

Submission to the Universal Periodic Review
by Minority Rights Group International
International Non-governmental Organisation
with ECOSOC Consultative Status

Sudan

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Introduction

This submission will be in two parts; a) concerns regarding the human rights record of the central government of Sudan, or Government of National Unity (GNU); and b) concerns regarding the Government of South Sudan, which has broad powers to govern the South of Sudan under an autonomy arrangement established by the Comprehensive Peace Agreement, signed in Naivasha, Kenya, in 2005. In line with the mandate of MRG, this submission will focus on the rights of minority and indigenous communities in Sudan.

MRG works to secure rights for ethnic, religious and linguistic minorities and indigenous people around the world. It has published “Why a minority rights approach to conflict? The case of Southern Sudan” (2008), “Minority Rights, Early Warning and Conflict Prevention: Lessons from Darfur” (2006), and “Sudan: Conflict and Minorities” (1995). MRG is currently working to promote the capacity of local NGOs to manage conflicts over land, water and cattle between ethnic groups in Jonglei State, South Sudan.

1) Government of National Unity

- Right to Life (Art. 3 UDHR, Art. 6 ICCPR; Art. 4, African Charter on Human and People's Rights (ACHPR))
- Freedom from torture or cruel, inhuman or degrading treatment or punishment (Art. 7 ICCPR, Art. 5 UDHR, Art. 5 ACHPR)

In 2010, the African Commission on Human and Peoples' Rights issued a decision in the case of Sudan Human Rights Organisation and Centre on Housing Rights and Evictions / The Sudan. The decision concerned a case brought with regard to violations committed against members of the Fur, Marsalit and Zaghawa ethnic groups in the Darfur region of Sudan, including arbitrary executions, cruel and inhuman treatment, rape, evictions, and destruction of water supplies.

“In the present Communication, the Respondent State and its agents, the Janjawid militia, actively participated in the forced eviction of the civilian population from their homes and villages. It failed to protect the victims against the said violations. The Respondent State, while fighting the armed groups, targeted the civilian population, as part of its counter insurgency strategy. In the opinion of the Commission this kind of treatment was cruel and inhuman and threatened the very essence of human dignity ... the African Commission finds that the Respondent State did not act diligently to protect the civilian population in Darfur against the violations perpetrated by its forces, or by third parties. It failed in its duty to provide immediate remedies to victims. The Commission therefore finds that the Respondent State violated Articles 4 and 5 of the African Charter.” (28th Activity Report of the African Commission on Human and People's Rights, paras 164 and 168).

Recommendation: the GNU should fully implement the decision of the African Commission on Human and People's Rights, including an effective official investigation of the abuses, reform of judicial frameworks, and establishment of a national reconciliation forum.

- Right to nationality (Art. 15 UDHR)

MRG registers grave concern at a statement by the Minister for Information of the GNU, broadcast by State media, that Sudanese originating from the South of the country would have no citizenship rights in the North if the South votes for independence in a referendum scheduled for January 2011 (“S. Sudanese risk citizen rights in vote – minister”, Reuters, 25/9/2010, <http://www.reuters.com/article/idUSTRE68O0P420100925>).

MRG asserts that this policy, if implemented, would violate Art. 15 of the Universal Declaration of Human Rights (UDHR), which states that “No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”. An estimated 1.5 million southerners live in Northern Sudan. Many were born in the North, or were displaced there by war as small children, and have no affective or practical connection to the South.

Recommendation: the GNU should refrain from any steps to deny citizenship to Southerners, in case of a vote in favour of independence by the South.

- Right to adequate food (Art. 11, ICESCR; Art. 25, UDHR)

As reported by the Special Rapporteur on the situation of Human Rights in the Sudan, the expulsion by the GNU of international non-governmental relief organisations from Darfur and closure of domestic relief organisations in March 2009 significantly impacted on the enjoyment of the right to food: “Reports were immediately received in Zam Zam IDP camp, North Darfur, of water shortages, delays in food distribution and lack of adequate medical services. In Kerenek, West Darfur, medical services, particularly reproductive health, were seriously affected and, as of May 2009, only one doctor was available to treat more than 35,000 beneficiaries. Difficulties in delivery of humanitarian assistance were also reported in Kalma IDP camp, South Darfur, and in Kass, West Darfur, where gaps were reported in the sectors of water and sanitation, and health services.” (Report to the Human Rights Council, June 2009, A/HRC/11/14). Subsequently, some of the expelled agencies were allowed to return.

Recommendation: the GNU should take all necessary steps to facilitate the legitimate activities of humanitarian agencies providing aid to war-affected communities in Darfur.

- Right to property (Art. 17 UDHR); right to adequate housing (Art. 11 ICESCR)

The Special Rapporteur on the situation of Human Rights in the Sudan has reported on the impact on local communities of the construction of the Merowe hydro-electric dam in Northern State. “The completion of the dam in July 2008 resulted in the forced evictions of at least 10,000 people of the Manasir ethnic community. The submersion of houses and agricultural land between July and September 2008 has created a situation where basic needs are not being met by authorities. The forced evictions will also have a long-term impact on the rights to housing, education, and health.” The Special Rapporteur also reported that the government had announced the establishment of a committee to decide on compensation for the displaced, together with an appeal mechanism. (Report to the Human Rights Council, June 2009, A/HRC/11/14, p. 10). However, to date, no information on this committee could be found.

Recommendation: the GNU should take steps to establish the promised compensation committee, in consultation with the local communities. The committee should be composed of independent individuals with relevant expertise, and its mandate and workings should be fully transparent. The decisions of the committee should be binding.

- Right to freedom of religion (Art. 18, ICCPR; Art. 18, UDHR)

Although the Comprehensive Peace Agreement decrees that legislative steps will be taken to ensure that shari'a will not apply to non-Muslims in Northern Sudan, the United States Commission on International Religious Freedom reports that “All Sudanese in the North, including Christians and followers of traditional African religions, are subject to shari'a” (Annual Report 2010, p. 141). The report goes on to state that “In the past year, under a 1991 “public order” law that prohibits acting in “a manner contrary to public morality, or wear[ing] an indecent or immoral dress, which causes annoyance to public feeling,” dozens of Muslim and Christian women and girls were flogged in

Khartoum for indecency. What specifically constitutes immoral dress is not defined and is left to the discretion of arresting officers and prosecuting judges ... In April 2010, during an election campaign rally, President al-Bashir stated that all persons selling and drinking alcohol would be flogged” (p. 142). In addition permits to build churches are “difficult to obtain” while in the case of mosques they are granted routinely; however the Commission does report some limited progress in this area. Proselytism for Islam is allowed, whereas in the case of other religions, it is prohibited (p. 142-143).

Recommendation: The GNU should enact legislation to guarantee full religious freedom rights to all in Northern Sudan, with particular mention of exemption from shari'a law of non-Muslims.

2) Government of South Sudan

- Right to Life (Art. 3 UDHR, Art. 6 ICCPR, Art. 4 African Charter on Human and People's Rights)
- Right to peace and security (Art. 23, African Charter on Human and Peoples' Rights)

The Special Rapporteur on the situation of Human Rights in the Sudan, in a report to the Human Rights Council in June 2009, stated that “In southern Sudan hundreds of civilians died during armed clashes and inter-tribal cattle raiding. Clashes in Jonglei State throughout March and April 2009 between the Lou Nuer of northern Jonglei and the Murle tribe from the east of the state resulted in several hundred civilian deaths. Local officials reported that more than 5,000 were displaced.” The Special Rapporteur stated that “State security forces should have played a more proactive role in protecting civilian life.” (A/HRC/11/14).

While it is clear that the state has responsibility to provide a secure environment, the Government of South Sudan has taken an inconsistent approach to the issue; “in attacks and counter-attacks among the Lou Nuer and Murle communities in Jonglei earlier this year, commanders ordered their forces not to intervene in civilian matters. That policy appears to have changed. In September the government deployed hundreds of additional soldiers to Jonglei state following a string of attacks there.” (“The Way Forward Ending Human Rights Abuses and Repression across Sudan”, Human Rights Watch, October 2009, p.21). The Sudan People's Liberation Army has also been accused of taking a differential approach to ethnic groups in pacification and disarmament exercises, intervening against specific ethnic groups in a more aggressive way, resulting in human rights abuses (“There is No Protection: Insecurity and Human Rights in Southern Sudan”, Human Rights Watch, pp. 25-26, October 2009).

Recommendation: the government of South Sudan (GoSS) should provide training on human rights for all members of security forces. Abuses by members of security forces should be fully investigated in accordance with international standards of due process. International donors should prioritise financial support and training for police and army in South Sudan. The UN Mission in Sudan should establish outposts in areas where tensions between ethnic groups have been identified.

- Right to adequate food (Art. 11, ICESCR; Art. 25, UDHR)

After 30 years of civil war, South Sudan is very far from being self-sufficient in food production. According to the Deputy Head of the United Nations Children’s Fund, speaking in November 2009, 1.2 million South Sudanese were in a “serious food insecurity situation” (“Famine and conflict risks confront South Sudan: UN”, 8/11/2009, Reliefweb <http://www.reliefweb.int/rw/rwb.nsf/db900sid/RMOI-7XLM3R?OpenDocument&RSS20&RSS20=FS>). Food production has been disrupted by inter-ethnic violence, and two years of poor or badly timed rains; the World Food Programme has organised air drops to isolated communities.

Within this context, it is of grave concern that the Government of South Sudan has signed a lease of

16,800 square kilometres of land in Jonglei State to a United Arab Emirates company, Al Ain National Wildlife. (“An Odd Deal over Land”, 9/7/2009, The Economist). The land, which could be used to grow food for local consumption, is to be used to build hotels and safari camps.

The arrangement also gives rise to concerns with regard to the right to property (Art. 17 UDHR); this vast tract of land is in an area which, like most of South Sudan, is inhabited by ethnic groups who, in many cases, exercise a collective, customary form of ownership of land, without formalised legal title.

Recommendation: The South Sudan Land Commission should fully investigate the Al Ain transaction, including an analysis of the ownership (either formal or customary) of the land concerned. Communities / individuals found to have been expropriated should be fully compensated with land of equal value. Negotiations with Al Ain should be held to explore possibilities for transferring some/all of the land to agriculture use, favouring crops for sale on the local market and employing local labour.

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