures for children, whether delinquents, victims or witnesses, including with respect to gender-based violence. The courts are equipped with closed-circuit televisions to ensure confidentiality and privacy for the children and prevent them from feeling afraid and intimidated during the court procedures.

## Article 25

### Right to take part in the conduct of public affairs

211. The Constitution not only guarantees to all citizens equal eligibility for public office, without discrimination, but also stipulates that participation in the public elections and referendums provided for in the Constitution is one of the duties of a citizen.

212. The Electoral Act of 2008 set the basic legal framework for the conduct of elections in the various states of the Sudan. From 11 to 15 April 2010, the first multiparty elections for 20 years were held at the national, state and local levels. The seats of President of the Republic and state governors were contested, in addition to seats in the National Legislature and state legislatures. The elections drew a wide turnout from all sectors of society, including women. Other segments of society taking part in the voting included displaced persons, refugees, prison inmates and hospital in-patients. Monitored by international and national observers, the elections were conducted in a peaceful and secure atmosphere and the results were recognized both internationally and regionally.

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

214. The following table shows the growth in women's participation in the legislative machinery:<sup>5</sup>

<i>Year</i>	<i>Legislative institution</i>	<i>Total number</i>	<i>Number of women</i>	<i>Percentage</i>
2001	Interim National Assembly	360	35	7.9
2007	Interim National Assembly	450	85	21.8
2010	Interim National Assembly	451	112	25.0

215. Leadership positions held by women include those of: federal minister; deputy speaker of parliament; chairperson of parliamentary committees; advisor to the President of the Republic; minister of State; state minister; advisor to governors; supreme court judge; under-secretary of State; ambassador of the diplomatic corps; chair of the United Nations Educational, Scientific and Cultural Organization; high-ranking officer of the regular forces; and chairperson of the National Human Rights Committee.

## Article 26

### Equality before the law

216. Article 31 of the Constitution guarantees the principle of equality before the law for all persons residing in the Sudan, irrespective of their nationality and without discrimination.

## Article 27

### Rights of minorities

217. The Constitution guarantees to every person residing in the Sudan the right to freedom of belief and to manifest that belief in observance. It also guarantees to any denomination or group the right to preserve their culture, language and religion.

<sup>5</sup> *Source:* The National Assembly.

218. Accordingly, every state in the Sudan has its own radio and television stations and the right to use the majority language.

219. There are several Christian schools, both permanent and temporary, and some are even attended by Muslim students. All religious feasts and occasions of every denomination are recognized and are official holidays, pursuant to article 6 (h) of the Constitution.

## V. Mechanisms

220. As part of the endeavour to guarantee the promotion and protection of human rights, a number of national mechanisms are engaged in working to put human rights principles and norms into practice. Examples include:

### **The National Legislature**

221. The National Legislature is the federal legislative authority and is composed of two chambers, the National Assembly and the Council of States, each representing a different level of governance.

### **The National Assembly**

222. The National Assembly is composed of freely and fairly elected members. The Electoral Act determines its composition and number of members and sets the term of office at five years.

### **The Council of States**

223. The Council of States is composed of two representatives of each state who are elected freely and impartially by the state legislature, in accordance with the Electoral Act and following the procedures set by the National Election Commission, for five-year term of office.

### **The state legislatures**

224. Under article 180 of the Constitution, states have the right to form a legislature whose members are elected in accordance with the provisions of the constitution of the state concerned and as prescribed by the National Election Commission. State legislatures are empowered to prepare and approve the state constitution, enact laws and develop their own rules of procedure.

225. The National Legislature exercises legislative functions, has oversight of the national executive and promotes the decentralized system of government. It is also empowered to amend the Constitution and approve amendments to laws. It recently played a groundbreaking role in the light of the latest economic pressures in preventing a number of executive decisions with adverse impacts for citizens.

### **The judiciary**

226. The Constitution provides for an independent national judiciary to carry out judicial functions. It has a national character, is accountable only to the President of the Republic and is fully independent of both the executive and legislative branches of government. It is run by a judiciary council, which is headed by the Chief Justice and comprises senior judges and others. The council recommends the appointment, promotion, transfer, discipline and removal of judges. The financial independence of the judiciary is guaranteed by law and judges enjoy immunity and may not be subjected to interference. They are bound by the Constitution to dispense justice and apply the rule of law. The Constitution requires public organs to implement decisions handed down by the judiciary.

227. The national judiciary is composed of a Supreme Court that functions according to the chambers system. There is a criminal chamber and a civil chamber and there are also chambers for personal status and administrative appeals. The Supreme Court is followed in rank by state appeal courts, general courts in the governorates and courts of first instance in urban and rural areas. Adequate safeguards are in place against the arbitrary removal of judges, as they may be called to account only after a disciplinary board has been set up by the Higher Judiciary Council and the Chief Justice. Any sanctions against a judge must be upheld by the Higher Judiciary Council.

#### **The Constitutional Court**

228. The Constitutional Court was established pursuant to article 119 of the Constitution and is composed of nine judges with the qualities of experience, competence, impartiality, integrity and objectivity. It is independent of the legislature and the executive and separate from the National Judiciary. It is the guardian and protector of the Constitution and has the jurisdiction to protect human rights and fundamental freedoms. The Constitutional Court has also laid down constitutional principles and rulings and interpreted a number of provisions of the Constitution, guided by international human rights principles, which are now binding on national courts at all levels of litigation. Its role has been obvious, as is evident from the rulings mentioned in this report.

#### **The Public Grievances and Corrections Board**

229. The Public Grievances and Corrections Board was established pursuant to article 130 of the Constitution of the Republic of the Sudan of 1998 and its jurisdiction is determined by article 7 of the Public Grievances and Corrections Board Act of 1998. Article 143 of the Constitution also provides for the establishment of an independent body [the Public Grievances Chamber] to consider complaints relating to grievances of citizens concerning State institutions, without prejudice to the finality of judicial decisions. This body may, on its own motion, recommend to the Presidency of the Republic or to the National Assembly such measures as it deems fit for ensuring concerning measures that it considers suitable for guaranteeing efficiency, justice and probity in the performance of government institutions. The Board also has branches in a number of other states, including Gezira and Sennar.

230. In accordance with the Public Grievances and Corrections Board Act, the Board's jurisdiction is limited to the following:

- (1) Considering grievances relating to State organs;
- (2) Considering evident damage arising out of or overlooked by final judicial decisions, without prejudice to the finality of those decisions;
- (3) Considering damage arising out of the actions of ministers, governors and high-level State officials over which the judiciary has no jurisdiction;
- (4) Examining laws that result in an evident grievance when applied and raising the matter with the competent authorities;
- (5) Ensuring that the work of State agencies is performed with competence and integrity;
- (6) Ascertaining that State agencies operate efficiently so that the State's general policies are carried through in line with the strategies in place;
- (7) Following up and evaluating the performance of the various agencies in order to highlight successes and failures;
- (8) Ensuring that the agencies are operating to their full potential (financial and human);

(9) Checking that the laws and regulations governing administrative activity and work relations are applied effectively and fairly;

(10) Examining complaints from individuals that are disseminated in the media if they collectively amount to a general failing in the performance of any State agency.

231. Grievances filed with the Board have a socioeconomic impact. The Board has settled all of the grievances presented to it and restored many rights to the claimants. In the area of alleviating war-related conflicts and their effects, the Board has received a large number of grievances filed by war-affected persons and has redressed the damage, where possible. Likewise, the Grievances Department, in accordance with the open-door policy, has heard a number of verbal grievances and explained to the aggrieved parties the legal avenues that can be pursued.

232. The Board actively combats corruption and censorship in the Sudan, in African States and worldwide, and participates in the activities of international and African ombudsman institutions. The Sudan held the vice-presidency of the African Ombudsman Association for two terms amounting to eight years, after which it was appointed as an honorary member of the Association's board of directors. It is additionally a member of the board of directors and treasurer of the Arab Organization for Ombudsman Offices, which is headquartered in Cairo. It has also held the chairmanship of the board of directors of the International Ombudsman Institute (headquartered in Austria), one of three directors representing Africa for a five-year term. Recently (in October 2011), the Sudan was chosen to serve as permanent representative and ambassador of the African Ombudsman Association to the African Union.

233. A number of doctors from the accident units at Khartoum and Bahri Teaching Hospitals filed a complaint with the Board against a decision of the Federal Under-Secretary of State for Health to transfer them to the states on the ground that the transfer was to punish them for failing to comply with the instructions of the medical director of the two hospitals. The decision reached by the Board was that:

- Procedures for the transfer of doctors must be halted if unsupported by law and the doctors' salaries must be paid from the date of their suspension;
- Personnel must be held to account under the Workers' Accountability Act.

#### **The National Human Rights Commission**

234. Provision was made for the Commission in article 142 of the Constitution. It is composed of 15 members who are of proven independence and competence, have no political affiliation and are impartial. It is competent to monitor application of the rights and freedoms set forth in the Bill of Rights contained in the Constitution and it receives complaints concerning alleged violations of rights and freedoms. A law governing the functioning of the Commission was promulgated in 2009 and the members of the Commission were designated in January 2012. The Commission considers a number of important issues relating to freedom of opinion and expression and the closure of newspapers. Great reliance is also placed on it with respect to the promotion and protection of human rights in the Sudan.

#### **The Advisory Council for Human Rights**

235. The Advisory Council for Human Rights started in 1992 as a committee for coordination of the State's human rights machinery. It was then upgraded in 1994, pursuant to a republican decree, to an advisory council for human rights presided over by the Minister of Justice and with a membership composed of official and unofficial bodies.

236. The Advisory Council for Human Rights is competent to: provide advice and counsel to the State on human rights matters; to prepare research and studies and

disseminate the human rights culture through the media; training persons working for the State and for civil society organizations in human rights standards and principles; review national legislation in order to align it with international and regional human rights instruments to which the Sudan has acceded; and conduct studies on the conventions to which the Sudan has not acceded and make recommendations accordingly. The Council also receives complaints of human rights violations from individuals and organizations at the domestic and international levels, through a complaints committee. It prepares and submits the Sudan's periodic reports to international and regional human rights treaty mechanisms and is regarded as the national organ responsible for the coordination of human rights matters with UNMIS and UNAMID. It likewise plays a key role in training and capacity-building, in preparing studies on international and regional conventions, and in spearheading amendments to domestic laws and harmonizing them with international and regional laws. The Council comprises a number of divisions responsible for thematic areas of work, in addition to a complaints committee that continues, as always, to play a major role with respect to complaints relating to economic, social and cultural rights. It has dealt, for instance, with various land-related complaints in the Jakhis areas, where the director-general of the Land Commission had 508 cases to handle, and in the Shegla area. A total of 380 families were transferred to the relocation areas in Eid Babiker and al-Fath in order to eliminate encroachments from the field sites.

237. The complaints committee also intervened in a case involving persons with disabilities who were dismissed by Khartoum State Water Board because of their disability and who have now been reinstated.

#### **The Ministry of Welfare and Social Security**

238. The Ministry of Welfare and Social Security is the pivotal ministry for women's affairs at the national level. One of its main priorities is to draw up policies and strategies for the advancement of women. It therefore plays a cutting-edge role in various portfolios relating to economic, social and cultural rights, specifically where women are concerned. In this context, the Ministry developed the national policy for women's empowerment in March 2007 as practical support for the guarantees provided in the Constitution of the Sudan, domestic laws and international conventions. The strategy is based on a set of core concerns: health and environment; education; economic empowerment; human rights and the law; political participation and decision-making; and lastly, peace and conflict settlement.

239. In the context of carrying out these policies, the Ministry has implemented a number of projects in line with the strategy and in order to put it into practice on the ground. In 2009, the Ministry also adopted a national policy for addressing the phenomenon of child homelessness, which set a strategic objective of improving conditions in the health, economic and psychological spheres. Community-based protection mechanisms were set up with a staff of trained personnel to monitor all forms of exploitation, and street children were registered in the accelerated education and vocational training programme, both before and after they had been integrated. UNICEF provided support for accelerated education centres, along with the Ministry of Education, to which the ownership of 1,126 centres in South Kordofan has accordingly been transferred.

240. With respect to preserving the family entity and applying the system of alternative families, several shelters have been established: Dar al-Mygoma; Dar al-Mustaqbal for Girls; Dar al-Himayah for Girls; Rashad Centre for the Rehabilitation of Homeless Children; and al-Basha'ir Centre for Homeless Girls. These homes provide shelter for 339 boys and girls.

### **The Political Party Affairs Council**

241. The Political Party Affairs Council was established pursuant to article 5 of the Political Parties Regulation Act of 2007. In performing its activities, the Council is independent from all authority and must periodically provide progress reports on its performance to the National Assembly and disseminate them to the public.

242. The president and members of the Political Party Affairs Council are appointed by the President of the Republic, with the approval of the National Assembly, and must have the necessary competence and experience, in accordance with article 7 (1) of the Political Parties Regulation Act of 2007. The term of office is five years from the date of appointment.

234. The Political Party Affairs Council engages in numerous activities, as outlined in the following:

(1) The Council considered 62 complaints, regulatory measures and appeals during 2012;

(2) In collaboration with the Development Studies Department at Khartoum University, the Council organized a training workshop on the contribution of women to the next Constitution;

(3) The Council organized a workshop on the development of democratic party practice in the Sudan in relation to party splits, the regulatory and financial structures of parties, government funding and the relationship between the Electoral Commission and political parties in the light of the experience of the elections held in 2010;

(4) A strategy was developed for giving impetus to the role of Sudanese women in political parties;

(5) The Council also participates in various activities at the domestic and international levels in the area of political rights.

### **The National Council for Child Welfare**

244. The National Council for Child Welfare was established by republican decree in 1991 under the chairpersonship of the President of the Republic and with a membership comprising state governors and federal ministers working in the area of children's issues. It is competent to elaborate policies, plans and programmes relating to children as part of the State's overall policy, in conjunction with the other levels of governance in the field of child welfare. Working in coordination with governmental and voluntary organs, it also gathers statistics, organizes seminars, trains personnel and prepares periodic reports for submission to regional and international organizations. In addition, the Council was actively involved in drafting the Children's Act of 2010 and plays a key role in protecting children's rights through various programmes and projects, including the programme for the eradication of FGM and the programme for the return of children separated from their families. A total of 982 children in Khartoum state were returned in 2010 and 96 from the northern states. Other successful projects include the project for promoting birth registration in the Sudan. The Council carries out training and capacity-building programmes on various children's issues in Khartoum and in the various states with valuable support from UNICEF. The Children's Act of 2010 counts among the prominent accomplishments of the Council, which is working to formulate a plan for implementation of the Act. The Council has a number of state councils for child welfare councils.

245. On the initiative of the Council and the Ministry of the Interior, family protection units attached to police forces were established with the aim of protecting children, creating a sound society and achieving calm.

**The Unit for the Suppression of Violence against Women and Children**

246. This Unit was established in 2005, pursuant to a decision of the President of the Republic, at the recommendation of the Cabinet, most certainly as an outcome of the national plan for combating violence against women. The Unit is competent to follow up the implementation of this plan with the United Nations and with international, national and regional organizations. Similar units have also been established in the three states of Darfur and a number of other states in the country. The Unit set up several projects aimed at women's economic empowerment and also supported the state-based units engaged directly or indirectly in women's development. In the context of its various awareness-raising and capacity-building activities, it ran a workshop, in cooperation with UNFPA, to review the Personal Status Act of 1991, assisted by a group of experts in Islamic law, health and law in order to develop an established vision for determining the ideal marriageable age with respect to the age of discernment and to discuss the marriageable age, as the Act makes no mention of it.

**The Committee on Human Rights and International Humanitarian Law**

247. The Committee was established pursuant to the Regulation on National Assembly Activities as one of several special standing committees on such matters as information, legislation, justice, the family, women and children. This Committee is qualified to protect and promote human rights through legislative oversight and likewise oversight of the activities of the executive machinery, in accordance with the powers vested in the National Assembly. In the context of its oversight functions, the Committee has opened a number of investigation files on various topics, including corruption and rotten agricultural seeds.

**The National Electoral Commission**

248. Article 142 of the Constitution provides for the establishment of an independent electoral commission composed of nine impartial, non-partisan and competent members, to be appointed by the President of the Republic, with the approval of the First Vice-President. Their appointment should take into account the need for broad representation. The Electoral Act sets out the general rules and procedures for elections and the functions and conditions of service of persons working for the Commission. In accordance with article 141 (2) of the Constitution, the function of the National Electoral Commission is to prepare and review annually the general electoral roll and to organize elections for the President of the Republic, the President of the Government of Southern Sudan, governors, the National Legislature, state legislatures and the Southern Sudan Assembly, in addition to organizing any referendum provided for by the Constitution.

**Civil society organizations**

249. There are more than 3,000 civil society organizations all engaged in working to promote and protect human rights through awareness activities, the provision of legal aid and monitoring of the human rights situation in the Sudan with the various State agencies. Over 15 Sudanese organizations have consultative status with the United Nations Human Rights Council and are intent on monitoring human rights issues across the world generally and in the Sudan particularly.

250. The organizations play a valuable role in the amendment of laws and the preparation of reports on human rights violations, including detentions, and other matters such as legal aid.



## VI. Challenges

251. The Sudan is an example of a country emerging from internal armed conflict. Any objective assessment of progress made towards a full and comprehensive investigation of its human rights situation should not therefore overlook the adverse and inhibiting impact of these conflicts on the past two decades and on the present and the foreseeable future. The Sudan has continued to encounter ongoing challenges during its recent history and has only recently emerged from one of the longest wars on the African continent. No sooner had the war ended in the south than another conflict was triggered in Darfur in western Sudan as a result of the environmental problems of drought and desertification that befell the region, affecting the limited resources. The resulting competition for those resources then took another turn with the proliferation of arms flowing in from neighbouring countries.

252. On account of these circumstances, the Sudan faces numerous challenges in addition to those mentioned during the discussion of specific rights. In short, these are as follows:

- The amount of time and effort channelled into restoring security and order, protecting citizens and delivering humanitarian assistance to victims of armed conflict and conflict-affected persons, which has had a negative impact on various civil and political rights, including the imposition of a state of emergency in some areas;
- In areas devastated by conflict, the difficulty of enjoying civil and political rights owing to the lack of security;
- Poverty and illiteracy, which continue to pose a major challenge and are a key obstacle to use of the available means of protection, including laws and mechanisms, in the event that rights are violated, despite the immense efforts made and still being made to raise awareness and build capacities;
- Notwithstanding the activities organized previously with the valuable support of the UNHCR Office and the various UNMIS departments, and despite the support of international organizations and States in implementing training programmes on human rights issues, including training in the preparation and writing of reports, as well as the support of the Justice Department and others, the shortage of trained and qualified personnel and lack of funding remain a substantial challenge for the Sudan;
- The obvious politicization of human rights matters in the Sudan;
- The negative role of the international and regional community in a number of situations where it is imperative to take a clear stand, particularly situations involving armed movements and financial and moral support for those movements;
- The aloofness between civil society organizations and government mechanisms has left a gap in tackling human rights issues and their non-internationalization.

## VII. Concluding remarks

253. The promotion and protection of human rights in the Sudan, whether civil and political rights or economic, social and cultural rights, are an utmost priority, particularly in the coming phase and notwithstanding the numerous unprecedented challenges that have been reflected in this report. The national will remains firmly set on making more effort to meet these challenges and on moving forward in achieving the lofty goals of human rights principles stemming from our Islamic faith and cherished beliefs.

254. The Sudanese Government has sought through the submission of this report to reflect its efforts to fulfil the undertakings it has repeatedly made to improve the situation

of civil and political rights in the Sudan. Through achieving these goals, it hopes to drive the national efforts to promote and protect human rights on the ground by assessing developments and challenges, exchanging best practices and opening up areas for cooperation with the Committee. The Sudanese Government also looks forward to constructive recommendations and to pledges that might have a positive bearing on the development of the human rights situation in the Sudan so as to accomplish the goal to which we all aspired when the Committee was established as an effective mechanism for the development of human rights situations in all countries worldwide.

255. An appeal is made for the international community to remain distanced from double-standard policies, selectivity and the politicization of human rights issues and to follow the path of neutrality and transparency in its dealings with States in the interest of joint constructive efforts between the various committees and States for the promotion and protection of human rights.

256. We look forward to the continuation of joint cooperation and of constructive and objective dialogue with the Committee for the sake of Sudanese citizens.

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