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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

Situation of human rights in the Sudan

**Report of the Special Rapporteur, Gerhart Baum, submitted in accordance with
Commission resolution 2001/18**

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Executive summary

The report of the Special Rapporteur focuses on his last visit to the Sudan which took place from 2-14 October 2001. The visit included Khartoum, Bentiu, Rubkona and Paryang (Unity State), Rumbek (southern Sudan) as well as Nairobi and Lokichokio (Kenya).

The international context in which the mission took place was marked by the lifting of United Nations sanctions, the appointment of Senator John Danforth as United States Presidential Envoy for Peace and his first visit to the Sudan; and the European Union (EU) troika mission to the Sudan (7-9 December 2001).

Peace discussions, including the initiative brokered by the Inter-Governmental Authority on Development (IGAD), the joint initiative by the Governments of Egypt and the Libyan Arab Jamahiriya (Egyptian-Libyan initiative) and the Nigerian facilitation, did not make any significant progress.

The Special Rapporteur welcomes Senator Danforth's mission to the Sudan and hopes that, by setting pragmatic benchmarks, it will contribute to create a conducive environment to improve conditions for peace-building.

According to the Special Rapporteur, the overall human rights situation has not improved and serious concern was repeatedly expressed about the amendment to the National Security Forces Act and the role of security agents. Cases of suppression of political freedoms particularly targeting journalists as well as human rights activists were also reported.

As for the humanitarian situation, denial of access continued to be used as a military strategy by both the Government and the Sudan People's Liberation Movement/Army (SPLM/A), particularly in areas where the population is more needy. The plight of internally displaced persons remains extremely serious. Overall, the situation has worsened, with more denials of access, more conditions imposed on humanitarian assistance and more confusion about who is in control. Bombing incidents also continued.

In order to make an assessment of the impact of oil exploitation on the situation of human rights, the Special Rapporteur visited the oil area and interviewed IDPs coming from Upper Nile in Khartoum and in southern Sudan. He noted that oil exploitation continued to cause widespread displacement and access to the area remains extremely difficult since access to most of the airstrips is denied, which also results in lack of human rights monitoring in the region. Also, he remains concerned at the lack of transparency concerning the use of oil revenues.

Abductions in Bahr al-Ghazal continued, though in decreasing numbers since March 2001. Progress made in the last months by the Committee for the Eradication of Abductions of Women and Children (CEAWC) continued to be too slow. There continues to be a need for a massive advocacy campaign.

Regarding the situation in the SPLM/A-held areas, the Special Rapporteur believes that the extreme weakness of the civil society in southern Sudan and the need to strengthen it remain the major issues in southern Sudan.

In his conclusions and recommendations, the Special Rapporteur addressed both the Government and the SPLM/A, highlighting the following aspects:

(a) Normalization and transition from emergency to democracy should become a matter of urgency for the Government;

(b) As for violations of human rights and humanitarian law within the conflict, the Special Rapporteur regrets that military developments - for which both parties to the conflict are responsible - continued to impact adversely the human rights situation of the civilian population; the Special Rapporteur reiterates his appeal to the Government for a halt to the bombing of civilian targets. While as an urgent humanitarian measure, unhindered access should be granted to all needy areas, at the political level more serious efforts should be put in place to promote peace and establish democratic structures which are a condition for a lasting peace. Human rights must be an integral part of the peace agenda;

(c) The Special Rapporteur equally condemns SPLM/A practices such as the use of civilian installations for military purposes and the setting up of military installations in close proximity to civilian ones;

(d) The SPLM should develop genuine democratic structures, which is a crucial condition for the implementation of the right to self-determination. While encouraging donor support, the Special Rapporteur believes that the SPLM/A should bear more responsibility for addressing the needs of the people living in areas under its control, particularly where it continues to be seen as an occupying army and where peace has been established.

Finally, the Special Rapporteur appealed to donors to continue to invest in peace in the Sudan and see the phases of peace, reconstruction and development in a more integrated manner.

As for the oil issue, the Special Rapporteur, while recognizing that oil exploitation has become increasingly important for the economic development of the country, reiterates his strong belief that the right to development cannot justify the disregard of other human rights. The Special Rapporteur believes that oil exploitation is closely linked to the conflict which, although it contains a religious component, is mainly a war for the control of resources and, thus, power. Bearing in mind the adverse impact of oil exploitation on the human rights situation, he therefore remains convinced that the monitoring of the human rights situation in the oilfields, as well as considering the human rights-related social and economic implications deriving from oil exploitation, including the use of oil revenues, are part and parcel of his mandate as Special Rapporteur on the situation of human rights in the Sudan, which includes both civil and political rights as well as social, economic and cultural rights. He believes that, in the context of the Sudan's right to development, the Government should create an environment conducive to the granting of development assistance. In addition, he also remains of the view that any solution will have to be based on a wide consensus among all affected parties.

Regarding the programme of technical cooperation of the Office of the High Commissioner for Human Rights, the Special Rapporteur noted the ongoing discussions and will follow any new developments in this field.

I. INTRODUCTION

1. Following his first mission to the Sudan and Kenya in March 2001 and the presentation of his oral report to the Commission on Human Rights at its fifty-seventh session, the Special Rapporteur travelled to London in June 2001, to the Sudan and Kenya in October 2001 and to Washington and New York in November 2001. While in London, on 26 and 27 June he met with several international and Sudanese London-based non-governmental organizations as well as the Archbishop of Canterbury to discuss the situation of human rights in the Sudan.
2. From 2-14 October, the Special Rapporteur travelled to the Sudan and Kenya. He visited Khartoum, Bentiu, Rubkona and Paryang in oil-rich Unity State. He then travelled to Kenya where he visited Nairobi and Lokichokio on his way to southern Sudan, where he visited Rumbek.
3. The Special Rapporteur acknowledges the very good cooperation he received from the Government of the Sudan throughout his visit. Particular thanks go to the Vice-President, Ali Osman Mohammed Taha, the ministers met and the Rapporteur of the Advisory Council for Human Rights, as well as to the Office of the United Nations Resident Coordinator in Khartoum, the Office of the High Commissioner for Human Rights, UNICEF, the Office for the Coordination of Humanitarian Affairs, Operation Lifeline Sudan (OLS), and all those who contributed to a successful visit.
4. From 1-9 November, the Special Rapporteur visited Washington and New York where he met with officials of the United States Government, members of the United States Congress, members of the team of the new Presidential Envoy for Peace, John Danforth, United Nations officials, international NGOs, representatives of Churches, and several government representatives, including of the European Union.
5. On 8 November he presented his interim report (A/56/336) to the fifty-sixth session of the General Assembly.
6. The present report includes the findings of the mission as well as an updating of the overall situation based on information collected since then.
7. The Special Rapporteur plans to conduct his third visit to the country in February/March 2002. His findings will be reflected in his oral presentation to the Commission on Human Rights and will be the basis of his next interim report to the General Assembly at its fifty-seventh session.

II. POLITICAL CONTEXT IN WHICH THE MISSION TO THE SUDAN TOOK PLACE

8. The initiative brokered by the Inter-Governmental Authority on Development (IGAD) continued to fail to bring the parties together in a serious attempt to discuss peace in the Sudan. Despite the appointment of a new IGAD Special Envoy, General Lazarus Sumbeiywo, an IGAD

meeting that had been scheduled for 20 November was postponed. The Special Rapporteur is therefore looking forward to the outcome of the next IGAD meeting scheduled to take place from 7 to 11 January 2002 in Khartoum.

9. The joint initiative by the Governments of Egypt and the Libyan Arab Jamahiriya (Egyptian-Libyan Initiative) continued to be rejected by most southern Sudanese, who see it as partial and lacking credibility, mostly because of its failure to include the right to self-determination for southern Sudan. A further difficulty seems to derive from the lack of a secretariat.

10. The Nigerian facilitation did not mark any breakthrough either. The Abuja Conference, scheduled for 15-17 November, was postponed indefinitely.

11. On 28 September, the United Nations Security Council lifted sanctions against the Sudan, which had been imposed in 1995.

12. The appointment of Senator Danforth as United States Presidential Envoy for Peace and the recent United States policy review, particularly following the events of 11 September, may have an impact on the situation of human rights in the Sudan. On 12 November, Senator Danforth, started his four-day mission to Khartoum. The first outcome of the visit was the setting-up of the following confidence-building measures: continuous access to the Nuba Mountains for relief purposes; specified periods of tranquillity for humanitarian projects to take place; a cessation of bombing and other military attacks on the civilian population of southern Sudan; and an end to abductions of women and children. The Special Rapporteur, while welcoming the United States initiative, highlights the importance of setting specific benchmarks for those human rights which are not directly linked to the conflict. The Special Rapporteur also hopes that Senator Danforth's forthcoming mission to the Sudan will be successful.

13. Finally, following the European Union (EU) troika mission to the Sudan (7-9 December 2001), which marked the completion of the second year of the critical dialogue between the EU and the Government of the Sudan, "the parties agreed on the need for the continuation and intensification of this dialogue for a further year, allowing for regular joint assessments of concrete and verifiable progress achieved with respect to democracy and to human rights. The progress made in the peace process will also be assessed as a matter of high priority".¹

14. In this connection, the Special Rapporteur noted the commitments made by the Government of the Sudan in several areas, including in the area of human rights and with regard to the peace process. He will continue to follow with interest any relevant developments relating to the Government's concrete follow-up action on the above-mentioned benchmarks.

III. MAIN ISSUES ADDRESSED DURING THE MISSION

A. Transition to democracy

15. In his interim report, the Special Rapporteur acknowledged the progress made by the Sudanese Government in the transition to democracy until the end of the year 2000 and stated

that the Sudan had started along a path which could only be considered positive, especially in comparison with other States, including those in the region. He also noted, however, that the trend had been discontinued as from December 2000.

16. Since the presentation of the interim report, despite the reconvening of the National Assembly in April 2001, the Special Rapporteur continued to receive information to the effect that the overall situation of human rights in the Sudan has not improved. In addition, no institutional or legal reform, in particular relating to the extension of the powers of the security organs and the absence of judicial control over them, has occurred.

17. Although the authorities continued to claim that the emergency declaration has not affected the Bill of Rights, the Special Rapporteur repeatedly addressed the issue of the extension of the state of emergency, declared by President al-Bashir on 12 December 1999,² until the end of 2001.

18. During his stay in Khartoum, the Special Rapporteur met with representatives of the traditional northern opposition parties, namely the Umma Party, the Democratic Unionist Party (DUP) and the Communist Party, as well as representatives of the Popular National Congress (PNC). While some individuals were able to contact the Special Rapporteur to discuss specific issues relating to alleged human rights violations, others, including representatives of political opposition parties, were only able to talk to him after overcoming difficulties caused by security agents.

19. During the meetings held, a number of very serious concerns were expressed to the Special Rapporteur, which left him under the impression that a credibility gap still remains to be bridged by the Government. More specifically, extremely serious concern was repeatedly expressed about the role of security agents, who are invariably described as putting human rights and fundamental freedoms in jeopardy.

20. As he highlighted in paragraph 75 of his interim report, the Special Rapporteur finds it alarming that security forces continued a campaign of harassment, intimidation and persecution, targeting political opponents and human rights defenders, by means of arbitrary arrests, followed by protracted, at times incommunicado, arbitrary detention without judicial review. Practices such as reporting, whereby an individual is forced to report to the police on a regular basis, constitute an obvious form of harassment which totally disrupts the daily life of the individual concerned.

21. As for freedom of expression, the Special Rapporteur was informed that censorship had increased as of December 2000. It was reported that censorship is at times selective and discriminatory insofar as one newspaper is sometimes prevented from publishing articles that other newspapers are allowed to print. From information gathered, it would seem that the National Press Council often failed to mount a significant defence of freedom of expression. As a result of the generally held belief that no article is immune from censorship, people's interest in newspapers has consistently decreased, to the point that most newspapers are facing financial difficulties.

22. Despite reiterated denials from official sources that censorship existed, on 28 November, Information Minister Mahdi Ibrahim met with editors-in-chief to inform them that the previous day President al-Beshir had ordered that pre-printing censorship be lifted from 12 dailies while remaining in force with respect to 4 others, namely Alwan, AlRai Al Akher, Al-Watan and The Khartoum Monitor, which would continue to be heavily censored. On 8 December, censorship was reportedly lifted from the four remaining newspapers as well. The Special Rapporteur welcomes this positive development and will continue to monitor the situation in this respect.

23. The Special Rapporteur was also informed that, due to its high cost, very few people can access the Internet regularly, thus making it an unsuitable medium for information-sharing and communication.

24. Finally, the Special Rapporteur was informed of a number of cases of suppression of political freedoms, targeting journalists as well as human rights activists. Details are provided in the relevant section of the present report.

25. Particular concern was reiterated at the plight of internally displaced persons (IDPs), particularly women and children. With a view to familiarizing himself with their conditions, the Special Rapporteur visited two IDP camps in the area around Khartoum, where he met with a number of IDPs. Some of them had been in the camp for over 10 years, while others had more recently come from oil-rich western Upper Nile. Most of them continue to be deprived of shelter, education, and access to food and medical care. Large families are left without assistance. Men are reportedly not allowed to work unless they have spent two years in the military; they are therefore left without means to provide for their families. Unqualified women can only resort to alcohol-brewing, which is a crime under Shariah law. In most cases, they are arrested and their children are left alone. School remains a luxury for most of the children, owing to the high fees. In addition, only primary schools are available in Waad al-Bashir IDP camp.

26. In this connection, the Special Rapporteur welcomes the long-awaited visit of the Special Representative of the Secretary-General on internally displaced persons, Francis Deng, to the Sudan, from 11 to 18 September, as well as the commitment of the Government to continue the efforts to address the problem of IDPs and effectively to follow-up the visit of the Special Representative, including through holding a conference on the subject of internal displacement in the near future. The Special Rapporteur will continue to monitor the follow-up to this commitment.

27. In talks with representatives of the Churches, the Special Rapporteur was informed that Christians continue to face discrimination, particularly regarding their right to freedom of movement. In particular, the Special Rapporteur was informed that all religious leaders travelling abroad have to go through a cumbersome security system, involving up to three hierarchical levels, in order to get an authorization to travel. Reportedly, the provision does not apply to Muslim leaders. Procedures to obtain visas are also particularly lengthy.

28. The Special Rapporteur was informed that the education system has a progressively increasing confessional character. Islam reportedly has a predominant role in school curricula to the point that teaching of Christianity in school is reportedly forbidden except outside the school,

on Fridays. In addition, media only devote one hour per week to Christianity. Church buildings continue to be confiscated, as was the case in el-Obeid where the local church was first transformed into a museum, then into a mosque. Churches are also prevented from buying land in residential areas for religious use and buildings constructed for worship are not allowed to bear religious symbols. Reportedly, the building of mosques does not seem to be subject to the same rules.

29. In this connection, the Special Rapporteur noted that the Government made the following commitments: (a) to establish an Advisory Council for Christians; and (b) to appoint Christians to senior positions within the Ministry for Religious Affairs. The Special Rapporteur will report on any follow-up taken in this respect when he presents his report to the Commission at its fifty-eighth session.

30. The Special Rapporteur, while welcoming the President's decision to release some political prisoners prior to his visit, namely the representatives of the National Democratic Alliance (NDA) arrested on 6 December 2000, and to drop the criminal charges against the former Speaker of the National Assembly, Hassan al-Turabi, deplors the fact that Mr. al-Turabi continues to be detained under house arrest and that members of the PNC as well as other opposition groups continue to face harassment.

31. Since his visit in March, the amendment to the National Security Forces Act, to which the Special Rapporteur had devoted particular attention, was endorsed by the National Assembly. In the course of his latest visit, the Special Rapporteur had the opportunity to discuss this development in several meetings with officials, including members of the Constitutional Court, as well as with independent jurists. The new amendment allows for detention to be prolonged for over 60 days and does not foresee any judicial review except by the Constitutional Court. In other words, there are no intermediary instances, hence no right of appeal.

32. In addition, the Special Rapporteur was disturbed to receive contradictory information regarding the role actually played by the Constitutional Court. While on one hand he was informed by one Constitutional Court judge that none of the political detainees had filed a single complaint with the Constitutional Court, a colleague of his stated that some PNC members had indeed referred their case to the Constitutional Court. Also, other relevant sources, who confirmed the latter statement, also informed the Special Rapporteur that the fees for filing applications and obtaining files are relatively high, and cases are judged in closed sessions and reportedly only one judge takes the final decision.

B. Selected individual human rights cases

33. During the final meeting with the Rapporteur of the Advisory Council for Human Rights, the Special Rapporteur transmitted a list of selected cases of allegations of human rights violations for the Government's follow-up action. The cases included were either reflected in the interim report of the Special Rapporteur or had occurred during the Special Rapporteur's stay in Khartoum.

34. Since his first visit to the country in March 2001, in response to information received the Special Rapporteur sent eight joint urgent appeals with the relevant special rapporteurs, mostly regarding violations of the right to freedom of expression. In the present report, he wishes to highlight the following selected cases, which were received after the submission of the interim report to the General Assembly and are presented in reverse chronological order.

35. On 22 November 2001, Sudanese authorities reportedly detained journalists after they allegedly marched to the Ministry of Information to protest a decision by censors to ban the publication of an article in the newspaper Al-Watan on corruption. Those reportedly arrested were: Sidahmed Alkhalifa, Ahmed Alhabou, Mohmaed AlNa'iam, AlFatih Mieka, Ms. Majdoleen Mohamed, Yahya Mahir, Salah Almalieh, Mustafa Abu Alazayim, Ms. Ragya Hassan, Ms. Sumaya Handosa, Isam Abass, Mustafa Mohammed Hassab Alla, Abd Algaleel Khalifa, Mohamed Abdalla Khalifa, Mohamed Abdalla alshiekh, Mujahid Abdalla, Mustafa Ahmed Ali, Alghali Salih, Waleed, Mubarak Jaboor, Bakri Suliman and Nasir Salah Aldin. It is alleged that the journalists were taken to the police station where they were forced to stand against a wall in the sun with their hands above their heads for many hours. The three women were reportedly separated from their colleagues and forced to sit in one chair for a long time.

36. Security officials had reportedly raided the offices of Al-Watan in the evening of 19 November with a view to preventing the publication of an article about the seizure of more than 2 billion Sudanese pounds (over 800,000 United States dollars) worth of expired medicines and the arrest of a number of merchants who were continuing to sell them in Omdurman. Following a press conference about 50 journalists marched peacefully through the streets, their mouths covered with pieces of cloth, to protest against censorship. Reportedly, riot police stopped them on their return and arrested the 22 journalists. Some video material was also confiscated.

37. During the night of 24 October, BBC and Reuters correspondent Alfred Taban and Nhial Bol, general manager of the independent daily The Khartoum Monitor, were reportedly arrested. Sources stressed that it was the third time since the beginning of the year that Mr. Taban had been arrested "for no reason". He was reportedly arrested at home by plain-clothes members of the security forces. The authorities did not give any reason for these arrests.

38. Immediately after his departure from Khartoum on 9 October, the Special Rapporteur was informed of a series of operations allegedly launched by the Sudanese security authorities against several civil society organizations. The following organizations were targeted: Abdulkareem Margani Cultural Centre, Centre for Sudanese Studies, Gender Centre, Amal Centre for the Rehabilitation of Victims of Physical and Mental Trauma and Khartoum Centre for Human Rights Studies. According to the information received, the director of the Centre for Sudanese Studies, Dr. Hydar Ibrahim Ali, was summoned to security forces headquarters on 9 October. He was reportedly interrogated about the activities of the Centre, in particular a public symposium which had been held on 7 October, and was ordered to suspend all the Centre's activities until further notice. Sources also reported that Hydar Al-halab, Director of the Abdulkareem Margani Cultural Centre, was also summoned on the same day, together with the Director of the Gender Centre. Faisal Al-bagir, a member of the staff of the Khartoum

Centre for Human Rights Studies, was reportedly also summoned to security forces headquarters on 9 October and questioned about his demands that the security forces return the Centre's equipment, which they had confiscated at the time of his arrest last June. Dr. Nagib Nagm Eldin, Director of the Amal Centre, was reportedly summoned to security forces headquarters on 10 and 11 October, where he was reportedly interrogated about the Centre's activities by security officers, who informed him that the Centre would be under permanent surveillance for a period of two months, after which they would decide about its future. On 18 October human rights and cultural centres whose activities had been suspended or placed under surveillance were told that they could resume their activities, but that the surveillance would continue.

39. On 11 September, The Khartoum Monitor was reportedly banned for three days, on order of the National Press Council. It is reported that this order was issued because of the publication of articles in August and September judged "harmful" to relations between the North and the South of the country. The Khartoum Monitor had reportedly published statements by a personality in southern Sudan accusing the northerners of having "plundered the South".

40. On 3 September, an evening meeting of some 10 members of the political bureau of the Democratic Unionists Party (DUP) in Khartoum North was reportedly interrupted by some 15 security agents who stormed into the room, rounded up all the participants and detained them for about four hours at what was referred to as "the security headquarters" (the Development and Housing Headquarters in Mohammed Nageeb Street). Reportedly, the detained individuals were interrogated and told that they would not be allowed to exercise any political activities.

C. Respect for human rights and humanitarian law in the conflict

1. The humanitarian context

41. In spite of the major breakthrough represented by the launching on 14 November of the United Nations humanitarian operation in the Nuba Mountains aimed at feeding over 150,000 people from el-Obeid (northern Kurdufan) through food drops in Kauda, Karkar, Julud and Sarat Jamus, denial of access continued to be used as a military strategy by both the Government and the Sudan People's Liberation Movement/Army (SPLM/A), particularly in areas where the population is more needy. Actions such as the denial of permission for flights and visas and the imposition of fees for travel and work permits significantly affected humanitarian action. Affected areas include Upper Nile, where the denial of access is closely linked to widespread insecurity owing to interfactional fighting and to the expanding of oil concessions; the Nuba Mountains, where the amount of humanitarian aid provided is quite insignificant compared to the needs; Eastern Equatoria and southern Blue Nile. Shifting alliances among militia groups make it even more difficult for humanitarian agencies to negotiate access and security-related matters. Overall, the situation has worsened, with more denials, more conditions imposed on humanitarian assistance and more confusion about who is actually in control.

42. Finally, it should be recalled that ceasefires have not been renewed after they had been allowed by both parties to lapse on 15 July 2000.

2. Bombing of the civilian population

43. During his latest mission and afterwards, the Special Rapporteur has continued to receive information relating to bombing incidents. The incidents were reported as follows.

44. On 5 October, 15 bombs were dropped around the airfield in Mangayath, north of Raja, Bahr al-Ghazal, where teams from the World Food Programme (WFP) were distributing relief food. As a result, WFP was forced to suspend its operations for one day.

45. On 6 October, upon WFP resumption of its operation, a total of 15 bombs were dropped directly onto the area where WFP teams were in the process of distributing food to some 20,000 civilians - internally displaced persons from Raja - who had gathered, resulting in civilian casualties.

46. On 8 October, another attack was reported on Mangayath, Bahr al-Ghazal, with 15 bombs dropped by an Antonov plane as a WFP plane prepared to drop food. The United Nations plane had been cleared by the Sudanese authorities. Reportedly, nine bombs fell on the eastern side of the drop site and six on the western side of the village. The attack led the United Nations to evacuate its humanitarian personnel from Mangayath.

47. On 20 November, 17 people died and one person was injured following a bombing incident in Akuem, Bahr al-Ghazal.

48. On 26 November, six bombs were dropped in Malualkon, Bahr al-Ghazal, one of which landed approximately 300 metres from the International Rescue Committee (IRC) compound, hitting it with shrapnel, and approximately 500 metres from Tearfund's Therapeutic Feeding Centre. One woman was killed in the incident and another was injured. In addition, six bombs were dropped 2 kilometres north of Madhol, also Bahr al-Ghazal. One man was killed and a boy injured. It should be noted that Malualkon is a demilitarized area.

49. On 28 November, three villages south-east of Malualkon were bombed. One woman was reported injured near the village of Dhiak.

3. The oil issue

50. Since his first visit to the Sudan in March 2001 and in his interim report to the fifty-sixth session of the General Assembly, the Special Rapporteur has continued to focus on the human rights-related, economic, political and strategic implications of oil exploitation in oil-rich Unity State, supporting the views of those who believe that oil has seriously exacerbated the conflict while deteriorating the overall situation of human rights.

51. More specifically, the Special Rapporteur continued to receive information whereby oil exploitation is continuing to cause widespread displacement, although it remains difficult to cite clear estimates due to the fact that the situation in Upper Nile is extremely fluid and people move constantly. Following discussions during the fifty-seventh session of the Commission on Human

Rights, the Government of the Sudan extended an invitation to the Special Rapporteur to visit the oil area for a direct assessment of the situation on the ground. Lundin Oil also extended a similar invitation to the Special Rapporteur. Accordingly, the Special Rapporteur visited Bentiu, Rubkona and Paryang in Unity State.

52. With a view to complementing and clarifying further the information received in Unity State, the Special Rapporteur travelled to Rumbek, in southern Sudan. Interviews with IDPs both in Rumbek and in Khartoum provided him with further relevant detailed accounts.

53. The Special Rapporteur remains concerned at the lack of transparency on the use of oil revenues. While the Government claimed that these are spent for the development of the South, the Special Rapporteur believes that no convincing evidence has been provided to that effect. In this connection, he wishes to refer to the relevant provisions of the International Covenant on Economic, Social and Cultural Rights.

54. The view was repeatedly expressed that any advantages gained from oil remain volatile unless a peace settlement is reached and that the only way to guarantee the future of the oil industry lies in a negotiated peace agreement.

55. On 7 October, the Special Rapporteur travelled to Bentiu, where he was received by representatives of Lundin Oil and Talisman Energy Inc. and met the Wali of Unity State. He then proceeded to the Dinka village of Paryang, where he visited some of the infrastructure put in place by the oil companies operating locally, including a health centre, and met with local authorities as well as Church representatives. He then travelled to Rubkona, where he met with representatives of United Nations agencies as well as international NGOs. He was informed that the area remains extremely insecure owing to the activities undertaken by local militias.

56. With a view to complementing information received during his trip to Unity State, and in addition to his visit to the IDP camps around Khartoum, the Special Rapporteur felt it necessary to visit the IDPs coming from Upper Nile into southern Sudan and therefore visited two IDP camps around Rumbek. The Special Rapporteur is convinced that, in order to grasp the complexity of the situation, visiting the oil fields is not enough and any thorough assessment must include the collection of testimony from the displaced coming from the region. In this connection, the Special Rapporteur noted that there has been a continuous influx of IDPs, some of whom have stayed in the camps for the past few years while others have just arrived.

57. He was able to interview a number of IDPs who briefed him about their situation and the difficulties they had to overcome. These were almost invariably linked to the situation of conflict characterizing the region. Most of them reported interfactional fighting featuring extensive looting of cattle and burning down of villages. Reports also pointed to bombings by Antonov planes, often followed by attacks by helicopter gunships aimed at clearing the land around the oilfields, particularly since oil installations and assets had been declared legitimate military targets by the SPLM/A. Some of the people had never seen such equipment and, taken by surprise, were easy targets. Others fled with their meagre belongings, or with nothing: some fled naked, and were forced to run for up to a month before reaching a safe haven. It is worth

noting that, when attacked in such circumstances, people fled wherever they could, some to the north, others to the south, and that the argument used by the Government that people move to the north - rather than towards the south - to look for peace is therefore groundless.

58. The plight of these displaced persons in the camps in southern Sudan is desperate owing to the scarcity of means of survival locally and to the fact that they receive very little assistance. The displaced from Upper Nile are Nuer, who are used to living off their livestock. In fleeing, they have lost all their belongings, hence their basic means of survival. Most of them do not work and the only way of earning a living seems to be to cut and collect firewood to sell at the local market.

59. Finally, it is worth noting that access to the area remains extremely difficult since permission to land at most of the airstrips is denied, which also results in lack of human rights monitoring in the region. This issue is particularly relevant as oil exploration is likely to expand to other areas and bring with it a pattern of insecurity.

4. Abduction of women and children

60. As he mentioned in paragraphs 109 and 110 of his interim report, while recognizing that some positive steps have been taken with regard to abductions, the Special Rapporteur is of the opinion that there continues to be a need for a massive advocacy campaign and therefore encourages the Government to take a public stand against abductions and in support of the Committee for the Eradication of Abduction of Women and Children (CEAWC), in line with the commitment expressed by a number of government officials, including the First Vice-President, during consultations held in the framework of the mission.

61. While it is a positive step that the Government has acknowledged the existence of this heinous practice, this is not enough and the Government needs to exercise all its influence on the Murahaleen who are responsible for human rights abuses such as mass killings, torture, rape and abductions.

62. In this connection, the Special Rapporteur noted the commitments made by the Government aimed at stopping abductions and support to the Murahaleen, supporting CEAWC financially and substantially, granting clearance to UNICEF flights used to reunite children with their families and, in particular, prosecuting any person found guilty of new abductions. While welcoming such commitments, the Special Rapporteur will continue to monitor concrete government follow-up action in this respect.

63. During his latest mission, he continued to inquire about the impact of CEAWC. He was informed that progress made in the previous months had continued to be too slow. While this can be partly explained by objective logistical problems and lack of funding, it should also be noted that accountability for the use of resources made available to the Committee has not been transparent, which may have caused some donors to withdraw. It is therefore to be welcomed that the Government has now agreed to have funds accounted for in the regular budget of the Ministry of Justice. It is hoped that this improvement in contribution management will encourage some donors to reconsider their cautious position and continue to provide the

necessary assistance. On the other hand, it is also hoped that the First Vice-President's pledge will provide further financial backing. It remains necessary, however, that the financial support be complemented by a strengthening of CEAWC and the provision of political support by the highest-level authorities in Khartoum.

64. The Special Rapporteur remains concerned, however, at the recurrence of cases of abductions, though in decreasing numbers since March 2001, in Bahr al-Ghazal. It should be noted, however, that the decreasing trend seems to be the result of the improved ability of the SPLM/A to defend villages along the railway line rather than the effect of a strong governmental policy.

D. Women's rights

65. On 2 September 2000, the Governor of Khartoum State, Mazjoub al-Khalifa, issued a decree barring women from working in many public places, saying the ban would uphold Shariah law and maintain the honour of women. During his first visit, the Special Rapporteur had inquired about the decree and had been reassured by Sudanese officials, who had informed him on 10 March that there had been widespread protest against the decree, that the issue might be taken up at the federal level and that, in any case, the law had to be discussed by the National Assembly - which, at that time, had not been reconvened yet.

66. Regarding the possibility that article 19 of the Sudanese Labour Code would be amended along the lines of the above-mentioned decree, on 11 March Sudanese officials reassured the Special Rapporteur that such a possibility had been ruled out.

67. The Special Rapporteur regrets to report information he just received which confirms that, in spite of the reassurances he received and despite the fact that the case had been raised with the Constitutional Court, article 19 of the Labour Code has reportedly been modified along the lines as the Khartoum State Governor's decree.

E. Rights of the child

68. One of the most important aspects relating to the rights of the child in the Sudan is the issue of child soldiers. During his latest mission, the Special Rapporteur inquired about the plight of child soldiers in the Sudan and was fully briefed about the demobilization programme undertaken by UNICEF in southern Sudan. While in Rumbek, he met relevant UNICEF staff who accompanied him to the barracks where he interviewed a number of child soldiers.

69. The Special Rapporteur was informed that the Government is not recruiting children per se and that there did not appear to be any child under 15 in the regular army. However, it should be noted that the Government is allied with tribal militias that make extensive use of child soldiers, for which the Government is taking no responsibility.

70. On the other hand, as regards the situation in southern Sudan, the number of child soldiers has been reported to be 9,000, of whom some 3,500 have been demobilized, in

cooperation with the SPLM/A. The Special Rapporteur hopes that this cooperative effort will serve as a model for child soldiers recruited by the Government-allied militias in the framework of the conflict.

F. Situation in SPLM/A-occupied territories

71. During his first mission, the Special Rapporteur had inquired about the situation in SPLM/A-held territories and had made a number of observations regarding the development of the local civil society and the need for demilitarization of the highly hierarchical structures ruling the country. In his oral presentation to the fifty-seventh session of the Commission on Human Rights, the Special Rapporteur noted that genuine democratic structures were lacking in the areas under the control of the SPLM/A. Internal structures seemed to be military-based rather than grounded in the civil society, which is a crucial condition for the implementation of the right to self-determination. The Special Rapporteur had also been informed that the process of designation of representatives for the National Liberation Council would be finalized by June 2001. Other observations in this regard were reflected in his interim report to the General Assembly (see A/56/336, paras. 57 and 58).

72. Regarding the issue of local elections, the Special Rapporteur held a number of interesting meetings with the leadership of the SPLM/A, the Sudan Relief and Rehabilitation Association (SRRA) and others. He was informed that the elections which had been scheduled for the month of June had been postponed to December 2001-January 2002. During his latest visit, the Special Rapporteur inquired further about this issue, both in his meeting with SPLM/A representatives in Nairobi and in southern Sudan.

73. Overall, the Special Rapporteur confirms that the civil society in southern Sudan is extremely weak and needs strengthening. In this connection, the Special Rapporteur was informed, for instance, that while magistrates have been in charge of the most serious criminal cases since 1991, courts have been established since 1994 - replacing military courts - to deal with civil cases. However, there are reportedly less than 100 trained lawyers in southern Sudan, which also accounts for the weakness of the judiciary. Law enforcement officials are also poorly trained.

74. Human resources experienced in civil administration are lacking. Donor support is scarce, partly because of the political implications that this may have in terms of potentially strengthening the de facto authorities, thus prejudging the future of the country. It should be noted, however, that so far assistance to this end has been provided mostly by the United Nations and non-governmental organizations and that a stronger commitment by the SPLM/A should be expected, with a view to promoting accountability. This is particularly urgent as most of southern Sudan is no longer in a situation of conflict. Sources report that 80-90 per cent of the area is peaceful, opening a window of opportunities for donors to provide development assistance.

75. The Special Rapporteur was also informed that a number of training sessions on good governance had been arranged in the past in Yambio, Western Equatoria, for civil administrators and that further efforts have been undertaken by the New Sudan Council of Churches to help build civil society structures. However, more should be done.

76. In this connection, the Special Rapporteur repeatedly inquired whether any opposition to the SPLM/A exists within southern Sudan. He was informed that internal opposition exists, including within the SPLM/A, but the split - or potential split - factor is considered uncertain as a split would weaken the South vis-à-vis Khartoum, as was the case with Riek Machar and the southern leaders who joined the Khartoum Peace Agreement.

77. It should be taken into account, however, that while the SPLM/A controls access to some 80 per cent of the people in southern Sudan, it does not necessarily represent all of them. If most southern Sudanese are currently united against a common enemy, the potential for inter-ethnic fighting, particularly for the control of resources, is not to be ruled out.

78. The Special Rapporteur continued to inquire about the situation in Eastern Equatoria and the reconciliation between the Dinka and Didinga peoples. He was informed that, following a number of workshops in August-September 2001, an assessment by local Didinga facilitated by the New Sudan Council of Churches concluded that the two tribes were ready for reconciliation. Other sources, however, pointed out that in some areas, including Eastern and Western Equatoria, the SPLM/A is still seen as an occupying army.

IV. CONCLUSIONS AND RECOMMENDATIONS

79. The Special Rapporteur remains of the view that not only does the institutional and legal framework remain basically unchanged, but the overall human rights situation has not improved since the presentation of his interim report to the fifty-sixth session of the General Assembly.

80. The Special Rapporteur noted a number of commitments made by the Government to the European Union on the occasion of the troika mission in December 2001, including his proposal to create an independent, Paris principles-based human rights institution, as well as: (a) the creation of a committee for inter-party liaison in order to foster further democratization, cooperation with other parties and inclusion of opposition forces into the Government at all levels; (b) the implementation of a programme of civic education in democracy; (c) requiring the security forces to operate within the law; (d) the amendment to limiting the National Security Forces Act to the purpose of fighting against terrorism; (e) making genuine efforts to reach a political solution to the conflict; (f) a commitment not to target civilian populations or installations; and (g) granting of access to humanitarian relief operations.

81. The Special Rapporteur also noted that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was brought before the Council of Ministers and that, subject to parliamentary approval, it will be signed in due course.

82. The Special Rapporteur regrets that there seems to be some resistance to acceding to the Convention on the Elimination of All Forms of Discrimination against Women. He encourages the Government to take all necessary steps to sign and ratify the Convention.

83. While welcoming the above-mentioned commitments, the Special Rapporteur will continue to monitor their implementation and will report to the fifty-eighth session of the

Commission on Human Rights on any relevant developments. The Government continues to face a credibility gap between commitments made and follow-up action delivered, which needs to be addressed urgently.

84. The emergency declaration should be lifted and normalization and transition from emergency to democracy should become a matter of urgency for the Government in order to bridge the above-mentioned credibility gap.

85. The amendment to the National Security Forces Act should also be modified. In this connection, the Special Rapporteur reiterates his recommendations contained in his interim report (A/56/336, paras. 113 and 114) and further recommends that a proper judicial review become mandatory for all cases of security detention and that, in keeping with article 14 (5) of the International Covenant on Civil and Political Rights, to which the Sudan is a party, "everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law".

86. The Special Rapporteur regrets that military developments - for which both parties to the conflict are responsible - continued to impact adversely the human rights situation of the civilian population, reiterates his concern at the escalation of military activities in Bahr al-Ghazal, particularly around Raja, and the displacement they caused, and hereby reiterates his appeal to the Government for a halt to the bombing of civilian targets, particularly when civilians gather to collect food.

87. The Special Rapporteur equally condemns SPLM/A practices such as the use of civilian installations for military purposes and the setting up of military installations in close proximity to civilian ones, which contributes to raise the death toll amongst civilians.

88. In light of the above, and bearing in mind the close interaction between human rights and peace, the Special Rapporteur wishes to reiterate the importance of offering a valid alternative to the war which currently is the biggest employer in the Sudan.

89. While as an urgent humanitarian measure unhindered access should be granted to all needy areas, at the political level more serious efforts should be put in place to promote peace and establish democratic structures which are a condition for a lasting peace. In this connection, the Special Rapporteur firmly believes that human rights must be an integral part of the peace agenda and not be confined to the post-war scenario. In addition, the Special Rapporteur wishes to recall that under item 3.6 of the Declaration of Principles the parties agreed that human rights, as internationally recognized, shall form part and parcel of the discussions.

90. As for the grass-roots/people-to-people approach, while acknowledging the decisive role of the New Sudan Council of Churches and its brokering of several successful initiatives, the Special Rapporteur would like to encourage other similar initiatives. In this connection, he wishes to highlight the role of women and their potential for peace, while stressing the urgency of providing development assistance and training to them and other relevant elements of the community.

91. In the same vein, the Special Rapporteur would like to reiterate the relevant recommendations contained in his speech to the fifty-sixth session of the General Assembly. More specifically, the Special Rapporteur encouraged the SPLM to develop genuinely democratic structures, demilitarized and independent from the SPLM hierarchy, based on the fact that a genuine civil society is a crucial condition for the implementation of the right to self-determination. The Special Rapporteur also urged the SPLM to actively take responsibility to meet the needs of the people living in areas under its control, including in terms of health and education, particularly where peace has been established.

92. The Special Rapporteur also reiterates his appeal to donors to continue to invest in peace in the Sudan and to see the phases of peace, reconstruction and development in a more integrated manner, taking into account the multifaceted elements characterizing Sudanese society .

93. As for the oil issue, the Special Rapporteur, while recognizing that oil exploitation has become increasingly important for the economic development of the country, reiterates his strong belief that the right to development cannot justify the disregard of other human rights. The Special Rapporteur believes that oil exploitation is closely linked to the conflict which, although it contains a religious component, is mainly a war for the control of resources and, thus, power. Bearing in mind the adverse impact of the conflict on the human rights situation, he therefore remains convinced that the monitoring of the human rights situation in the oil fields, as well as considering human rights-related, social and economic implications deriving from oil exploitation, including the use of oil revenues, are part and parcel of his mandate as Special Rapporteur on the situation of human rights in the Sudan, which includes both civil and political rights as well as social, economic and cultural rights. He believes that, in the context of the Sudan's right to development, the Government should create an environment conducive to the granting of development assistance, particularly by the World Bank and the International Monetary Fund. In addition, he also remains of the view that any solution will have to be based on a wide consensus among all affected parties.

94. Regarding the programme of technical cooperation of the Office of the High Commissioner for Human Rights (OHCHR), the Special Rapporteur noted the ongoing discussions and will follow any new developments in this field.

95. Finally, the Special Rapporteur would like to acknowledge the support provided by OHCHR in the discharge of his mandate.

Notes

¹ EU-Sudan Joint Communiqué, Khartoum, 9 December 2001, Report on the EU troika mission to Sudan, 7-9 December 2001.

² Emergency Order No. 1 suspended articles 56, 57, 59 and 60 (2) and (3) of the Constitution. According to the order, all the walis as well as the legislative assemblies of the states shall continue carrying out their duties. The President is entitled to relieve the walis and appoint acting walis until the emergency period expires.

Annex

Programme of activities of the mission to the Sudan

1. While in Khartoum, the Special Rapporteur held meetings with the following authorities: the First Vice-President, Ali Osman Mohammed Taha; the Ministers of External Relations, Justice, Energy and Mining; the State Minister of the Interior; the Permanent Secretary at the Ministry of Justice; the Head of the Judiciary; the Constitutional Court; the Rapporteur of the Advisory Council for Human Rights; representatives of the Humanitarian Aid Commissioner; the Speaker of the National Assembly and the Head of the Human Rights Committee; members of the Sudanese Bar Association, the Women Union Bar Association Club and the Sudanese Jurists Union.
2. In Khartoum, the Special Rapporteur also met representatives of domestic and international NGOs, heads of United Nations agencies, the head of delegation of the International Committee of the Red Cross (ICRC) and representatives of the diplomatic and donor community. The Special Rapporteur further met with representatives of the Sudan Council of Churches, representatives of political parties of the opposition, including a meeting with Umma leader al Sadig al-Mahdi and PNC leader Hassan al-Turabi, lawyers, journalists, students and women's groups. In addition, the Special Rapporteur received direct testimony from individuals concerning alleged violations of human rights.
3. The Special Rapporteur also visited the Waad al-Bashir IDP camp and a community centre of the Sudanese Environment Conservation Society in Haj Yousef Al-Wihda, near Khartoum.
4. On 7 October, the Special Rapporteur undertook a one-day trip to Bentiu, Rubkona and the Dinka village of Paryang in Unity State, where he visited some of the facilities put in place by the oil companies operating in the area, held discussions with representatives of Talisman Energy Inc. and Lundin Oil, and met with the Wali of Unity State, representatives of United Nations agencies and international NGOs.
5. On 9 October, the Special Rapporteur met with the Rapporteur of the Advisory Council for Human Rights for a wrap-up session during which a number of individual cases were brought to the attention of the Sudanese authorities for their follow-up action.
6. From 9 to 14 October, the Special Rapporteur travelled to Nairobi and Lokichokio, Kenya, to access southern Sudan. In Nairobi, he met with the Commissioner for Information, Dr. Samson Kwaje, the Commissioner for Education, Mr. Kosti Manibe, the Sudan Relief and Rehabilitation Association (SRRA) Liaison Officer in Nairobi, Mr. Aloisio Emor Gitulk, the Commissioner for Agricultural and Animal Resources in Yei, Mr. Bandindi Pascal Uru, the Commissioner for Finance and Economic Planning, Mr. Arthur Akuien, the Economic Commissioner, Kuol Manyang Juuk, the Acting SPLM representative for Kenya, Mr. Edward Lino, and the Commissioner for Civil Society, Mr. Lual Ding, as well as other SPLM representatives.

7. On 9 and 10 October, while in Nairobi, the Special Rapporteur also met with representatives of the New Sudan Council of Churches, the Nuba Relief and Rehabilitation Development Organization, United Nations agencies and NGOs under the umbrella of Operation Lifeline Sudan (OLS), non-OLS NGOs, the ICRC and representatives from the diplomatic community.
8. On 11 October, while in Lokichokio, the Special Rapporteur held consultations with OLS personnel, including international and local NGOs.
9. On 12 October, the Special Rapporteur travelled to Rumbek, Lakes State, southern Sudan, where he discussed human rights and civil administration structures with representatives of civil authorities and the military, including the executive director of the SRRA, Mr. Elijah Malok, the deputy executive director of the SRRA, the deputy regional SPLM secretary (governor) for Bahr al-Ghazal State, the representative of the security forces, the SPLM county secretary for Yrol County and the secretary for Rumbek. In addition, he held consultations with representatives of the diocese of Rumbek and the judiciary (members of the Court of Appeal).
10. He also met with representatives of United Nations agencies and NGOs working in Rumbek; he visited a demobilized child soldiers transit camp as well as two IDP camps (Deng Nhial) where he interviewed a number of people coming from Upper Nile.
