

## Sudan

Situation for the purposes of asylum procedures

<b>Contents</b>	<i>Page</i>
<b>1. Introduction</b>	4
<b>2. Country information</b>	6
2.1. Basic data	6
2.1.1. Demographic features	6
2.1.2. Historical survey	7
2.1.3. Social and economic situation	9
2.2. Form of government	10
2.2.1. Administration	10
2.2.2. Judiciary	12
2.2.3. Army, police and security services	14
2.3. Political developments	14
2.3.1. Domestic situation	15
2.3.2. Foreign relations	18
2.4. Security situation	19
2.4.1. General situation	19
2.4.2. Situation in the south	19
2.4.3. Situation in the Nuba Mountains (Jebel an-Nuba)	20
2.4.4. Red Sea, Darfur and Blue Nile	22
2.4.5. Attempted coups	24
<b>3. Human rights</b>	25
3.1. Safeguards	26
3.1.1. Constitution	26
3.1.2. Conventions	26
3.1.3. Monitoring	26
3.2. Observance and violations	28
3.2.1. Freedom of speech	28
3.2.2. Freedom of peaceful association and assembly	29
3.2.3. Freedom of religion	30
3.2.4. Freedom of movement	32
3.2.5. Judicial process	35
3.2.6. Arrest and detention	35
3.2.7. Maltreatment and torture	37
3.2.8. Disappearances and exile	38

3.2.9.	Right to life, liberty and personal inviolability	38
3.2.10.	Right to education	40
3.3.	Position of specific groups	41
3.3.1.	Women	41
3.3.2.	Children	42
3.3.3.	Conscripts and members of the armed forces	43
3.4.	Internal resettlement alternative	47
3.5.	Summing up and conclusions	48
<b>4.</b>	<b>Repatriation</b>	<b>50</b>
4.1.	First host country	50
4.2.	Other countries' policy	50
4.3.	UNHCR policy	51
4.4.	Checks at addresses and reception facilities for unaccompanied minors seeking asylum	52
<b>5.</b>	<b>Findings</b>	<b>53</b>
	<b>Annexes</b>	
	Map of Sudan	
	Sudanese courts	
	Sudanese political parties	
	Security services and paramilitary organisations	
	List of human rights conventions	
	UNHCR position	
	Terms of reference	

## 1. Introduction

This paper is to brief you on those aspects of the situation in Sudan which may be of relevance in assessing asylum applications, including any decisions to be taken on repatriation of rejected Sudanese asylum seekers. It supersedes the paper of 30 January 1997 (reference DPC/AM 539476).

The key issue addressed in the report set out below (section 3) is the extent to which the present human rights situation in Sudan gives grounds for certain categories of Sudanese to fear persecution. It considers to what extent civil and political rights are observed or infringed in the country. As far as possible, a distinction is drawn here between the situation in government-held territory and that in territory controlled by the various resistance movements <sup>(1)</sup>. That section also considers whether there may be a suitable internal resettlement alternative. Replies to these key questions are preceded by a description of the backdrop to human rights observance or violations. A separate section entitled "Country information" dwells extensively on relevant political developments, including the current state of the resumed peace talks, and the general security situation in the various parts of the country.

Lastly (in section 4), a description is given of a few aspects also of relevance to whether it is reasonable to repatriate rejected Sudanese asylum seekers. As laid down in the terms of reference for this paper, particular heed is paid here to the policy of other countries and the current UNHCR view regarding repatriation of finally rejected asylum seekers to Sudan.

In drawing up this paper, consideration has been given to details supplied by various asylum seekers from Sudan in their asylum applications. Sources also drawn on include information from authoritative governmental and non-governmental organisations, such as Amnesty International, Human Rights Watch, the UNHCR and the US State Department, cross-checked and expanded upon using information from non-public sources, such as data obtained from the Netherlands embassy and other EU States' diplomatic representations in Khartoum. For a list of sources consulted, see page 55.

---

<sup>(1)</sup> NB: This territorial division does not tally with the administrative division between northern and southern Sudan, nor is it of course unchanging.

To complete the picture, it should be added that you were briefed on the situation of Sudanese in Egypt in our paper of 8 September 1997 (reference DPC/AM 549614/97).

## 2. Country information

### 2.1. Basic data

#### 2.1.1. Demographic features

Sudan, the largest country in Africa in surface area, has an estimated population <sup>(2)</sup> of 28 million, broken down into around 600 tribes representing 56 ethnic groups. About half of the population speak Arabic, the official language. In addition, especially in the south, English is used as a business language and there are over 100 other (tribal) languages and/or dialects <sup>(3)</sup>.

Starting in the seventh century, Arab tribes moved into northern Sudan <sup>(4)</sup>, where they intermingled with the African peoples living there, who in the course of time became largely Arabised and Islamised. Non-Arab tribes in northern Sudan include the *Beja*, the *Fur*, the *Nuba* and the *Nubians*. Arab tribes in that part of Sudan include the *Jaliin*, the *Kharga*, the *Baggara*, the *Habbania*, the *Hamar* and the *Hassania* <sup>(5)</sup>.

The inhabitants of southern Sudan <sup>(6)</sup> belong mainly to African Negroid tribes. The largest population group, the *Dinka*, live scattered throughout southern Sudan. The centre and north-west of the area are inhabited chiefly by the *Nuer*, *Shilluk* and *Anuak*. Those living in the south-east include the *Bari*, *Latuka*, *Taposa* and *Turkana*. The best-known tribe in the south-west are the (*A*)*zande*.

---

<sup>(2)</sup> Officially estimated in mid-1994 at 28 947 000.  
Source: Africa South of the Sahara, Sudan, 1998, p. 945.

<sup>(3)</sup> Source: Africa Watch, 1992, Vol. IV, No 12.

<sup>(4)</sup> Under the February 1994 administrative division, northern Sudan comprises the Northern, Northern, Western and Southern Darfur, Northern, Western and Southern Kordofan, Red Sea, Nile, Khartoum, Kassala, El Gezira, Gedaref, White and Blue Nile and Sennar states (see the map in Annex I).  
Source: Minority Rights Group International Report, Sudan: Conflict and Minorities, July 1995.

<sup>(5)</sup> Source: Swengsbier, J., *Der Untergang der Nuba-Völker* [The Decline of the Nuba Peoples], (publication date unknown).

<sup>(6)</sup> Under the February 1994 administrative division, southern Sudan comprises the Northern and Western Bahr el-Ghazal, Wehida (Unity), Warap, Buheyra (Lakes), Upper Nile, Jonglei, Western and Eastern Equatoria and Bahr el-Jebel states.  
Source: Minority Rights Group International Report, Sudan: Conflict and Minorities, July 1995.

The peoples of southern Sudan are related to those of eastern Africa and are predominantly Christian. Their culture differs considerably from that of the Arab and Arabised sector of the population in the north <sup>(7)</sup>.

### 2.1.2. Historical survey

#### *Turco-Egyptian empire and Mahdi*

Under Turco-Egyptian rule from 1823 on, the Sudanese population lived through a reign of terror. For southerners, the raids by slavers to which they were prey provided their sole contact with Islamic Arab northerners. Anti-Egyptian sentiment sparked off a successful holy war under the leadership of Mohamed Ahmed Sayid, who in 1881 proclaimed himself *Mahdi*, the "redeemer", and in 1885 founded the independent state of Sudan with Omdurman as its capital. The Mahdi's Sudan lasted until 1898, when the country was brought under Anglo-Egyptian administration (condominium).

#### *Condominium*

As part of the British southern policy dating from 1924, southern Sudan was to join a Federation of East African States to be established under British control. Contact between northern and southern Sudan was impeded by the British. Missions and missionaries were allowed into southern Sudan, but the area was left entirely to its own devices economically.

In northern Sudan the British increasingly transferred administrative powers to traditional local leaders such as sheikhs and tribal chiefs. The late 1930s saw a nationalist movement spring up there. On 1 January 1956 Sudan became independent. Initial attempts by southern leaders to delay independence or form a federation proved unsuccessful.

#### *First civil war (1955 to 1972)*

Following independence, political and religious groups in the north called for the formation of a single Islamic state. Missionaries were expelled from Sudan, schools nationalised and Arabic introduced in education and administration. In protest at the north's domineering attitude, troops in the southern town of Juba mutinied in August 1955. That mutiny unleashed a conflict subsequently to become known as the first civil war. In 1963 southern resistance came together within the Anya-Nya movement.

---

<sup>(7)</sup> Source: country documentation from the *Koninklijk Instituut voor de Tropen* [Netherlands Royal Tropical Institute], Sudan, 1987.

In 1969 a military coup brought Colonel Gaafar Mohamed Nimeiri to power. His policy was based upon pragmatic socialism. He was elected President in 1971. In 1972 negotiations were opened with southern leaders. They led to the signing of the Addis Ababa agreement, granting a large degree of autonomy to the southern region, comprising Bahr el-Ghazal, Equatoria and Upper Nile states as they then were. Government was there exercised by a High Executive Council, under the scrutiny of a regional parliament. That autonomy was enshrined in the constitution in 1973. The constitution also placed the Islamic, Christian and animist religions on an equal footing, with English being recognised as the common language in the south.

#### *Anya-Nya II*

In the south, sections of the Dinka and Nuer tribes wanted to continue the fight against the north and established the Anya-Nya II movement. An important force behind this was growing dissatisfaction at (alleged) attempts by the north to deprive the south of revenue from natural resources. They also opposed a proposal by a member of the High Executive Council, Joseph Lagu, a former leader of the Anya-Nya movement, to subdivide the south into three administrative regions in order to reduce Dinka dominance in the government of the south.

In the early 1980s the economic and political climate in Sudan worsened. President Nimeiri sided with Joseph Lagu and decided to split the southern region into three parts. In an attempt to win over the Islamic opposition in the north, in September 1983 he decreed the introduction of the Islamic penal code (*hudud*). Those "September laws" met with fierce criticism and resistance in the south as well as from moderate groups in the north.

#### *Second civil war (1983 to June 1989)*

Following a power struggle within the Anya-Nya II leadership in November 1983, a splinter group broke away to form the Sudan People's Liberation Movement (SPLM).

The SPLM, led by Colonel John Garang de Mabior, sought primarily to overthrow the Sudanese government, whereas Anya-Nya II wanted to prise the south away from the north. For the Nimeiri regime, the SPLM posed the greater threat and so it was decided to arm Anya-Nya II. From 1985 Anya-Nya II operated mainly as a militia for the central government, waging war on the SPLM's armed wing, the Sudan People's Liberation Army (SPLA), made up mostly of members of the Dinka population group.

On 6 April 1985 General Swar Al-Dhabab staged a coup and set up a Transitional Military Council (TMC). The following year a coalition government, led by Sadiq Al-Mahdi, was formed in the wake of elections. It was composed of the Umma Party (UP) and the Democratic Unionist Party (DUP) and also, as from February 1988, the National Islamic Front (NIF). A DUP peace initiative led to agreement in principle between that party and the SPLM. The main points covered were a cessation of hostilities, the lifting of the state of emergency and the convening of a constitutional conference.

When the other two governing parties proved not to go along with the agreement, the DUP left the government in late December 1988. On 30 June 1989, a few days before the government, now composed of the UP and the NIF, was to take fresh decisions on a peace agreement with the SPLM a coup was carried out, led by Lieutenant-General Omar Hassan Ahmed Al-Bashir, a fundamentalist who continued the armed struggle against the SPLM/SPLA.

#### *Since June 1989*

Lieutenant-General Omar Hassan Ahmed Al-Bashir's government came heavily under the influence of the NIF, led by Dr Hassan Al-Turabi. Al-Bashir suspended the constitution and ruled by decree. Initially, decrees were issued by the Revolutionary Command Council (RCC) and then from October 1993 by President Omar Hassan Ahmed Al-Bashir alone.

The NIF's interpretation of Islam meant for the north that (political) opponents were silenced by means including repression of the population (restrictions on freedom of the press, restrictions on freedom of assembly and association, arrests, detention and torture, as well as dismissals, confiscation of possessions etc.). Islamic (*Sharia*) law and *hudud* penalties (flogging, amputation and stoning) were also introduced. In the absence of any legislation under which to rule on a specific case, the courts can look to the *Sharia* as a source of law. This more sweeping Islamisation and Arabisation proved unacceptable to the peoples of southern Sudan. The conflict therefore intensified, involving the establishment and deployment of people's militias (Popular Defence Forces).

(See also section 2.3 on political developments)

### **2.1.3. Social and economic situation**

The civil war, the social impact of over 4 million internally displaced people, economic mismanagement, international isolation and the inflow of refugees from neighbouring countries have disrupted Sudan's mainly agricultural economy. Further



sizeable burdens are placed on it by high expenditure on the security apparatus and an estimated USD 16 billion of foreign debt <sup>(8)</sup>. Annual per capita national income is put at USD 900.

Financial and monetary policy brought some success during 1997. The central government achieved a reasonable degree of budgetary discipline, with the growth of liquidity under control and improved availability of foreign exchange. As a result, inflation fell from over 100% in 1996 to about 30% on an annual basis at the end of 1997. The central authorities' finances seem to have been straightened out at the expense of state governments, which since 1994 have been assigned responsibility for social expenditure such as education, health care and welfare provision. The southern states in particular have borne the brunt, with a decline in the implementation of social and economic programmes.

There is no nationwide famine, but in some regions, such as at present in the arid west (Bahr el-Ghazal) or in the southern part of Unity state, there are many people dying of undernourishment and related diseases.

Official health care is inadequate. While the commonest medicines are available, most Sudanese are generally unable to afford them. In the south, only 8% of the population have access to elementary health care.

International humanitarian aid operations (UN Operation Lifeline Sudan and NGOs) are carried out, but constantly thwarted by the Sudanese authorities or else hampered by armed conflict between the various resistance movements.

## **2.2. Form of government**

### **2.2.1. Administration**

Omar Hassan Al-Bashir has been President of Sudan since 1993. He was re-elected in 1996 for a five-year term.

Sudan's system of government was established by Constitutional Decree No 1 with effect from 30 June 1989. The country's highest authority is the Revolutionary Command Council (RCC), also known as the Council of the Revolution for National Salvation. The RCC, comprising in the first place fifteen and later nine military

---

<sup>(8)</sup> Source: US Department of State, Sudan Country Report on Human Rights Practices for 1997, 30 January 1998.

members, chaired by Omar Hassan Al-Bashir, was originally vested with executive and legislative powers. The RCC meets only rarely. A Transitional National Assembly (TNA, with 300 members), set up in January 1992 by Decree No 5, took over the RCC's legislative role and has control over the country's budget as well. Omar Hassan Al-Bashir also chairs the Cabinet, which holds weekly meetings.

Following parliamentary and presidential elections in March 1996, a parliament consisting of 275 representatives directly elected by the population and 125 appointed by the President was installed. The man made speaker of parliament was Dr Hassan al-Turabi, the former leader of the National Islamic Front (NIF) <sup>(9)</sup>. The previous political parties boycotted the elections inter alia because they considered that there was insufficient scope for freedom of speech and assembly, so that the elections could not be considered genuinely democratic. The new parliament therefore consists mainly of old NIF members loyal to the government.

The federal government's responsibilities include defence, foreign policy, the legal system, nationality issues, higher education, monetary affairs and foreign trade.

At the beginning of 1994, the existing nine constituent states were made into 26 new ones (see Annex I).

The administration of each state consists of a governor (*wali*), a deputy governor and state ministers. The state authorities are responsible for regional economic development, trade, industry, agriculture, housing, tourism, the environment, health, education, transport and social affairs. The states have their own powers of taxation.

The states are subdivided into a total of 67 provinces, headed by a commissioner and a deputy commissioner. These officials together with *walis*, their deputies, state ministers and advisors are appointed by the Head of State.

At local level, traditional figures of authority (sheikhs and chiefs) continue to play an administrative role. The constituent state authorities are also represented on the ground. In major towns and cities the inhabitants of neighbourhoods are represented

---

<sup>(9)</sup> He resigned from that post in June 1998, presumably so as to be able to play a more active part in politics.  
Source: reported by Reuters on 13 June 1998.

by popular committees (PCs). In practice these PCs form an extension of national authority. Half of the members are elected and the other half appointed. Appointments are made by the provincial commissioner on the advice of the senior local official. The PCs are represented at constituent state level by a congress of popular committees.

### 2.2.2. Judiciary

#### *Independence*

The independence of the judiciary used to be safeguarded by law in Sudan. Following the 1989 coup, the law in question was repealed. Judges are no longer appointed for life and can be dismissed if they give "unwelcome" rulings. Many judges, even from the Supreme Court, have been removed from office. Members of the judiciary are appointed by the Chief Justice, acting on nominations put forward by government committees. The authorities are thus directly involved in the appointment process.

#### *Application of Islamic law*

The new 1991 penal code allows wider application of Islamic or *Sharia* law. If no ruling can be given on a case under the penal code, judges may apply sources of Islamic jurisprudence. Judges qualified in Islamic law only (see Annex II) often, as a result of this practice, find themselves on a par with judges having a more all-round training.

Since 1991, Islamic penalties (*hudud*) in cases of adultery, armed raids, retaliation punishments, serious thefts, unfounded accusations of immorality, consumption of and trade in alcohol and sale of dead animals have no longer been applicable in the south. This rule is observed in practice and also applies in principle to Muslims in southern Sudan.

In the northern states, Islamic or *Sharia* criminal law applies, even to non-Muslims. Sentences imposing *hudud* penalties (amputation, stoning, flogging and retaliation (*gsas*), whereby offenders are punished by having to endure the same degree of suffering as they inflicted on their victims) are, however, apart from flogging, not enforced. The reason given for this is that such penalties have no place in Sudanese culture and are not in keeping with the Sudanese national character. Imprisonment (for up to life, meaning in practice 20 years) or a fine can be imposed as an alternative.

### *Courts*

The following ordinary courts operate in government-controlled parts of Sudan:

- *civil courts*. These hear both civil and criminal cases. Judgment is given on the basis of national legislation (including the penal code) and of case law. With the increasing influence of *Sharia* law, judges having a *Sharia* training only can now sit on the bench in civil courts. There are four tiers of civil courts (see Annex II);
- religious or *Sharia courts*, hearing civil matters only. The basis for judgment there is the *Sharia* or the prevailing view of Hanafite jurists;
- *customary law courts*. These hear both civil and criminal cases. Judgment is given on the basis of local customary law and of religious laws of certain communities such as the Jewish, Greek Orthodox, Coptic, Roman Catholic, Maronite, Syrian Catholic, Armenian Catholic and Chaldean Catholic faiths.

In criminal cases, the police decide whether the case is referred to a civil court or to a customary law court. In civil cases, parties can themselves choose from among the above courts.

There are also special courts, namely public order courts and military courts, in operation (see Annex II).

In SPLM/A-controlled areas, magistrates give judgment under a penal code based on the 1925 Sudan Code. Up to 1996 they usually did so in camera, presided over by a military commander. Since 1996 that system has reportedly been replaced by a more public, civilian structure. It is not known whether that new arrangement is actually in operation at present.

In areas not under the control of either the SPLM/A or the government, tribal elders give judgment in accordance with customary law.

### 2.2.3. Army, police and security services

#### *Army*

The army in Sudan, the Sudanese People's Armed Forces (SPAF) <sup>(10)</sup>, has three quarters of its forces stationed in the south. The army is backed up by the Popular Defence Force(s) (PDF), a people's militia of about 70 000 men (see Annex IV). Under the 1992 National Service Act, Sudan operates a system of conscription into the SPAF (see section 3.3.3 on conscripts and members of the armed forces).

#### *Police*

In addition to the ordinary police, responsible for maintaining law and order, in September 1992 a People's Police Force (PPF) was set up in Sudan, officially because the ordinary police were said not to be up to the job, but in reality because the present government wanted to provide itself with an alternative force sure to be fully loyal to it. The PPF not only has to assist the ordinary police in their general work, but is also assigned the task of enforcing the Islamic code of behaviour. PPF members are recruited from among pro-NIF youngsters. The PPF has powers of arrest and investigation. However, the PPF's influence seems to have declined. The public have been seen generally to be less observant of PPF strictures in recent years.

#### *Security services and paramilitary organisations*

Besides the army and police, there are a number of security services and paramilitary organisations in operation in Sudan. Their duties sometimes overlap. In a number of cases such organisations work together, while in others they clash, sometimes for ideological reasons. The security services have an extensive organisational structure and possess a network of agents and secret informers. There are offices and (secret) detention centres throughout the country.

The security services and paramilitary organisations known to us are listed in Annex IV.

### 2.3. Political developments

As stated earlier, the political situation in Sudan is overshadowed by antagonisms between the mainly Islamic, Arabised north and the more African south, inhabited by a variety of Christians, Muslims and followers of traditional religions. The divide is

---

<sup>(10)</sup> According to the International Institute for Strategic Studies (IISS), in mid-1995 the army had a strength of 115 000, the air force 3 000 and the navy 1 500.  
Source: Economist Intelligence Unit, Sudan Country Profile, 1996-1997, p. 8.

also sharpened by differences rooted in political history, economic conditions and ethnic culture. Years of fighting in the country spring from those geographical antagonisms between northern and southern Sudan. However, regional conflicts also stem from tribal animosities.

### 2.3.1. Domestic situation

Growing poverty and the stepping up of compulsory national service sparked off serious public protest and student demonstrations, in particular in September 1995 (causing a few deaths) and in April 1996. Especially in the autumn of 1995, the unrest brought closer cooperation between underground political parties, the old trade unions and social and southern groups in Khartoum.

As from 1995 the opposition in the south, particularly the SPLA, managed to ally itself with the opposition in the north. In June 1996 they called on the Al-Bashir government, in a joint memorandum, to step down with immediate effect. The government ignored that call.

On 6 December 1996 the former prime minister, Sadiq Al-Mahdi, succeeded in fleeing Sudan and settling in Eritrea (Asmara). He had previously spent almost eight years virtually held hostage in Khartoum.

In late 1996 armed forces from the National Democratic Alliance (NDA) together with the southern opposition (SPLA) launched military operations close to the border with Eritrea. During January 1997 they gained control of some places near the Ethiopian border. The Sudanese authorities believe those operations to have been carried out with support from Ethiopian and Eritrean units. That claim has not been confirmed by independent sources.

Since the operations near the eastern border, the government has stepped up mobilisation of the population. Universities temporarily closed down in early 1997 so as to give students an opportunity to report for national service. The national service office was then placed in charge of secondary school-leaving examination results in order to force pupils to perform their military service, or at any rate enrol.

The military operations also gave rise to a wave of arrests among members of banned northern parties. Most of those detained were released during 1997.

Following a referendum, a new constitution came into force as of 30 June 1998, replacing all constitutional decrees except for Decree No 14 (see section 3.1.1).

#### *Elections*

General parliamentary and presidential elections were held in March 1996 on a non-party basis. Omar Hassan Al-Bashir, who had previously been appointed President by the RCC in October 1993, was elected President of Sudan for a five-year term. The elections were boycotted by all political movements apart from the NIF, on grounds including insufficient scope for freedom of speech and assembly, so that the elections were not considered genuinely democratic. NIF supporters thus won an overwhelming majority in parliament.

#### *Peace talks*

In March 1995 the central government and resistance groups agreed on a cease-fire. In practice, however, this did not bring an end to hostilities.

On 10 April 1996 the Sudanese government and the leaders of the SSIA (Riek Machar) and GANTRY (Kerubino Kuanyin Bol) signed a political charter. A year later (in April 1997) that charter was built upon further. The government and the above leaders' factions signed a new peace agreement in Khartoum. Half a dozen smaller movements also signed that agreement. They went on to form the United Democratic Salvation Front (UDSF). The remainder of Professor Lam Akol's SPLA-United group, which for years fought on Dr Garang's side, subsequently signed up to the agreement on 20 September 1997 in Fashoda.

The 1997 agreement officially recognises Sudan's religious, cultural and ethnic diversity and strikes a compromise on acceptance of *Sharia* law and (local) customary law as sources of national law. In addition, for a four-year transitional period the south is already to enjoy a large measure of autonomy. After that period a referendum will be held to decide whether to allow self-determination for the south. Arrangements have also been agreed on freedom of religion and a number of other basic human rights. Those arrangements were included in Constitutional Decree No 14.

The peace agreements initially brought only limited peace. Armed fighting with the SPLM/A, which is not a party to them, continued.

In July 1997 President Al-Bashir accepted a declaration of principles as a basis for peace negotiations. That declaration had been drawn up back in 1994 by the IGAD <sup>(1)</sup>, but was rejected at the time. During the period since its acceptance, various government and SPLM/A delegations have held talks. The peace talks staged by Kenya in Nairobi in November 1997, also attended by the SPLM/A, were adjourned until April 1998. The talks resumed in early May and August 1998. The parties agreed that, following an interim period under international supervision, a referendum would be held in southern Sudan on the future form of government, with secession by southern Sudan not ruled out. Precise details of the period have not as yet been negotiated. The main remaining stumbling blocks were the separation of state and religion and the terms of a full cease-fire. A further round of negotiations is to be held by February 1999.

In late January 1998 Kerubino Bol seemed to have defected to the SPLM/A. Heavy, mainly tribal fighting broke out in the Bahr el-Ghazal region. Both the SPLA and Bol's troops were fighting around Wau against smaller tribes such as the Balanda, the Firtit and the Jur, regarded as supporters of Riek Machar's SSIM. At the same time fresh offensives were again launched by the armed NDA opposition in eastern Sudan.

Bol's position in relation to the Sudanese government and the SPLA is at present unclear.

At the instigation of President Moi of Kenya, in mid-July 1998 the SPLA/M announced a three-month cease-fire in the Bahr el-Ghazal region to allow emergency humanitarian aid in. Shortly afterwards the Sudanese government likewise promised a cease-fire <sup>(2)</sup>. On 4 August 1998, on the eve of the peace talks in Addis Ababa, the government then unilaterally announced a general cessation of hostilities throughout the south.

---

<sup>(1)</sup> The membership of the Intergovernmental Authority on Development (IGAD) comprises Sudan, Uganda, Kenya, Ethiopia, Eritrea, Djibouti and Somalia. The IGAD is currently chaired by President Aptidon of Djibouti.

<sup>(2)</sup> Source: reported by Reuters on 16 July 1998.



### 2.3.2. Foreign relations

The Al-Bashir government has set itself the goal of also promoting Islamic fundamentalism internationally. This, together with the fact that Sudan is held responsible for harbouring fundamentalist terrorists operating abroad, has left the country in international isolation. After previously having condemned the country for supporting international terrorism, in May 1996 the UN Security Council imposed a number of sanctions on Sudan (Resolution 1054).

Sudan's increasing Islamisation has not helped relations with neighbouring Egypt either. They were damaged considerably by Sudan's support for Saddam Hussein's regime during the 1990/91 Gulf War. Sudan was also suspected of involvement in the assassination attempt on Egypt's President Mubarak in Addis Ababa in June 1995. In addition, both countries lay claim to the Halaib border region, which has on various occasions almost led to military encounters.

All of the neighbouring countries also seem to sympathise with the aims of the opposition in Sudan. The form taken by their sympathy ranges from tolerating the SPLA's presence and military preparations within their territory (Kenya) to openly supplying opposition groups and actually supporting military operations (Eritrea and Uganda).

In relations with Uganda the issue of child slavery looms large. President Museveni of Uganda has levelled charges against Sudan that children are being abducted into slavery from northern Uganda. Some are reportedly enlisted by the Sudanese army or Ugandan rebels fighting alongside it (the Lord's Resistance Army).

Because of Sudan's support for international terrorist activities, attempts to destabilise neighbouring countries and serious human rights violations, the US government imposed fresh trade and investment sanctions on Sudan in November 1997.

Partly in retaliation for bomb attacks on its embassies in Kenya and Tanzania, on 20 August 1998 the USA launched seaborne cruise missiles against a pharmaceutical plant in Khartoum. The plant was alleged to produce not just medicines but also chemicals weapons precursors (or raw materials).

## **2.4. Security situation**

### **2.4.1. General situation**

The security situation in Sudan is bound up with the country's divisions. In the first place, for almost 15 years there has been a military confrontation between the Islamic north and the Christian/animist south. In addition, an Islamic opposition is challenging the radical line taken by the regime. In some areas, too, particularly in the south (administratively speaking) and in the Nuba Mountains (situated in the north, administratively speaking), there are disagreements between the various ethnic groups (including over cattle thieving).

Many people fall prey to acts of violence, including air raids and the use of land mines. Both government troops and resistance movement fighters are guilty of intimidation and human rights violations and show scant respect for the rules of warfare.

Government troops take few official prisoners of war in fighting against the southern resistance movements. The International Red Cross reported in 1996 that the SPLA, on the other hand, had made some progress in this respect. That resistance movement started taking prisoners of war and allowing the Red Cross to visit them.

The organisation is not yet, however, allowed to visit people held prisoner by the SPLA for other reasons.

Over 4 million Sudanese are estimated to have been displaced, often living under very difficult conditions in Sudan or neighbouring countries. Sudan itself is also home to 700 000 displaced persons from surrounding countries.

### **2.4.2. Situation in the south**

As outlined above, the south of Sudan (administratively speaking) is inhabited by a wide variety of tribes, between which tensions have ebbed and flowed for centuries.

Southern Sudan's resistance against the north has, as a result and on account of leadership struggles, always been marked by divisions, systematically stirred up and exploited by the regime in Khartoum.

John Garang's SPLA thus split up in 1991 as a result of internal divisions. The north-western leaders, Riek Machar, Lam Akol and the SPLA commander, William Nyuon Bany, formed the Nasir faction (named after the southern Sudanese town where its headquarters was established), also known as the SPLA-United. It advocated secession by southern Sudan, unlike John Garang's SPLA-Mainstream, which had always worked for equality for southerners within a united Sudan.

The SPLA-United also soon broke up. In the second half of 1994 Riek Machar formed the South Sudan Independence Movement (SSIM). He and Kerubino Bol, based with his troops in Bahr el-Ghazal [around Gogrial, going by the name of the Gogrial Aweil Nyamlell Tonj Rumbek and Yirol (GANTRY)], are fighting against John Garang's SPLA, which the SSIM regards as a cat's-paw of the Sudanese authorities.

As stated earlier, back in 1996 the SSIM signed an outline agreement (political charter) for a peace settlement with the Khartoum government.

Lam Akol formed a new "SPLA-United", in which William Nyuon Bany and John Luk initially collaborated. In the summer of 1995 William Nyuon Bany returned to the SPLA-Mainstream. He met his death in the autumn of 1995, falling into an ambush along with his troops.

There are also a number of small, often tribally composed factions active in that part of Sudan.

The Khartoum government claims to control most of the south of Sudan (administratively speaking). The southern resistance, however, maintains that the area is in its hands. In reality some large towns such as Juba, Malakal, Bor, Torit and Wau and their immediate environs are under central government control. The countryside, apart from SSIM or GANTRY-controlled territory, is mainly held by the SPLA. In the first half of 1997 Garang's SPLA, in particular, gained a good deal of ground.

In mid-July 1998 both the SPLA and the Sudanese government declared a cease-fire in the Bahr el-Ghazal and Upper Nile states, to last for three months in the first place. On the eve of the IGAD negotiations, the government announced that as from 4 August 1998 it would cease hostilities throughout the south of Sudan (administratively speaking). Outside Bahr el-Ghazal and Upper Nile states, however, fighting resumed again in mid-September.

#### **2.4.3. Situation in the Nuba Mountains (Jebel an-Nuba)**

Besides the differences between north and south, Sudan faces the problem of a desire for independence on the part of the population of the Nuba Mountains, situated in the northern state (administratively speaking) of Southern Kordofan. The inhabitants of that region (numbering around 1,6 million) have been known since the British era as the *Nuba*, although they do not basically constitute any one particular tribe.

The Nuba people can be roughly subdivided into a group belonging by language and origin to the non-Arabic-speaking Sudanese [the northern Nuba (around Dilling) and Daju Nuba] and the other Nuba, including the Talodi, Mesakini, Koalib, Moro, Gfungor, Kadugli and Korongo. The Nuba region contains Muslims, Christians and animists <sup>(13)</sup>.

The area also includes *Baggara* (Arabic-speaking Muslims who emigrated to the Nuba region in the 17th century) and *Jellaba* (also Arabic-speaking Muslims, who moved to the Nuba region after the repeal of the Closed District Ordinance in 1937).

Frequent disputes over land ownership have arisen between the Nuba, Baggara and Jellaba in the region. For instance, the Jellaba introduced mechanised farming on fertile land taken by them from the Nuba. The Baggara in the southern part of the region faced the advancing SPLA in the rising conflict between northern and southern Sudan. In their combat against the SPLA they received military support as from 1986 from Sadiq Al-Mahdi's Umma Party. They also used that support to defeat attempts by the Nuba to reclaim lost land. The central authorities' Arabisation and Islamisation policy and the Jellaba's economic dominance strengthened old centralising tendencies, resisted by traditional Nuba. Many Nuba politicians endorsed the SPLA's political platform, with the result that the central authorities came to regard the Nuba as SPLA allies. From the mid-1980s on, the Nuba people constantly found themselves under attack from Baggara and government troops. Such attacks were accompanied by large-scale human rights violations, giving rise to a flood of Nuba refugees.

The conflict in the Nuba region intensified following the establishment of the Popular Defence Force(s) by Al-Bashir in 1989. Even more than before, the Nuba people found themselves caught in the crossfire between the warring parties and suffered human rights violations. This unleashed a fresh flood of refugees. In government-controlled territory they were housed in "peace villages". These villages or camps are run by the Peace and Resettlement Administration (PRA), being accessible mainly to local pro-Islamic NGOs. In addition to military protection and accommodation, the villages provide health care, clean water and education. In this way they hold out some attraction for the less well-off population of SPLA-occupied

---

<sup>(13)</sup> Source: Minority Rights Group International Report, Sudan: Conflict and Minorities, July 1995.

parts of the Nuba Mountains. This method, forming part of the Al-Bashir government's "peace from within" strategy, is also designed to defeat the Nuba people's religious, cultural and political aspirations, as attempted by previous governments and rulers. Reliable sources report practices such as conscription of minors into the PDF, enforced conversion to Islam and rape to be widespread in those villages.

It should be pointed out for the record that the cessation of hostilities in southern Sudan recently announced by the government (see section 2.4.2) does not apply to the Nuba Mountains.

#### 2.4.4. Red Sea, Darfur and Blue Nile

The northern state of *Red Sea* is inhabited by various non-Arab tribes known collectively as the Beja. In Sudan the Beja number around 600 000 <sup>(14)</sup>. There are also Beja living within Egypt and Eritrea. The Beja, traditionally nomadic sheep and camel herders, were long overlooked by Sudanese leaders for economic development purposes. In addition, their homeland has since the early 1980s been stricken by lengthy periods of serious drought. This has resulted in loss of usable land and heavy urbanisation. The influx of various ethnic groups (e.g. from Eritrea and western Sudan), lastly, has heightened intercommunal tension in this region. There is tension with the present Sudanese rulers as well. Some of the Beja practise Islam in a way inconsistent with the NIF's interpretation. In 1990, too, a number of Beja officers were executed following an attempted coup. The Beja also suffered confiscation of their farming land, trade barriers and withdrawal of financial support for schools and mosques.

They have since the 1950s been organised in the Beja Congress Party, which was banned in June 1989 just like other parties. In 1994 the party's leaders called for armed resistance. The party's military wing forms part of the armed resistance under the NDA umbrella. Those parts of the region seized from the government (the Garora-Tokar area and the Hamush Koreb area) are administered under Beja Congress supervision.

In the northern state of *Darfur*, the various population groups (Arab and non-Arab)

---

<sup>(14)</sup> Source: Minority Rights Group International, Sudan: Conflict and Minorities, July 1995.

have for years clashed over water and land, but up until the mid-1980s some kind of balance could be seen. Periods of drought and the supply of arms then brought a change in that situation. Sadiq Al-Mahdi's government (1986-1989) not only armed the Arab Baggara as a militia in the combat against the SPLA (mainly Dinka), but also armed northern Arab tribes loyal to his Umma Party. The northern tribes received further military support from the Chadian opposition, led by Idriss Deby, operating from Sudanese soil. As a result, the (non-Arab) Fur living in the central part received arms from the Habré government in Chad. A major drought helped drive the Zaghawa, in particular, southwards to settle in Fur territory. The Fur held important positions in the local administration. The police and army destroyed various of the Zaghawa's settlements and executed their local leaders. In the late 1980s, 27 tribes of Arab nomads formed an alliance and declared war on non-Arab groups in the region. The Fur formed their own militia and joined forces with the SPLA. The nomads' main aim was to win land.

A few thousand Fur and hundreds of Arabs lost their lives in a short-lasting conflict. Tens of thousands were left homeless. Since a 1989 peace agreement, the balance has been unstable, with the region virtually inaccessible to outsiders.

The *Blue Nile* state lies at the border between north and south and between Sudan and Ethiopia. The Gâmk and the Uduk are significant indigenous non-Arab population groups in the region. Although the region forms part of northern Sudan administratively speaking, its inhabitants are generally regarded by northerners as being southerners. However, they have hardly any constructive contact with population groups in (administrative) southern Sudan. They have traditionally led a fairly isolated existence. Fertile land and minerals, however, attracted (Arab) northerners, giving rise to tension. The indigenous inhabitants gradually found themselves relegated to second-class citizens, also resisting Islamisation. In 1985 civil war spread to the region and there, too, part of the population suffered SPLA and government violence. The Arab inhabitants accuse the others of supporting the SPLA. The Uduk homeland, especially, has seen constant large-scale resettlement, depending on the course opted for by the local population: to support SPLA or government troops or to flee. <sup>(15)</sup>

---

<sup>(15)</sup> A more detailed account of events in these areas is given in the Minority Rights Group International publication, *Sudan: Conflict and Minorities*, July 1995.

#### 2.4.5. Attempted coups

Attempts to overthrow the government and/or army unrest have been commonplace, including in March 1990, August-September 1990, August 1991, September-October 1991, February 1992, April 1993, June 1994 and January, March, April and August 1996.

To the best of our knowledge, in 1997 twelve people charged with involvement in the March 1996 coup attempt were sentenced to imprisonment for up to seven years, while some sixteen charged with involvement in the April 1996 coup were given prison sentences of up to five years. Many of the others charged were acquitted <sup>(16)</sup>.

---

<sup>(16)</sup> Source: US Department of State, Sudan Country Report on Human Rights Practices for 1997, 30 January 1998.

### 3. Human rights

The coup d'état on 30 June 1989 brought to power a Revolutionary Command Council (RCC), headed by Omar Hassan Ahmed Al-Bashir. All political parties were banned. Their leaders left the country or continued their activities underground. The National Islamic Front (NIF, also banned as a party), which draws its basic principles from Islamic fundamentalism, and its leading members have since alone played a dominant role within Sudan's political system. Despite the establishment of some national bodies and an interim constitution by means of constitutional decrees, the present rulers have up to now restricted many civil liberties. In particular, members of security services, militias and the police, as well as resistance movements, are frequently guilty of human rights violations. The entry into force of a new constitution as of 30 June 1998 seems to be a positive development.

The following account first describes *de jure* human rights safeguards in Sudan. Section 3.2 then shows, where of relevance for asylum purposes, to what extent the various types of human rights are in practice observed or violated. The main focus here is on the situation as it has developed during 1997 (since the date of publication of the last official report on Sudan). Where possible, explicit mention is made as well of the categories of Sudanese facing persecutory action by the authorities or by resistance movements. On specific cases, reference should also be made to reports by the CHR's special rapporteur for human rights (Gáspár Biró) and publications by organisations such as Amnesty International, Human Rights Watch etc., in which the various kinds of violations are described in detail. See the attached list of sources. Partly in response to your request, the position of women has been addressed in a separate (sub)section (3.3.1). In view of the issue of reception facilities for unaccompanied minors seeking asylum, too, the position of children is considered as well (3.3.2). Since a considerable proportion of Sudanese asylum seekers put forward in their refugee stories aspects relating to compulsory military service, we have also seen fit to address that issue in a separate (sub)section (3.3.3). Before conclusions are arrived at, the penultimate section (3.4) shows to what extent there is any alternative of internal resettlement in Sudan.



### 3.1. Safeguards

#### 3.1.1. Constitution

Since 30 June 1998 human rights have once again been enshrined in a constitution in Sudan. Following the coup on 6 April 1985, the April 1973 constitution was suspended. A transitional constitution adopted in October 1985 was suspended by Lieutenant General Al-Bashir and his Revolutionary Command Council immediately after the coup on 30 June 1989. Pending a new constitution, Sudan was subsequently ruled by decree.

In July 1997 the government set up a commission to draft a new constitution, which recently came into force.

The new constitution supersedes all constitutional decrees except for Decree No 14 (see section 2.3.1). The constitution stipulates that the *Sharia* code of conduct and native custom form sources of law. It also confirms Sudan to be a federation of 26 states. The constitution goes on to uphold the right of political association, among others, for all Sudanese, a right to be regulated by law. Implementing legislation authorising political parties is not expected to be adopted until the end of an interim period <sup>(17)</sup>.

#### 3.1.2. Conventions

Sudan is a party to most international human rights conventions. In practice, while its citizens are able to invoke such conventions, the authorities have not yet accepted them as directly applicable. A list of human rights conventions to which Sudan is a party will be found attached as Annex V.

#### 3.1.3. Monitoring

The best-known human rights organisation before the seizure of power in 1989 was the Sudan Human Rights Organisation (SHRO) <sup>(18)</sup>. Human rights campaigners were denied the right to travel abroad. The government subsequently set up human rights organisations coming under it. The best-known is the one currently also going by the name of the Sudan Human Rights Organisation. The head of that organisation also

---

<sup>(17)</sup> Source: reported by Reuters on 26 June 1998.

<sup>(18)</sup> While no longer operating inside Sudan, that organisation has a number of sections abroad (e.g. in the United Kingdom and Egypt).

heads the Sudanese Bar Association likewise set up by the government in 1990 <sup>(19)</sup>.

Two reports produced by the Human Rights Council, a body dealing with human rights problems for the government, were published in June 1997. The first contains the unsatisfactory findings of a judicial commission of inquiry into the 1992 events in Juba. The second is a report by the special commission set up to look into allegations of slavery.

Although there are no independent human rights organisations in Sudan, there are still individuals working (usually anonymously) for human rights. Many lawyers stand up for human rights, including in lawsuits. In spite of efforts to do so, it has not yet proved possible to set up a lawyers' organisation dealing with human rights issues more generally.

The United Nations special rapporteur, Gáspár Biró, has already visited Sudan several times. He unexpectedly had to break off the first of his two visits to government-held territory in January and September 1997 because the government had stated that it could not guarantee his safety. That visit coincided with NDA attacks in the east of Sudan.

At the invitation of the Sudanese government, in early March 1998 a mission from the UN High Commissioner for Human Rights visited Sudan to consider whether the stationing of human rights monitors and provision of technical assistance would be feasible. Although the mission reported having received good cooperation from the government, it found there not to be any scope at present for stationing monitors. Acceptance of technical assistance <sup>(20)</sup> is currently still under discussion.

---

<sup>(19)</sup> Not to be confused with the original Sudanese Bar Association (SBA), some members of which were arrested following the seizure of power in 1989. They have since been released. The SBA goes back to the colonial era and has often been active in protesting at human rights violations in Sudan. It has not entirely ceased such work. Most members of the government-established SBA have affinities with the NIF. The majority of lawyers remain aloof from that organisation without, to the best of our knowledge, experiencing any restrictions in practising their profession.

<sup>(20)</sup> Possible forms of assistance include training of diplomats for convention reporting purposes, training of the armed forces in the application of military disciplinary law, police training, training in international humanitarian law (authorities and NGOs) etc.

## 3.2. Observance and violations

### 3.2.1. Freedom of speech

Freedom of speech in Sudan is very restricted. Most daily newspapers and weekly magazines are either published directly by the authorities or have close ties with them. The best-known of them are the English-language news agency SUNA (authorities), the English-language weekly New Horizon (authorities) and the Arabic daily Sudan al Hadit (pro-authorities). The Arabic newspapers Akhbar Al Youm and Al Rai Al-Akhar are more impartial dailies.

Journalists are banned by law from reporting on matters such as international security issues, the police, the army and national security. Since 1996 Akhbar Al Youm and Al Rai Al-Akhar have, particularly in their editorials, been voicing cautious criticism of government policy and exposing abuses. In July 1996 Al Rai Al-Akhar had a (temporary) publication ban imposed, a measure not uncommon in Sudan. After the courts had found in favour of the newspaper, it resumed publishing in June 1997.

In May 1997 the Government relaxed the November 1996 Press and Publications Act in a number of respects. These included a change in the composition of the Press Council responsible for supervision of press and media affairs in Sudan. In practice, this adjustment should result in greater scope for criticism of government policy. Shortly after the measure, a number of publications were already carrying articles taking a critical look at Sudan's domestic and foreign policies. A woman reporter who had given a critical account of People's Police training, however, was still that month arrested by the police.

The government went on to announce in November 1997 that journalists suspected of infringing one or more press laws would no longer be arrested and detained during investigations. They would in future be summoned for questioning. Should it then prove necessary to arrest them, they could be released on bail <sup>(21)</sup>.

All domestic and foreign publications are censored by the *Censorship Board*. Mail can be inspected by the authorities. A licence is required in order to receive foreign

---

<sup>(21)</sup> Source: Associated Press, 25 November 1997.

publications and/or use fax, telex or satellite communications.

A clandestine or underground press has not (yet) really sprung up in Sudan. The Communist Party does publish the paper "*Maydan*", as do the Umma Party the paper "*Sawt al Umma*" and the NDA the paper "*al Tajam'u*". Those papers are not regular publications. Printing, distribution and possession of them continue to be banned.

Nor are any demonstrations allowed without the authorities' approval. Very heavy-handed action is generally taken against unauthorised demonstrations, such as the students' demonstrations in September 1995 and on 1 December 1997. On the latter date, security forces stepped in very firmly when a group of about 50 women peacefully attempted to hand in a protest note at the UNDP office in Khartoum. They arrested 37 women, who were convicted the very next morning.

### 3.2.2. Freedom of peaceful association and assembly

On 30 June 1989 all non-religious organisations in Sudan were banned. The measure covered political parties, trade union organisations, the Sudanese Bar Association and human rights organisations.

The Human Rights Watch World Report 1997 <sup>(22)</sup> mentions a slight relaxation in enforcement of the ban. The government reportedly that year permitted a faction of the Democratic Unionist Party (DUP) to open some offices. The leader of the faction, not counting as a political party, was also allowed to take part in public debates.

Of the political parties, only the National Islamic Front (NIF) has retained its influence within the government. Most other parties operate underground (for a list of political parties, see Annex III).

A number of more or less underground occupational organisations, such as the Union of Professionals (including doctors, engineers, lawyers and civil servants), the Workers' Union and the Women's Movement, also work with the political parties in the National Democratic Alliance (NDA, see Annex III on political parties).

---

<sup>(22)</sup> Source: Human Rights Watch World Report 1997, p. 72.

### *Trade unions*

Following the seizure of power on 30 June 1989, many trade union leaders were arrested. In September 1989 the umbrella-body Sudan Workers' Trade Union Federation (SWTUF) was once again allowed to operate, as were some while later trade union organisations for white-collar professions. However, they come under the supervision of a steering committee appointed by the government and are not very active.

The trade union leaders previously arrested are now kept under close surveillance and have to report to the security services at regular intervals.

In October 1992 the government announced preparations for free elections within the workers' trade unions belonging to the SWTUF. Those running for office not on the government slate were arrested and detained. To the best of our knowledge, they were released again once the elections had been held.

### **3.2.3. Freedom of religion**

Although the Sudanese government claims that freedom of religion is upheld in Sudan, in practice it treats Islam as the country's official religion. The NIF's interpretation of Islam has a considerable influence on legislation, administration of justice and politics. Christians, as well as Muslims in the NIF's belief too clearly differing in their practise of Islam, may face measures restricting their activities.

#### *Islam*

The Sunni form of Islam is generally practised in Sudan. About 60% of Sudanese are Muslims. Sudan has some *tarifas*, Islamic brotherhoods with their own style of witness, founded by a religious leader (*sufi*). The main *tarifas* are the Ansar, the Khatmiya, the Republican Brotherhood and the Muslim Brotherhood. The Umma Party stems from the Ansar and the Democratic Unionist Party from the Khatmiya. The NIF draws its supporters mainly from the Muslim Brotherhood. Heresy or apostasy from Islam may be severely punished in Sudan, even incurring the death penalty. A death sentence is only imposed for publicly declared apostasy. It is not, however, carried out (see section 3.2.9). Women are also allowed a chance to recant their apostasy.

### *Christianity*

Christian churches draw their following mainly from among the southern Sudanese. The Roman Catholic Church is the largest Christian church in Sudan. Others present in Sudan include the Episcopal Church, the Evangelical Church, the Church of Christ and the Anglican Church. The Coptic Orthodox religion is practised in northern and central Sudan, chiefly by descendants of Egyptians immigrants. Northern Sudan also has a group of Greek Orthodox Christians (practically all of them Nubians).

Under the Missionary Societies Act, introduced in 1962, every church with followers in Sudan, apart from Islam (not in fact a church), had to apply for official recognition. The Ministry of the Interior was responsible for dealing with such applications, which could take quite a long while, sometimes even years. Breaches of the Missionary Societies Act incurred administrative penalties, although to the best of our knowledge these have not been enforced since 1993.

On 4 October 1994, partly in response to the Pope's visit to Khartoum in 1993, the President of Sudan promulgated the 1994 Miscellaneous Amendments (Organisation of Voluntary Work) Act. That legislation was to replace the Missionary Societies Act, found over-restrictive by the churches. The Sudan Catholic Bishops Conference protested fiercely at the new legislation, which referred to the Catholic church as a "purely human society and organisation", subject as such to the Societies Registration Act. This would require churches, like NGOs, to allow inspection of their financial stewardship, with assets confiscable by the authorities in the event of mismanagement. It would also no longer be possible to make appointments or transfers between posts without the authorities' consent. The October 1994 provisional order in question has never been passed by the Sudanese parliament and is *ipso facto* not enforced. The churches have thus since been operating in a legal vacuum, with the Missionary Societies Act having been repealed. Church assets are in fact frequently confiscated by the security services. Officially, no new church buildings have been opened by the churches since the late 1960s. Unofficially, they have in the displaced persons' camps around Khartoum, although there the buildings are also used for other purposes.

Conversion of Muslims is prohibited by law, while Muslims are free to convert others. There are cases of enforced conversion to Islam, e.g. in exchange for food.

In rebel-held areas, Christians, Muslims and followers of traditional religions are generally allowed freedom to practise their faith.

The Sudan Catholic Bishops Conference (SCBC) and the Sudan Council of Churches (SCC) frequently protest within Sudan at human rights violations.

#### *Copts*

The Coptic Orthodox Church in Sudan is headed by two bishops. Estimates of the number of Copts in Sudan range from 200 000 to 500 000 <sup>(23)</sup>. They live mainly in northern Sudanese urban centres such as Khartoum, Omdurman, Wad Medani, El-Obeid, Port Sudan, Dongola and Atbara. Their relatively passive social role and light-coloured skin long helped them avoid serious forms of religious or racial discrimination. Since 1989, however, they have increasingly been hampered by the NIF regime, which sees them as posing a threat to Islam. Hundreds of Copts have been dismissed from the army and the judiciary. The execution of a Coptic pilot in February 1991 for unlawful possession of foreign exchange prompted Copts to begin fleeing Sudan. Within Sudan they are increasingly having difficulty in obtaining certificates of nationality, in arranging foreign travel, in obtaining the required trading licences and with inspections of their businesses. Christian schools also suffer confiscation and Copts, too, are required by law to participate in the *jihad* against other Christians in the south.

#### *Traditional religions*

The traditional religions are tribally based. Traditional religious practices often continue to be followed in a tribal setting, even after conversion to Christianity or Islam.

### **3.2.4. Freedom of movement**

#### *Within the country*

Sudanese citizens can in principle travel freely within Sudan. Every inhabitant of Sudan (north and south) is required to carry a personal identity card. Particularly in rural areas, however, not all Sudanese will be in possession of such a document. If they are not, they will at all times have to be able to produce substitute papers

---

<sup>(23)</sup> Africa Watch reports 200 000 and the US State Department puts the number at 500 000. We have no official figures.

(e.g. a passport, certificate of nationality or Bar Association card) when passing through checkpoints in Sudan.

Along exit roads leading to border crossing points, access roads to major towns and cities and link roads between suburbs of Khartoum, there are checkpoints set up to inspect traffic and see whether it is carrying any banned goods (alcohol, arms, ammunition etc.) or wanted persons, including for compulsory national service or the following of PDF (Popular Defence Force, see Annex IV) training.

In areas where violent conflict is in progress or where the general security situation so requires (e.g. Juba), a curfew is imposed. Breach of it can result in a fine or arrest.

#### *Abroad*

For foreign travel, Sudanese citizens require a valid Sudanese *passport* with an *exit visa*. When a passport is applied for, a *certificate of nationality* has to be produced.

The procedure for obtaining that certificate is circuitous. The applicant in any event needs a declaration of good conduct, issued by the local (or neighbourhood) authority.

#### *Travel documents/identity papers*

Passports, certificates of nationality and personal identity papers are issued by the Immigration and Nationality Directorate at the Ministry of the Interior.

- *Passports* are issued only to people over the age of 18 or, for those aged under 18, with the consent of their parents or guardian(s).
- *Certificates of nationality* may be applied for by anyone.
- For *identity cards*, 16 is the minimum age. In order to obtain them, on reaching that age, it is necessary to report to a special issuing office (coming under the above Directorate at the Ministry of the Interior) and supply passport photographs, a birth certificate and a certificate of nationality.

All employees in Sudan, including those working for private-sector businesses, also require an *employment card*. Such cards are issued by the appropriate Ministry for the occupation in question. Employment cards also serve as identity papers, in addition to the above identity card.



*Exit visas* are officially issued by the Immigration and Nationality Directorate at the Ministry of the Interior. In practice the head of the GS/SR gives the immigration authorities instructions regarding the issue of exit visas. Police officers and doctors are not generally allowed to leave the country. Those categories of Sudanese are therefore not issued exit visas.

#### *Airport checks*

Checks at the airport are effective. Anyone wishing to leave the country by air is included on a list drawn up by the airline in question. The list is supplied to the (civil) aviation authorities, the immigration authorities, the airport security service and the captain of the aircraft.

The security service has lists of people not allowed to leave the country. These are sometimes out of date. The security service applies the lists meticulously and in some cases for personal financial gain. It has to be considered virtually impossible for anyone to leave Sudan via the airport without the assistance of (senior) security officers, unless in possession of a passport containing an exit visa (although these may be forged).

Women travelling abroad generally have to be accompanied by, or obtain the consent of, their husband or father or a male relative (the "*mahram*").

Sudanese returning from abroad almost always undergo the following procedure. A registration form has to be filled in, the passport is stamped, a declaration form has to be completed for foreign exchange brought into Sudan and luggage is checked for any unauthorised items, such as alcohol or seditious literature. In addition to that normal procedure, in some cases members of the security services question arriving Sudanese more closely about their stay abroad. Length of stay abroad is not the sole factor determining whether people are questioned. Another important factor, to the best of our knowledge, is the overseas destination. If the place visited was Addis Ababa, Asmara, Cairo, London or Nairobi, the chances of more thorough inspection of luggage and of being questioned are greater than for other destinations. There are quite a large number of Sudanese involved in the opposition living in those cities.

(See also "Consequences of applying for asylum abroad" below)

*Unauthorised absence from the country* <sup>(24)</sup>

To the best of our knowledge, there are no legal provisions in Sudan making it a punishable offence to leave the country without authorisation or return to it after the end of the permitted period.

*Consequences of applying for asylum abroad*

The Sudanese authorities take a dim view of applying for asylum because, as their reasoning goes, applicants have thereby distanced themselves from the government.

The knowledge that returning Sudanese have submitted asylum applications is therefore another factor which may induce the Sudanese authorities to have them questioned. In order to ascertain to what extent returning Sudanese are in fact engaged in opposition or have been engaged in it abroad and/or by way of intimidation, returning Sudanese known by the Sudanese authorities to have applied for asylum may be required to report to the authorities for a set period, which may involve insinuating or offensive questioning.

### 3.2.5. Judicial process

The judiciary in Sudan is not independent and is largely subservient to the government.

Officially, parties are entitled to legal counsel in proceedings before civil and *Sharia* courts, but not before public order courts, customary law courts and military courts (see Annex II). In the latter courts, lawyers may only sit in and listen. In criminal cases, defendants unable to afford counsel are assigned one. Some detainees and some cases (security matters) are never brought before a court of law. Parties involved in substantial civil cases brought before provincial courts may petition as a pauper so as to avoid having to pay the costs of proceedings and legal fees.

### 3.2.6. Arrest and detention

Under the National Security Act, people may be detained for up to 72 hours. However, that period may be extended by one month. Under Decree II, it is possible

---

<sup>(24)</sup> Where anyone has left the country without the necessary permission from the authorities or overstays the permitted period abroad.

on national security grounds to extend detention for up to three months by a further three months. The public prosecutor and the magistrate may overturn the extension. In April 1992 the RCC announced that people would in future only be detained by virtue of a court order or judgment.

Human Rights Watch/Africa states in the publication "Behind the Red Line" (May 1996) that a new National Security Act was introduced in 1995, but is classified as top secret by the authorities. That legislation, in particular sections 36 and 37, applies the same periods of detention as above. It does, though, state that detention has to be ordered by the National Security Council, consisting of the country's President, the Security Adviser, the Speaker of Parliament, the Ministers for the Interior, for Foreign Affairs, for Defence and for Justice, the Attorney-General and the heads of the internal and external sections of National Security. The legislation is said also to stipulate that extension of detention for two three-month periods is only possible with the consent of the magistrate having jurisdiction (a Supreme Court judge designated for the purpose by the Chief Justice).

Arbitrary arrests and detention are commonplace. Section 66 (1992 penal code) on "spreading of false information", in particular, is used for the purpose. Supporters of (illegal) political parties, trade union officials, human rights campaigners, lawyers and (alleged) SPLM/SPLA supporters feature among the potential victims. They may disappear for a while in "ghost houses" (see also under that heading) run by the security services and are also harassed in other ways by the latter. Arbitrary arrest and detention of (alleged) opponents is not confined to government-held territory. The resistance movements are also guilty of it.

Most of the prominent political activists arrested in January 1997 were released that May. To the best of our knowledge, a number of student leaders and people accused of collaborating with resistance movements are currently still being held.

There are instances of people being arrested on account of their family relationship with a detainee.

Intimidation by the security services is also commonly practised. In that event, people are not arrested or questioned, but required to report to the relevant security service daily for a period of a few weeks.

#### *Detention conditions*

The main prison at which political prisoners are held, including those sentenced to imprisonment for participation in an attempted coup, is Khartoum North Central Prison, also known as "Kober Prison" (currently holding about 1 000 detainees). The municipal prison in Juba (Equatoria state), known as the "White House" (holding about 400 detainees, none of whom are political prisoners, since those are held in Khartoum), is another notorious detention centre. Living conditions in Kober Prison and in Juba are not good by European standards but, to the best of our knowledge, the ban on torture is observed in them. There are also many detention centres run by the army and the security services. In them, imprisonment without charge and torture are commonplace.

*Ghost houses* are unofficial places of detention, not subject to any supervision (by the judiciary or otherwise). The time spent there, mostly to intimidate (alleged) political opponents, ranges from a few days to three weeks. There are a few known cases of longer periods. Detainees are subjected to psychological and physical maltreatment or torture. As a result of armed operations in the east of Sudan, there was a noticeable increase in the use of such detention centres in the first half of 1997. Once the government had the situation more under control later that year, their use generally declined again.

#### *Release*

A close watch is kept on warders at detention centres. It is nevertheless not impossible for detainees, held at official detention centres or ghost houses, to be released as a result of surreptitious intervention by senior security service officers. Detainees may also be released upon converting to Islam. Release on bail is possible in Sudan.

### **3.2.7. Maltreatment and torture**

Opponents of the regime may face torture and/or other forms of inhuman treatment or punishment. Both official and unofficial security agencies practise them. In March 1997 the UN special rapporteur, Gáspár Biró, described the practice of torture in Sudan as a fairly widespread problem. The president of Ahlia University students' union, Magdi Hassan, was one of the victims that month. In May 1997 released political prisoners stated that fellow prisoners, including students, had been

maltreated. In early December 1997 security forces cracked down on a group of about 40 women seeking to hand in a note protesting at the lowering of the national service age for boys, at a UNDP office in Khartoum.

It is noticeable that, whereas for years torture went unpunished in Sudan, in 1997 a number of cases came to light in which the culprits were disciplined. In one case the security officer found guilty was even sentenced to death.

### 3.2.8. Disappearances and exile

To the best of our knowledge, the Sudanese authorities do not use exile as a means of ridding themselves of political opponents. Some prominent political leaders are known to have gone into exile themselves, including the former prime minister, Al-Mahdi.

There are persistent reports of people suspected of assisting a resistance movement, in government-held areas in the south or in the Nuba Mountains, being arrested by the authorities and in some cases then disappearing <sup>(25)</sup> (see also section 3.2.9, under "slavery").

### 3.2.9. Right to life, liberty and personal inviolability

#### *Death penalty*

The following offences carry the death penalty in Sudan:

- offences against the State, such as conspiracy, warfare against the State and treason;
- murder, to which Islamic law may also be applicable;
- offences under the *hudud*: adultery, apostasy from Islam, robbery (*hiriba*), a third conviction for (male) homosexuality and a third conviction for organising prostitution <sup>(26)</sup>;
- desertion (see section 3.2.4);
- mutiny.

---

<sup>(25)</sup> Source: US Department of State, Sudan Country Report on Human Rights Practices for 1997, 30 January 1998.

<sup>(26)</sup> Article 155 of the 1991 penal code imposes the death penalty for "the third-time offence of running a place of prostitution". Article 154 establishes the charge of "practising prostitution", for which the death penalty is not laid down.

Sentences of death by hanging for murder or armed robbery are commonly carried out, but do not receive any publicity. To the best of our knowledge, since 1992, death sentences imposed for other offences have not been enforced. The death sentence is imposed for apostasy only if converts/apostates make public their conversion. To the best of our knowledge, however, under internal instructions from the Ministry of Justice, the sentence has not been enforced since 1994, presumably for political reasons.

Owing to the evidential requirement of four male witnesses for a conviction, hardly anyone is convicted of adultery. There is one known case of a married, non-Muslim Nuba woman being sentenced to death by stoning for adultery. To the best of our knowledge, the sentence has not been carried out. There are a few known cases of crucifixion following execution for robberies involving murder.

During the first year after the June 1989 coup, three Sudanese were executed for possession of foreign exchange. Since March 1992, possession of foreign exchange has no longer been a criminal offence.

We are unable to confirm a report <sup>(27)</sup> that eleven officers, forming part of a group of about 25 or 30 arrested in Port Sudan, were executed on 18 August 1996 on charges of conspiracy.

It is a known fact that resistance movements carry out political and other extrajudicial killings. The US State Department refers in its country report for 1997 to murders of prominent government officials carried out in January near the Ethiopian border. However, practically no details of such murders are available. In offensives by government troops and resistance movements against one another, it is also common for members of the public to be killed.

#### *Slavery*

According to reliable reports <sup>(28)</sup>, although banned by law, forms of slavery are met with in Sudan. In particular, in the border region of western Sudan, some nomadic

---

<sup>(27)</sup> Source: Amnesty International, the Netherlands, letter of 20 September 1996 to the State Secretary, ref. 154/nano1/76/mm, p. 9.

<sup>(28)</sup> See, inter alia, Human rights Watch/Africa, Human Rights Watch Children's Rights Project, Children of Sudan, Slaves, Street Children and Child Soldiers, September 1995.

region of western Sudan, some nomadic and sedentary population groups reportedly launch raids on one another, carrying off women and children later held in part as security for observance of peace agreements. The SPAF, PDF and government-backed militias are also reportedly sometimes involved in the abduction of members of the public from war zones in the south and the Nuba Mountains for the purpose of forcing them to work unpaid in the north <sup>(29)</sup>.

Although the central government officially condemns such archaic practices, little seems to be done in practice to combat them. In a number of cases, on the other hand, measures taken by local authorities have proved successful.

In response to a 1995 UN Resolution, the Sudanese authorities set up a Special Commission to Investigate Slavery and Disappearance in May 1996. The tasks assigned it included investigating whether Nuba children were being forced to work unpaid for military officers. In an interim report issued in June 1997, the Commission found this not to be the case. Staff in the service of soldiers and other public officials were said to be paid in accordance with normal standards. (See also sections 3.3.1 and 3.3.2)

### 3.2.10. Right to education

The 1962 Education Act was replaced in 1992 by the Organisation of General Education Act. The latter legislation deals with the Arabisation (and Islamisation) of education and makes Arabic compulsory as the language of tuition.

Christian schools also give tuition in the Christian religion. In the south, state schools as a rule teach both Christianity and Islam.

Tuition in local languages is officially permitted, but in practice given mainly after normal school hours. To the best of our knowledge, teachers giving tuition in their local language are not persecuted by the authorities. English, the common language in southern Sudan since 1973, is not taught until the last three years of primary education.

Southern schoolchildren not growing up in an Arabic-speaking environment tend to lag behind in their education.

---

<sup>(29)</sup> Source: US Department of State, Sudan Country Report on Human Rights Practices for 1997, 30 January 1998.

There is no academic freedom in Sudan. The government applies political criteria in appointing new staff to educational institutions.

State universities and most privately run universities, closed down in January 1997 following violent students protests, reopened that October.

### **3.3. Position of specific groups**

#### **3.3.1. Women**

The Sudanese Women's Union, established in 1952, played a pioneering role in improving the lot of women in Sudan. Following independence, it worked for women's right to vote and stand for election, their right to take employment, their right to equal pay etc. Over the years, various women's movements have sprung up and been disbanded again, depending on the political situation. The present Women's Union dates back to 1991.

Since the change of power in 1989, women's position has deteriorated as a result of the enforcement of Islamic law. Women have faded into the background in public life. Many well-educated women have lost both their jobs and their freedom of movement. A strict code of dress and behaviour has been introduced for women in educational and public (or semi-public) institutions. On the one hand, many women in Sudan can be seen to suffer intimidation and injustices. On the other, there are a group of women fanatically involved in the Popular Defence Forces.

Since the March 1996 elections, the 400-member parliament includes 25 women MPs. One of them was directly elected, the others being appointees. There is one woman minister in the present government <sup>(30)</sup>.

Female circumcision has been common among Muslim women in Sudan down the ages. The government regards female circumcision as un-Islamic, however, and supports efforts to discourage that widespread practice in the country.

All parties involved in the military conflict in Sudan are guilty

---

<sup>(30)</sup> Since early March 1998 it has been the southerner, Agnes Lukudu, who holds the manpower portfolio.  
Source: reported by Associated Press on 9 March 1998.



of raping women. The victims are mainly displaced women from the south. The Sudanese authorities are not pursuing any active policy to prevent violence against women.

### 3.3.2. Children

Children in Sudan are frequently victims of human rights violations and the civil war.

Large numbers of children live on the streets, especially in major urban centres in northern Sudan. Street children risk being picked up by the police and then housed in special camps for them outside the urban area, camps which they are not allowed to leave. The government claims that this is done to prevent vagrancy, provide shelter and education, and feed and clothe children. Arabisation and Islamisation are practised in the camps. There is evidence that the children (or some of them) also have to follow a form of military training, so that they can be deployed in (PDF) combat operations in the south. Living conditions in the camps are wretched. Visits to them are seldom permitted. Children are only occasionally reunited with their families.

Following protest demonstrations in September 1995, to the best of our knowledge, 150 to 200 children were arrested, temporarily held at Kober Prison and then housed in one of the camps. In the summer of 1996, too, hundreds of children were seized.

During military operations in war zones, children are also sometimes separated from their parents. There is some evidence of children being taken to western and northern Sudan, there to be put to work in the households of soldiers, in particular, or forced to work as herdsmen or serve as concubines.

There are also special camps in war zones for (non-Muslim) children, where they have to follow tuition in Arabic and the Koran as well as military training. The camps are run by the PDF.

The other parties involved in the conflict in Sudan are also guilty of infringing children's rights, there being some evidence, for instance, of the SPLA and the SSIM recruiting young children, holding on to them and deploying them in action.

### 3.3.3. Conscripts and members of the armed forces

#### *Legislation*

In Sudan, compulsory military or other service is imposed by the 1992 National Service Act (NSA), which came into force in August that year in place of the 1989 National Compulsory Service Act. The new legislation, applicable in both northern and southern Sudan, requires every Sudanese aged over 18 and under 33 to perform national service (see under "recent developments"). After about six months' basic training, those on national service may be assigned to the army (SPAF), the police and other law enforcement agencies, public services or public development projects.

National service does not allow those performing it any choice as to where they serve. If they are assigned to the army, it will often be in an administrative post and not usually on active service (general combat duties, commonly known as serving at the front). Professionals (such as doctors) are offered two or three alternative places of employment. Those without any such specialist training have to accept the place of employment given them.

Under the legislation, those called up for national service may not follow any course of education, take up or remain in a job, practise a profession or leave the country, without the authorities' express approval.

Although the legislation does not say as much, national service is not applicable to women. They may, though, enlist voluntarily.

#### *Call-up procedure*

If the authorities are aware of the correct address of those to be called up, they may be sent or handed a "recruitment memo", telling them where and when to report. Calls to report for national service are also regularly issued in the mass media. Those called up have to report to the regional recruitment office. Once their identity has been checked, they are given a service identity card, showing the date from which they are to serve. With that card (or a certificate of exemption), it is possible to enrol for education, take paid employment or work in a self-employed capacity.

### *Length*

As a rule, national service lasts for 24 months. For those who have completed a course at a university, higher education college or similar institution the period to be served is 12 months and for those who have completed secondary education or the equivalent it is 18 months.

Although national service lasts in principle for up to two years, conscripts involved in action cannot take it for granted that they will be discharged at the end of that time. As a rule, they will have to stay until their army unit is withdrawn.

### *Recent developments*

In the spring of 1995, the government raised the age limit. Since then, all those born in or after 1958 have been required to perform national service. The set minimum age of 18 was also departed from. As from the summer of 1997, national service has to be performed upon leaving secondary school, provided school leavers are aged at least 16 at the time.

In order for as many boys eligible for national service as possible to be enlisted, secondary school examination results are now announced by the military authorities at the barracks. Those wishing to find out their results or receive a certificate have to report to the barracks in person.

We are unaware whether those Sudanese without any education or with only a lower level of education do not become conscriptable until they reach the age of 18.

The army is reportedly less interested in that category at present.

Under pressure from public opinion, the Sudanese authorities had to adjust their tougher line somewhat in the spring of 1998. School pupils holding a secondary education certificate who qualify for a place at university may begin such a course in September 1998 without having completed their national service. They are merely expected to have performed an initial period (at least three months) of it. The remainder can be completed after the course and/or during vacations. This change has made any lengthy period at the front unlikely at present for that category of conscripts.

Possibly owing to a shortage of recruits, deployment at the front of army units stationed in non-war zones increased as from the autumn of 1996. This made it possible for conscripts assigned to those units to be deployed in action (see under "evasion of national service"). Despite this development, up until recently

only an estimated 10% to 15% of conscripted soldiers actually found themselves engaged in combat. The others performed a variety of supporting duties. Since a cease-fire was declared in southern Sudan (administratively speaking) in late July/early August 1998, that percentage has of course fallen.

Starting in late 1996, checks were introduced in Khartoum for the specific purpose of rounding up people of national service age (unless granted deferment) and taking them off to a training camp. Operations of that kind ceased to be observed or reported as from October 1997. In March 1998, however, such checks resumed in Khartoum and its immediate environs.

The Sudanese government claims that trainee conscripts are not deployed at the front against their will, but they are in many cases stationed in the south (administratively speaking), since that is where the most suitable training facilities are located.

#### *Exemption/deferment*

National service requirements are waived for members of the police force and other law enforcement agencies (including those undergoing officer training for them). Permanent exemption from national service is granted to those failing to meet medical fitness requirements. Those with a (minor) disability are sometimes not exempted, but assigned administrative duties.

The legislation does not allow any exemption on grounds of conscientious objection. Deferment of national service may, under the legislation, be granted to breadwinners, to students and school pupils and to essential public office-holders. School pupils and students are not in practice exempted as breadwinners since, as the reasoning goes, those in education are not and cannot be breadwinners.

#### *Evasion of national service*

Under section 28 (1992 NSA), evasion of national service is punishable by a fine and/or imprisonment for from two to three years. To the best of our knowledge, such prison sentences are in practice not usually enforced. Evaders are mostly placed in training straight away. As far as we have been able to establish, placement policy makes no distinction between those who have reported for their national service and those who have attempted to evade it.

The NSA contains no provisions invocable by conscripts to avoid being deployed

in action. The military code does contain such provisions. Where a conscript can show that he is an only son or has two brothers already deployed in action or that his father was killed in action, he is entitled not to be deployed in action.

Failure to obey a call-up, whether issued via the mass media or in a recruitment memo, is regarded as evasion of national service.

Evasion of national service is not deemed to be desertion. Sentencing is therefore different in scale. Evasion of national service is dealt with by the non-military courts (public order courts). Once in the army, conscripts are subject to military disciplinary law.

#### *Desertion*

Evasion of national service is an offence under Sudanese law, dealt with by the non-military courts.

While on national service, conscripts are governed by military disciplinary law.

Under such law, in time of war both a deserting conscript and a deserting regular soldier may face the death penalty. In peacetime, for a conscript, desertion carries a prison sentence of from two to three years and, for a regular soldier, a prison sentence of up to ten years.

Officially, Sudan is not at war with any foreign power. There is an internal conflict being fought out in parts of the country. In theory, a state of emergency is currently in force throughout Sudan. Actual application of military disciplinary law may vary from one area to another, however, depending on operations engaged in within the area. A deserter at the front <sup>(31)</sup> automatically faces the death penalty; for a

---

<sup>(31)</sup> Since 4 August 1998 in practice only in a number of areas outside southern Sudan (administratively speaking), such as parts of the Nuba Mountains and in the region bordering on Eritrea and Ethiopia. In mid-September 1998 also parts of Equatoria.

conscript assigned to a unit not involved in action, a prison sentence is more likely <sup>(32)</sup>.

### 3.4. Internal resettlement alternative

Sudanese facing persecutory action by the authorities in government-held territory cannot generally escape it by resettling elsewhere in Sudan. The organisation of the security services is such that they must be considered capable of taking persecutory action throughout government-controlled territory. Areas controlled by resistance movements, lying mainly in southern Sudan (administratively speaking), do not provide a suitable alternative. The situation in those areas is generally unstable. They are also difficult to reach from the north.

Members of non-Arab southern population groups, such as the Nuer, Dinka, Shilluk and Bari, facing persecution by one or more rebel groups and/or hostilities in rebel-held areas cannot generally escape them by resettling elsewhere in Sudan either. In any other parts of Sudan in which they might be able to settle, they may face persecution by the Sudanese authorities, since their ethnic origin may cause them to be suspected of supporting or working for one or more rebel groups. This no longer applies, however, to members of the resistance groups (apart from Bol's GANTRY) which entered into a peace agreement with the government in 1997, such as Machar's SSIM/A, Akol's SPLA-United and the factions coming together in the UDSF. They generally no longer run any risk of persecution by the Sudanese authorities on account of their membership of or support for those movements. In areas controlled by a rebel faction other than the one persecuting them, such people also run a similar risk, because of their ethnic origin, since many rebel factions also clash with one another along tribal lines.

---

<sup>(32)</sup> On 2 April 1998 a few hundred recruits escaped from a training camp near Khartoum. To the best of our knowledge, over 50 boys died in the incident. The authorities claim that the boys drowned when the boat in which they were trying to cross the river sank. It is rumoured that over a hundred boys were shot down. The authorities promised to open an inquiry into the incident. Its findings have not up to now been made public.

Members of the Nuba population group, mostly also from an area (the Nuba Mountains, situated in northern Sudan, administratively speaking) in which hostilities are still common, have no suitable resettlement alternative in Sudan either, for similar reasons.

### 3.5. Summing up and conclusions

While the human rights situation in Sudan initially seemed to be deteriorating in 1997 as a result of NDA military operations in the east and the authorities' nervous reaction to them, there was some, albeit limited, positive movement during that year. The government fleshed out a previously agreed peace settlement with a number of southern resistance movements and agreed on arrangements for a number of basic human rights subsequently enshrined in a new constitution in June 1998. It also at an IGAD meeting accepted the 1994 declaration of principles as a basis for further peace negotiations and in mid-July 1998 followed in the SPLA's footsteps in announcing a cease-fire (in part).

It is not yet clear at present to what extent the provisions of the main agreement of 21 April 1997 and the new constitution are being put into practice. They do at any rate seem to be having some positive effects: the cease-fire announced in mid-July 1998, the release of most of the political prisoners arrested early in 1997, some greater freedom of the press, initial steps to punish those guilty of torture and a dialogue with the UN High Commissioner for Human Rights on technical assistance with human rights policy.

These developments, however, are not as yet such that the human rights situation is no longer to be regarded as giving cause for concern. Infringements of civil and political rights by the authorities (the army, the police, the security services and militias) and by the various resistance movements are still taking place, sometimes in serious fashion.

Especially in the war zones in southern Sudan, the Nuba Mountains and the region bordering on Eritrea and Ethiopia, the seriousness and frequency of human rights violations, the degree of arbitrariness and the incidence of such violations throughout those areas render the situation unstable.

There is no evidence of people being persecuted *solely* on account of their race, religion, political beliefs or nationality. Personal freedom and freedom of association, assembly, witness and movement, however, are generally still being restricted by the Sudanese government. Those who, in the authorities' view, adopt too high a profile in religious matters and/or in favour of the northern or southern opposition may face persecution.

Discrimination and violence against women and abusive practices involving children are still taking place.

Freedom of the press has increased somewhat since May 1997, but journalists generally still consider it necessary to exercise self-censorship.

Government troops and/or security services as well as resistance movements are still responsible for forced labour, forms of slavery and enforced conscription. Deserters at the front may be sentenced to death.

In the light of the above, it seems fair to conclude that in Sudan's present human rights situation there may in individual cases be circumstances which could give rise to a well-founded fear of persecution.

The agents of persecution may be either the authorities (the army, the police, militias and the security services) or the various resistance movements.

There is not at present generally any suitable internal resettlement alternative.

*Specified vulnerable categories*

- (alleged) members and active supporters of resistance movements, apart from those movements party to the April/September 1997 peace agreement (see section 2.3.1);
- (alleged) members (officials) and active supporters of the former political parties (apart from the NIF), trade unions and other banned organisations;
- (prominent) intellectuals, student leaders, journalists, lawyers and human rights campaigners;
- non-Muslims taking a dissident political and religious and/or social line;
- women taking a dissident political and religious and/or social line;
- children (especially supposed street children and non-Arab children in southern Sudan and the Nuba Mountains);
- deserters in actual military action.



#### 4. Repatriation

##### 4.1. First host country

Sudan is a party to the 1951 Geneva Refugee Convention. There are an estimated 700 000 foreign refugees living in Sudan. Two thirds of them are from Eritrea and the remainder from Ethiopia, the Democratic Republic of the Congo, the Central African Republic and Chad. About 148 000 refugees are living in camps where they receive UNHCR aid. Their standard of living, educational facilities and health care are above average for Sudan. The vast majority of refugees live in urban areas scattered throughout the country. Their standard of living matches that of the Sudanese population of the areas in which they live.

The Sudanese government works with the UNHCR and other aid agencies on reception facilities for refugees.

To the best of our knowledge, refugees are not forcibly removed. Maltreatment and arbitrary arrest of refugees do reportedly occur <sup>(33)</sup>.

##### 4.2. Other countries' policy

Enquiries for the period from 1 January 1996 to 1 September 1997 show that a number of the countries facing any sizeable influx of Sudanese asylum seekers (Belgium, Canada, France, Germany and Sweden) have expelled those of them whose applications had been finally rejected. The United Kingdom, also to be classed as a country with a significant influx, did not actually go ahead with expulsion, mainly for technical reasons.

The numbers of Sudanese actually expelled to Sudan during that period generally appear small <sup>(34)</sup>. One important reason for this is that the numbers of Sudanese

---

<sup>(33)</sup> Source: US Department of State, Sudan Country Report on Human Rights Practices for 1997, 30 January 1998.

<sup>(34)</sup> Over the period 1 January 1997 to 1 September 1997, France expelled nine Sudanese nationals to Sudan. Canada expelled ten finally rejected Sudanese asylum seekers to Sudan over the entire period. Over the period 1 January 1996 to 1 July 1997, Germany repatriated thirteen Sudanese living there illegally. Sweden expelled three finally rejected Sudanese asylum seekers over the entire period. Belgium and the United Kingdom did not expel any rejected Sudanese asylum seekers. Italy was unable to supply any figures.

asylum seekers whose applications had been finally rejected were fairly low <sup>(35)</sup>, with a considerable proportion having been successful and many still being involved in the asylum procedure. In addition, Sudanese embassies in the various countries often refuse to issue laissez-passers or other substitute travel documents. Language tests, checking of personal particulars and fingerprints apparently often showed people not to be of Sudanese nationality. Inability to locate those to be expelled seems also to have kept the numbers down.

Of the above countries, only Belgium draws any distinction between northern and southern Sudanese in its expulsion policy. For the other countries, the situation in Sudan is no reason to rule out expulsion of certain categories of rejected Sudanese asylum seekers, e.g. on account of their ethnic origin.

Scheduled flights are generally used for expulsion purposes.

None of the above countries has any evidence of those expelled having experienced any difficulties with the Sudanese authorities, save as mentioned in section 3.2.6, on returning to Sudan (specifically Khartoum).

#### 4.3. UNHCR policy

The UNHCR takes the view that repatriation to Sudan of rejected Sudanese asylum seekers who have exhausted all remedies is in principle possible, provided assessment has regard to the specific circumstances and characteristics of the individual(s) concerned. In view of the civil war being waged mainly in southern Sudan (administratively speaking), the UNHCR advises against expelling rejected southern Sudanese asylum seekers. They may, on returning, be suspected of supporting the SPLA (see Annex VI).

The UNHCR has not seen any need to bring out a new official statement of its position since 15 August 1995. When questioned, it states that, in arriving at its opinion of the overall situation in the country, account has been taken of factors such as the seriousness of violations of physical integrity, the degree of arbitrariness

---

<sup>(35)</sup> This is due to a considerable percentage having been granted refugee status and to very many Sudanese asylum seekers not having completed the official procedure.

in the use of violence, the scale on which violence is used and the geographical incidence of violence.

#### 4.4. Checks at addresses and reception facilities for unaccompanied minors seeking asylum

There is very little scope for making checks at addresses in Sudan. Such checks can only be carried out with full details of the address. This means that asylum seekers should always be asked for the:

- name of the city, town or village;
- name of the district within it;
- name of the subdistrict;
- number of the block;
- number of the house.

(If possible, these should be given in Arabic).

If the address to be visited is in Khartoum (including northern Khartoum and Omdurman), the location of the address should be clearly shown on a copy of a plan of the (sub)district.

If the address to be visited is outside Khartoum and/or there is no plan available, asylum seekers should be asked to make a sketch of the surrounding area themselves (or have one made for them). That sketch should enable others to locate the address. The following should therefore be clearly stated or shown:

- names of the main streets in the district around the block in question (if possible, in Arabic);
- name of the street in which the building is situated (if possible, in Arabic);
- recognisable landmarks such as mosques, roundabouts, hotels, green spaces, bridges, markets, shops etc. (if possible, named in Arabic);
- situation of the building in relation to neighbouring buildings in the block;
- (where possible) neighbours' full names.

We do not as yet look for an alternative home if no check can be made or if a check does not reveal any relatives or acquaintances. Given the huge numbers of displaced persons (minors), especially in and around Khartoum, any such search seems doomed to failure from the outset.

## 5. Findings

Although there seem to be some positive developments under way in Sudan since 1997, the state of war and the human rights situation along with poor social and economic conditions in Sudan still mean that quite a large number of Sudanese are (or will be) leaving their country to build a better and safer life abroad.

The situation in Sudan is not such that repatriation of a Sudanese national whose application for admission as a refugee or issue of a residence permit on humanitarian grounds has been rejected after a thorough procedure can be assumed straight away to be unreasonable.

In the war zones, however, the seriousness and frequency of human rights violations, the degree of arbitrariness and the geographical incidence of such violations seem such as to call for considerable restraint as regards expulsion to those areas. To complete the picture, it should be noted that there is currently a cease-fire in force in parts of southern Sudan (administratively speaking).

Finally rejected asylum seekers known by the Sudanese authorities to have applied for political asylum abroad may, in addition to the usual checks at the border, have a reporting requirement imposed, as mentioned in section 3.2.8.

There is not generally in Sudan any suitable internal resettlement alternative.

When considering expulsion, in the light of the above, special restraint should be shown in the case of the following categories of finally rejected Sudanese asylum seekers:

- \* those who, since leaving Sudan, have expressly taken a leading role abroad (particularly in Addis Ababa, Asmara, Cairo, London and Nairobi) as opponents of the Sudanese regime and yet do not qualify as refugees. On returning, they risk being detained for (lengthy) questioning by the security services (which are also active abroad, especially in countries with Sudanese representations);

- \* members of non-Arab southern population groups such as the Nuer, Dinka, Shilluk and Bari [mostly from areas in the south of Sudan in which hostilities are common and from the area around Khartoum (squatters' settlements)]. Members of those population groups may be suspected of supporting or working for the SPLA.  
For the record, these categories of Sudanese should not include members or supporters of any of the resistance movements with which the central government now has a peace agreement <sup>(36)</sup>;
- \* members of the Nuba population group. They mostly also come from an area (the Nuba Mountains, in northern Sudan) in which hostilities are still common and may be suspected by the authorities of supporting or working for the SPLA.

For the Minister for Foreign Affairs

The Director for Movements of Persons, Migration and Consular Affairs

(s.) P.P. van Wulfften Palthe

---

<sup>(36)</sup> Namely Machar's SSIM/A, Akol's SPLA-United and the factions coming together in the UDSF.

## Sources consulted

### *Public*

- \* Africa Confidential
- \* Africa South of the Sahara, annual reports
- \* Africa Watch (Washington, New York and London)
- \* Amnesty International, international secretariat (London), various, including Urgent Actions
- \* Amnesty International, the Netherlands (Amsterdam), various, including annual reports
- \* ANP [a Netherlands press agency], Associated Press, Reuters etc.
- \* Economist Intelligence Unit (London)
- \* Human Rights Watch, including World Reports
- \* *Koninklijk Instituut voor de Tropen* [Netherlands Royal Tropical Institute]
- \* Minority Rights Group International
- \* Murdock, G.P., *Africa, Its Peoples and Their Culture History*, New York, 1959
- \* World Organisation against Torture
- \* Swengsbier, J., *Der Untergang der Nuba-Völker* [The Decline of the Nuba Peoples], publication date unknown
- \* UN High Commissioner for Refugees (UNHCR)
- \* UN human rights rapporteur, Gáspár Biró
- \* UN Security Council
- \* US Department of State, Country Reports on Human Rights Practices (Washington)
- \* *Vluchtelingenwerk* [Netherlands Refugee Council], country information

### *Confidential*

- \* Contacts via the Netherlands embassy in Khartoum
- \* Authorities of western countries, including Belgium, Canada, Denmark, France, Germany, Greece, Italy, Norway, Portugal, Sweden and the United Kingdom (embassies in Khartoum, capitals, EU consultations and CIREA in Brussels)
- \* UN High Commissioner for Refugees (UNHCR), Geneva and Khartoum

**ANNEX I**

From: Minority Rights Group International, Sudan: Conflict and Minorities, July 1995

## **SUDANESE COURTS**

### **Civil courts**

There are four tiers of civil courts: *district/magistrates' courts*, *provincial courts*, *courts of appeal* and the *Supreme Court*.

District courts hear civil cases and magistrates' courts criminal cases. By way of penalty, districts courts impose what are known as "remedies", such as damages for harm caused, specific performance (e.g. enforcement of contracts) and injunctions. Most civil cases brought before district courts are also finally disposed of there. Judges have to bear in mind the size of the claim and the attendant scale of penalty. Where these exceed the limits of their jurisdiction, they should refer the case to the immediately superior court, a provincial court.

Criminal cases brought before magistrates' courts generally involve less serious offences. Sentences imposable by a magistrate commonly include fines, short terms of imprisonment, flogging etc. More serious cases are referred to provincial courts (the general courts operating in the past having been abolished).

Whereas district or magistrates' courts have only one judge sitting, higher courts have three or more judges sitting.

In more serious cases heard by provincial courts, these may impose sentences such as fines, imprisonment, flogging, amputation of limbs and the death penalty. The latter penalty may be carried out by hanging, by stoning (in cases of adultery) or in the form of retaliation (*gsas*). This involves the penalty being carried out in the same way as the offence.

According to some legal scholars, anyone convicted of murder by armed assault may also be sentenced to crucifixion. This means that the accused is first put to death by hanging and then nailed to a cross (or stake) as a deterrent to the public. As stated earlier, apart from flogging, *hudud* penalties are, to the best of our knowledge, not enforced in Sudan.

Where a convicted person offers financial compensation and the injured party accepts it, the court has to go along with that mutually arranged settlement.

A death sentence, or also a sentence of life imprisonment, imposed by a provincial court has always to be upheld by the Supreme Court, which then makes a recommendation to the



country's President, by whom the sentence has to be confirmed. Even where it considers the procedures followed and the judgment themselves to be correct, the Supreme Court may advise against enforcing the death penalty.

All places of any size have district courts and/or provincial courts. Each of the previous nine constituent states had a court of appeal. Since the number of states was expanded to 26, this is no longer the case. Many states have no court of appeal. In that event, cases may be referred to a court of appeal in another state.

#### *Scope for appeals*

Rulings by provincial courts can generally be appealed against to a court of appeal and ultimately to the Supreme Court.

The Supreme Court is composed of a number of divisions dealing with cases referred by civil and religious courts (they cannot be referred by customary law courts). In criminal cases the Supreme Court acts as an appellate body. Cases in which the death penalty is imposed also have to be confirmed by the Supreme Court. The Supreme Court may in addition of its own accord review criminal cases as to the procedure followed and order a retrial.

In civil cases the Supreme Court acts as an appellate body.

The Supreme Court rules on constitutional matters as a first-tier court.

All Supreme Court judges used to be legally trained, but nowadays the Supreme Court also has *Sharia* judges on the bench. The Chief Justice does need to have an all-round legal training.

The Supreme Court consists of 87 judges, including three southerners and three women.

#### ***Sharia courts***

The structure of religious or *Sharia* courts is the same as for civil courts. The main difference is that *Sharia* courts only hear civil cases. At first they only dealt with disputes involving family matters and inheritance, but as a result of the Civil Transaction Act (1983), superseding the Civil Justice Ordinance (1925), the jurisdiction of the *Sharia* courts has been extended. Although *Sharia* courts primarily set out to settle disputes between Muslims, they may also be applied to by Christians and Jews. Where one of the parties is a non-Muslim,

he is entitled by law to decline to appear before a *Sharia* court, but in practice, partly as civil courts are thin on the ground, especially in the countryside, he will nevertheless be obliged to accept a *Sharia* court, a state of affairs regarded as discriminatory by southern Christians in particular.

### **Customary law courts**

The third and most commonly used courts are the customary law courts. They used to be known as *chiefs' courts* in the south of the country and *native courts* in the north. In the former it is chiefs and in the latter sheikhs who act as judges. The reason why customary law courts are so commonly used is that civil courts and *Sharia* courts are mainly to be found in larger places, whereas there are also customary law courts in smaller places and in the countryside. Customary law courts have been abolished in Khartoum. In addition, procedures before them are less formal, costs significantly lower and justice swifter. Judges have not been legally trained, but are laymen held in high esteem generally. The judges are prominent figures, tribal chiefs and sheikhs of good repute. They give judgment in accordance with traditional custom-based law, which, particularly in the Islamic north of the country, entails a considerable *Sharia* influence. Customary law courts originally heard only civil cases but, with the modernisation of the country and the accompanying greater influence of the authorities, criminal cases have also been referred to customary law courts. Unlike civil courts and *Sharia* courts, there is no appeal available to the Supreme Court. Customary law courts can impose all penalties imposable by civil courts, except the death penalty (which has to be confirmed by the Supreme Court and the country's President). The death penalty has in fact reportedly been imposed by customary law courts in some cases, although it should be noted that we have received no confirmation of this.

### **Special courts**

Special courts have responsibility in particular for offences punishable under *Sharia* law. Such courts are established by the Chief Justice. Rulings by such courts can in principle be appealed against to a court of appeal. Further appeal to the Supreme Court is possible only with leave from the Chief Justice, given at the request of those concerned.

### **Public order courts (and price courts)**

*Revolutionary courts* were established shortly after the seizure of power on 30 June 1989.

They were used to try offenders against the emergency legislation. Certain criminal offences such as endangering national security, high treason and unauthorised foreign-exchange dealing were removed from the jurisdiction of the ordinary judiciary and assigned to the newly established revolutionary courts. The judges were not always legally trained and meted out severe sentences, including the death penalty.

In 1991 revolutionary courts were replaced by *price courts* and *public order courts*. The last are also known as "*special security courts*". Since a new Chief Justice took office in 1994, price courts now exist only on paper. In practice, only public order courts currently operate. Judges, who have not always been legally trained, are appointed by a panel having close links with the NIF. Public order courts are usually staffed by young supporters of the regime and of NIF ideology. Such special courts have responsibility mainly for offences punishable under *Sharia* law. Matters dealt with include alcohol offences, unlawful occupation of another's property, breaches of the peace and acts counter to public health, such as eating meat from an animal not slaughtered in Islamic fashion. Legal proceedings are extremely summary and not recorded in writing. Public order (and price) courts are notorious for their severe sentences. In addition to fines, imprisonment and seizure of possessions, they also impose flogging. They are regarded as agencies of repression and intimidation. Public order (and price) courts are not allowed to impose the death penalty.

### **Military courts**

In the years following the seizure of power in June 1989, military courts were established on an ad hoc basis to try members of the armed forces and civilians accused of conspiracy against the regime. Trials before military courts are not held in public, nor is there a proper opportunity to put up a defence. Judgments are irreversible. Military courts are empowered to impose the death penalty for national security offences. Death sentences imposed in April 1990 and in July 1992, in connection with attempted coups, were immediately carried out.

## **SUDANESE POLITICAL PARTIES**

The main northern Islamic parties are:

- the *Umma Party* (UP), stemming from the Ansar religious and political movement, which regards the Mahdi and his descendants as being descended from the prophet. The leadership of the Umma Party is held by direct descendants of the *Mahdi*;
- the *Democratic Unionist Party* (DUP) (Al-Hizb Al-Dimuqratiyah Al-Ittihadi), established during the colonial era as the *National Union Party* (NUP) and stemming from the Khatmiya religious sect, which regards members of the El Mirghani family as being descended from the prophet;
- the *National Islamic Front* (NIF) (Al-Jabha Al-Islâmiya Al-Qawmiya), led by Dr Hassan El-Turabi. The NIF draws support from among the Muslim Brotherhood;
- the *Democratic Party* (DP), a breakaway party from the (Sudanese) Communist Party ((S)CP), having close links with the paramilitary movement of Abdel Aziz Khaled in Eritrea;
- the *Democratic Union of Forces* (DUF), also a breakaway party from the (S)CP and also having close links with Abdel Aziz Khaled;
- the *Baath Party*, in part allied with Iraq and Syria.

Prior to 1971 the (*Sudanese*) *Communist Party* ((S)CP) was the main national party in Sudan.

The main southern non-Islamic parties still active are:

- the *Sudan People's Liberation Movement* (SPLM). Its military arm is the SPLA (see section 2.1.2). Breakaways from it include the SSIM/A factions of Machar, Kerubino Bol and Luk;
- the *People's Progressive Party* (PPP), which has or had links with the Umma Party and the NIF.

The PPP is a non-religious party with its base in Equatoria state. It seeks an autonomous status for Equatoria. The PPP therefore in the late 1970s supported Nimeiri's decision to divide the south into three separate provinces;

- the *United Democratic Salvation Front* (UDSF), a cooperation grouping formed in 1997 between half a dozen small factions which signed the April 1997 peace agreement. Participating factions include the *South Sudan Independents Group* (SSIG), led by Commander Kawac Makwei, the *Equatoria Defence Force* (EDF), led by Dr Thiopholus Ochang Loti, the *Union of Sudanese African Parties* (USAP), led by Samuel Aru Bol, and the *Bor Group*, led by Arok Thon Arok;
- the *Southern Sudan Political Association* (SSPA), drawing its support chiefly from among militant tribes in the Upper Nile and Bahr el-Ghazal states. The SSPA advocates southern unity, as under the 1972 Addis Ababa agreement. The party forms part of a cooperation grouping including the PPP under the name USAP.

The *Nahnu Kadougli* movement is active in Southern Kordofan (Nuba Mountains), being led by Josef Kowa Mekke. It champions Nuba rights.

So does the *Sudan National Party* (SNP), set up as a successor to the *General Union of Nuba* (GUN) in the mid-1980s by Pastor Philip Ghabbush. This movement cooperates closely with the USAP (sometimes acting under its umbrella).

The *National Democratic Alliance* (NDA) is a cooperation grouping of a number of Sudanese political parties, trade unions, officers' clubs etc., banned since 1989, which are opposed to Islamisation and to the military, undemocratic nature of the regime. Established on 1 October 1989 (in Cairo), it has since mid-1995 had its head office in Asmara (Eritrea). The NDA's membership includes the Umma Party, the DUP and the Sudanese Communist Party. The DUP's leader, Mohamed Osman El Mirghani, is head of the NDA. The Sudanese Alliance/Allied Forces (SAF) form the NDA's military movement. The SPLM is not officially a member, but does work with the NDA. The SSIM has been refused membership of the NDA because the movement cooperates with the authorities in Khartoum.

The political parties also have separately run **youth movements**. In addition there are young people's movements and student organisations closely involved with (one of the) political parties and primarily focusing on centres of learning. We are aware of the following movements: the *Ahfad University Southern Students' Association*, the *Juba University*

*Southern Students' Association* and the *Omdurman Ahlia University Southern Sudanese Students' Association*. We are not aware of any youth organisations politically active independently of political parties.

## **SECURITY SERVICES AND PARAMILITARY ORGANISATIONS**

### **- National Security (NS) or State Security (SS)**

*National Security (NS) or State Security (SS)* was established in President Nimeiri's time. Up until 1990, members of that security service were recruited from the regular army. After two years' security work they were offered the choice of either returning to the army or remaining in the security service. Since 1990, people from outside the army have also been recruited. NS/SS, which is a national and territorial defence force, was headed from 1990 to mid-1995 by an NIF ideologist, Nafie Ahmed Nafie, also brought in from outside. He had to resign on account of its (alleged) involvement in the assassination attempt on President Mubarak. NS/SS's internal section is now headed by an army officer, El Hadi Abdallah. The external section is headed by another army officer, Mohamed Ahmed Al-Dawi (not an out-and-out NIF member). That division reflects claims made by Human Rights Watch/Africa in the publication "Behind the Red Line" regarding the existence of a 1995 *National Security Act*, although the authorities have denied that there is any such legislation.

### **- Security of the Revolution (SR)**

*Security of the Revolution (SR)* is in practice an NIF security service and keeps watch on (supposed) political opponents of the government. It also keeps watch on the army and the police. SR reports to the NIF. Where this security service works with NS/SS, it is SR which prevails.

### **- Military Intelligence**

In addition to National Security and Security of the Revolution, there is also *Military Intelligence* operating in the military field.

### **- Popular Defence Force(s) (PDF)**

#### *General points*

The comments made in section 2.2.3 with regard to the People's Police Force are also applicable mutatis mutandis to the *Popular Defence Force(s) (PDF)*.

The PDF was set up in 1989, officially to train members of the public so that they could assist the army in defending the country and in an emergency. Such training is also used to induct trainees in the set of ideas and world view adhered to by the NIF and to identify (potential) loyal NIF supporters for full membership of the PDF.

The PDF can be seen as a shadow army, made up mostly of red-hot NIF supporters, and as a pool of resources for the ranks of the regular army, backing up the army in the war in the south, a war regarded by PDF members as a holy war or *jihad*. This does not mean that cooperation between the army and the PDF always passes off smoothly. The reasons for that include differences in professionalism and in ideology.

### *Participation*

The PDF is in principle an organisation made up of able-bodied volunteers of Sudanese nationality, aged over 16 (and under 55), whose conduct is above reproach. Calls to enlist in the PDF are made by the mass media from time to time.

It is "compulsory" for staff of public institutions (ministries, hospitals, educational institutions etc.) and for young people wishing to follow a university course to undergo about six weeks' paramilitary training. This applies to men and women alike.

Unlike the situation with national service, they cannot be compelled to take part in training. Refusal to do so, however, means that such employees are not considered for promotion and cannot claim accumulated pensions, for instance, and prospective students are not admitted to university. Participation in PDF training does not entail any subsequent obligation to join the PDF.

Those who join the PDF may, either of their own accord or upon request, also temporarily put themselves forward for military operations in the south of the country. Those who do not join the PDF can go about their ordinary business or make a start on their studies.

We are unable to confirm whether, after their PDF training, staff of public institutions and students are forced to take part in military operations in southern Sudan. Presumably, though, there is a great deal of social pressure brought to bear and not all trainees are clearly aware of their rights, including the right not to be sent to the war front.



The question of loyalty is one reason why in the south people face less pressure to participate in the PDF than they do in northern Sudan.

Once they have joined the PDF, people are subject to military disciplinary law.

We cannot rule out the possibility that, in frequent checks by PDF and PPF members in the city of Khartoum, people not in possession of an identity card (probably often economic migrants from rural areas, but also street children) are seized and taken to PDF camps, whence to be dispatched to the front in the south. In this way the authorities reportedly seek not only to ensure sufficient fresh troops for the PDF but also to maintain law and order in society. The fact that such goings on, which are completely illegal, can take place is partly attributable to those people, unlike the above staff of public institutions, often coming from more marginal backgrounds and, if aware of their rights at all, being unable to assert them.

- **Popular committees (PCs)**

The *popular committees* (PCs) do not constitute a security service or paramilitary organisation, but are often regarded as such on account of their collaboration with the regime.

**LIST OF HUMAN RIGHTS CONVENTIONS**

The main human rights conventions are listed below. Where Sudan is a party to the convention in question, its date of accession is shown. If Sudan is not a party, this is indicated.

(a) Slavery Convention, Geneva, 25 September 1926	15.9.1927
(b) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Geneva, 7 September 1956	9.9.1957
(c) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, New York, 10 December 1984	not a party
(d) Convention on the Rights of the Child, New York, 20 November 1989	3.8.1990
(e) Convention on the Elimination of All Forms of Discrimination against Women, New York, 18 December 1979	not a party
(f) International Convention on the Suppression and Punishment of the Crime of Apartheid, New York, 30 November 1973	21.3.1977
(g) International Covenant on Economic, Social and Cultural Rights, New York, 19 December 1966	18.3.1986
(h) International Covenant on Civil and Political Rights (ICCPR), New York, 19 December 1966	18.3.1986
(i) International Convention on the Elimination of All Forms of Racial Discrimination, New York, 7 March 1966	21.3.1977

- |   |                                       |
|---|---------------------------------------|
| (j) Convention on the Prevention and Punishment of the Crime of Genocide, New York, 9 December 1948   | not a party                           |
| (k) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, New York, 21 March 1950   | not a party                           |
| (l) Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, New York, 16 December 1968        | not a party                           |
| (m) Convention on the Political Rights of Women, New York, 31 March 1953  | not a party                           |
| (n) Convention relating to the Status of Stateless Persons, New York, 28 September 1954   | not a party                           |
| (o) Convention relating to the Status of Refugees, Geneva, 28 July 1951   | 22.2.1974                             |
| (p) International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, New York, 18 December 1990 | not a party                           |
| (q) Red Cross Conventions, Geneva, 12 August 1949   | party                                 |
| Additional Protocols, Geneva, 1977  | (precise date unknown)<br>not a party |

UNHCR position on return of rejected Sudanese asylum-seekers

UNHCR is not, in principle, opposed to the return of rejected asylum-seekers to the Sudan. However, whether such return can take place in safety and dignity would have to be assessed with reference to the particular context and depending on the ethnic and religious affiliation of the individual concerned as well as his or her area of origin. These elements are primarily pertinent to the examination of the claim to refugee status but may also be relevant for determining whether return of rejected Sudanese asylum-seekers can be considered safe.

For general information on the security and human rights situation in the Sudan, the Office refers to the reports of the Special Rapporteur on the Sudan of the UN Human Rights Commission, to Amnesty International's 1995 report on Sudan and to the European Parliament's Resolution of 13 July 1995 on Sudan.

However, in view of the relentless civil war which is being fought mainly in the South, UNHCR advises against any return of rejected Southern Sudanese asylum-seekers as they are likely to be at risk since they could be suspected of being SPLA supporters.

This risk is exacerbated by the existence of an administrative decree of 28 February 1993 issued to border entry points, which authorises the arrest of all returning Sudanese who left after the June 1989 coup and who have been away for more than a year. Such individuals are, according to the decree, subject to "investigations" and "necessary security measures". A copy of an unofficial translation of the decree is attached for your information.

It is not quite clear at this stage what the significance of the decree is in practice. As the practical implementation of the decree may obviously have a bearing on how the issue of safety, not to mention the validity of the claim to well-founded fear of persecution, upon return should be viewed, UNHCR is currently trying to obtain information which will clarify the matter. The Office will update this position if and when we obtain indications as to what the practice of the Sudanese authorities are in regard to the decree.

UNHCR, Geneva  
15 August 1995