



## OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS



### Situation of human rights in the Sudan

#### Commission on Human Rights resolution 2002/16

*The Commission on Human Rights,*

*Reaffirming* that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments, and the duty to fulfil the obligations that they have undertaken under the various international instruments in this field,

*Mindful* that the Sudan is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and the Geneva Conventions of 12 August 1949 for the protection of victims of war,

*Recalling* previous resolutions of the General Assembly and the Commission on the situation of human rights in the Sudan, most recently Commission resolution 2001/18 of 20 April 2001, and taking note of Assembly resolution 56/175 of 19 December 2001,

*Expressing its firm belief* that progress towards a peaceful settlement of the conflict in southern Sudan will greatly contribute to the creation of a better environment for the respect of human rights in the Sudan, and convinced that all parties to the conflict must do their utmost to realize concrete steps for a comprehensive and lasting peaceful solution to the conflict,

*Expressing concern* about the human rights and humanitarian situation in the country and aware of the urgent need for the Government of the Sudan to implement effective additional measures in the field of human rights and humanitarian relief to protect the civilian population from the effects of armed conflict,

*Taking note* of Security Council resolution 1372 (2001) of 28 September 2001, in which the Council decided to terminate, with immediate effect, the measures referred to in paragraphs 3 and 4 of its resolution 1054 (1996) of 26 April 1996 and paragraph 3 of its resolution 1070 (1996) of 16 August 1996,

1. *Welcomes:*

(a) The interim report of the Special Rapporteur on the situation of human rights in the Sudan submitted to the General Assembly at its fifty-sixth session (A/56/336) and the report on the situation of human rights in the Sudan submitted to the Commission at its present session (E/CN.4/2002/46);

(b) The cooperation extended by the Government of the Sudan to the Special Rapporteur during his visits to the Sudan in October 2001 and February and March 2002, as well as the cooperation extended to other United Nations mandate holders in the field of human rights;

(c) The technical cooperation agreement signed on 29 March 2000 by the Government of the Sudan and the Office of the United Nations High Commissioner for Human Rights and the commencement of the programme of technical cooperation with government institutions and civil society organizations;

(d) The Peace Agreement for Sudan of 1997, the acceptance of the Declaration of Principles as a basis for negotiations, the declaration of the ceasefire agreement in the Nuba Mountains signed on 19 January 2002 by the Government of the Sudan and the Sudan People's Liberation Movement/Nuba, and the establishment of a Joint Military Commission and an International Monitoring Unit to implement and monitor the ceasefire, as well as the prohibition of laying of mines, demining of the area and free movement of civilians

and goods, including humanitarian assistance, and notes that the ceasefire is a part of wider efforts to improve the overall humanitarian situation in the Sudan and in the Nuba Mountains;

(e) The agreement between the Government of Sudan and the Sudan People's Liberation Movement to protect civilians and civilian facilities from military attacks, signed in Khartoum on 10 March 2002;

(f) The commitment of the Government of the Sudan to establish an advisory council for Christians and to appoint Christians to senior executive positions within the Ministry for Religious Affairs and to promote inter-religious dialogue;

(g) The Decree No. 14/2002 of 26 January 2002 of the President of the Republic of the Sudan re-establishing, and further empowering, the Committee for the Eradication of Abduction of Women and Children and the commitment of the Government of Sudan and the Sudan People's Liberation Army/Movement to support an international commission to review the phenomenon of abduction and propose constructive recommendations, as well as the cooperation extended to the Committee by the local communities and the support of the international community and non-governmental organizations;

(h) The cooperation extended by the Government of the Sudan and the Sudan People's Liberation Army/Movement to United Nations humanitarian agencies, including within the context of Operation Lifeline Sudan, to mitigate the effects of war on civilians, and their commitment to permit days and zones of tranquillity, and emphasizes the need to strengthen further the access for and the support to United Nations humanitarian agencies;

(i) The visit, upon the invitation of the Government of the Sudan, of the Representative of the Secretary-General on internally displaced persons, as well as the commitment of the Government to continue its efforts to address the problem of internally displaced persons and to follow up the visit of the Representative effectively, including by developing a comprehensive study with a view to elaborating a national policy on internal displacement and by holding a conference on the subject in the near future;

(j) The demobilization and repatriation of more than 3,500 child soldiers in close cooperation between the Sudan People's Liberation Army/Movement and the United Nations Children's Fund;

(k) The commitment of the Government of the Sudan to facilitate the establishment of an independent national commission on human rights, and urges the Government of the Sudan to fulfil its commitment;

(l) The steps taken by the Government of the Sudan towards the ratification of the 1999 Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (No. 182) of the International Labour Organization, as well as towards the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(m) The commitment made by the Government of the Sudan to embark on a programme of civic education in democracy and to create an inter-party liaison mechanism in order to foster further democratization, cooperation with and inclusion of opposition parties in the Government at both federal and state levels, and calls upon the Government of the Sudan to hold free and fair elections in the near future;

2. *Expresses its deep concern at:*

(a) The extension of the state of emergency until the end of 2002;

(b) The impact of the ongoing armed conflict on the situation of human rights and its adverse effect on the civilian population, in particular women and children, and at continuing serious violations of human rights, fundamental freedoms and international humanitarian law by all parties to the conflict, in particular:

(i) The occurrence, in particular within the framework of the conflict in southern Sudan, of the use of children as soldiers and combatants, forced conscription, forced displacement, arbitrary detention, torture and ill-treatment of civilians and summary and arbitrary executions, and at still-unresolved cases of enforced or involuntary disappearance;

(ii) The ongoing plight of internally displaced persons in the Sudan, in particular women and children, and their lack of access to protection and assistance, including in areas surrounding the oilfields, notes the invitation extended by the Government of the Sudan to the Special Rapporteur to visit the oil-producing areas and encourages the Government of the Sudan to facilitate the planned visit of the Senior Inter-Agency Network on Internal Displacement;

(iii) The abduction of women and children by Murahaleen groups and other government militias and their subjection to forced labour or similar conditions;

(iv) The negative role of undisciplined southern militias, armed by the Sudanese army and the Sudan People's Liberation Army/Movement, which are responsible for killings, torture, rape, abduction and the destruction of shelter and livelihood;

(v) The widespread and indiscriminate aerial bombardments and attacks by the Government of the Sudan, particularly bombings of schools and hospitals, churches, food distribution areas and marketplaces, and expresses deep concern about the recent attack by the Government against a United Nations food distribution centre in southern Sudan on 20 February 2002;

(vi) The use of civilian premises for military purposes, as well as the use of weapons, including landmines, and indiscriminate artillery shelling against the civilian population;

(vii) The measures taken by the leadership of the Sudan People's Liberation Army/Movement to prevent tribal elders, women and youths from participating in civil society gatherings such as the Nuer Conference held in Kisumu, Kenya, from 16 to 22 June 2001;

(c) Continuing violations of human rights in areas under the control of the Government of the Sudan, in particular:

(i) Restrictions on the freedoms of religion, association, assembly and expression;

(ii) The restriction of political freedom, in spite of the replacement, in March 2000, of the Political Associations Act of 1998 by the Associations and Political Parties Act, the prevention of opposition politicians' travelling outside the Sudan and the prohibition on some parties' holding public gatherings, particularly in the regions;

(iii) The arbitrary arrests and detention without trial, in particular of political opponents, human rights defenders and journalists, the lack of legal representation in many trials, the reactivation in 2001 of Special Summary Courts, which has led to the imposition of severe sentences in numerous cases, as well as the amendment to the National Security Forces Act that allows the renewal of temporary detention as a preventive measure, practically without limits, and the amendment to the Criminal Procedures Act giving the police unnecessarily increased powers;

(iv) The extent of the use of most cruel forms of corporal punishment in contravention of human rights norms and standards, as well as detention in precarious conditions, in particular by the security organs, intelligence agencies and the police, while encouraging the judiciary to exercise more control over such agencies;

(v) The discrimination against women and girls in law and in practice, including the widespread practice of female genital mutilation, the amended labour law that prevents women from working in public places the harassment of women by security forces and the deplorable conditions in women's prisons;

(vi) The use of the death penalty in disregard of the provisions of the International Covenant on Civil and Political Rights and United Nations safeguards;

3. *Urges* all parties to the continuing conflict in the Sudan:

(a) To respect and protect human rights and fundamental freedoms, to respect fully international humanitarian law, in particular the need to ensure the protection of civilians and civilian premises, thereby facilitating inter alia the voluntary return, repatriation and reintegration of refugees and internally displaced persons to their homes, and to ensure that those responsible for violations of human rights and international humanitarian law are brought to justice;

(b) To implement the Khartoum agreement to protect civilians and civilian facilities from military attacks and in particular the Government of the Sudan to cease immediately all indiscriminate aerial bombardments and attacks against the civilian population and civilian installations, including schools and hospitals, churches, food distribution areas and marketplaces, and the Sudan People's Liberation Army to abstain from misappropriating humanitarian assistance and diverting relief supplies, including food, from their civilian recipients;

(c) To stop the use of tribal militias that commit human rights abuses;

(d) To grant full, safe and unhindered access to all international agencies and humanitarian organizations in order to facilitate by all possible means the delivery of humanitarian assistance, in conformity with international humanitarian law, to all civilians in need of protection and assistance, to continue to cooperate with the Office for the Coordination of Humanitarian Affairs and Operation Lifeline Sudan to deliver such assistance, and to take measures against those who are responsible for abductions, harassment of and use of force against United Nations and humanitarian staff;

(e) Not to use or recruit children under the age of 18 as soldiers and to fulfil the commitments made concerning the protection of children affected by war, such as to cease the use of anti-personnel landmines and attacks on sites where there is usually a significant presence of children, as well as the abduction and exploitation of children, and encourages the process of demobilization of child soldiers currently being undertaken by the United Nations Children's Fund together with the Sudan People's Liberation Army/Movement;

(f) To allow an independent investigation of the condemned murder of four Sudanese nationals who were abducted on 18 February 1999 while travelling with a team from the International Committee of the Red Cross on a humanitarian mission and subsequently killed while in the custody of the Sudan People's Liberation Army/Movement and urges the Sudan People's Liberation Army/Movement to return their bodies to their families;

4. *Calls upon* the Government of the Sudan:

(a) To comply fully with its obligations under international human rights instruments to which the Sudan is a party and to promote and protect human rights and fundamental freedoms, as well as to respect its obligations under international humanitarian law;

(b) To take all effective measures, inter alia by ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to end and to prevent all acts of torture and cruel, inhumane and degrading treatment, including amputation, and to end the use of public order, special or other courts that apply such penalties;

(c) To sign and ratify the Convention on the Elimination of All Forms of Discrimination against Women and to take measures to ensure full and equal enjoyment by women and girls of their human rights;

(d) To ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction of 1997;

(e) To return to constitutional normality as quickly as possible and to undertake further efforts to promote an environment conducive to a genuine process of democratization that reflects the aspirations of the people and ensures their full participation, to ensuring the rule of law and to improvements in the field of human

rights by bringing legislation more into line with the Constitution and into conformity with the applicable international human rights instruments to which the Sudan is a party;

(f) To liberalize the system for maintaining public order, including abolishing the security of the community police and to continue its assimilation into a regular criminal justice system, bearing in mind the vulnerability and rights of the accused, particularly of displaced women, when applying the rule of law and sentencing, and to implement the Standard Minimum Rules for the Treatment of Prisoners;

(g) To ensure full respect for freedom of religion and, in this regard, to consult fully with religious leaders and other parties concerned when considering any new legislation on religious activities, to remove obstacles to the granting of permission for the construction of religious buildings, as well as to respect their sanctity and to resolve church property issues;

(h) To ensure full respect for the freedoms of opinion and expression, association and assembly, throughout the territory of the Sudan, as well as to implement fully existing legislation, including the appeals procedures, that safeguards human rights and democracy, in particular the Associations and Political Parties Act;

(i) To raise the age of criminal responsibility for children in order to take into account the observations of the Committee on the Rights of the Child;

(j) To ensure that capital punishment will not be imposed for crimes other than the most serious and will not be pronounced in disregard of the obligations assumed under the International Covenant on Civil and Political Rights and the provisions of United Nations safeguards;

(k) To reinforce the action undertaken to prevent and stop abductions of women and children taking place within the framework of the conflict in southern Sudan, to provide for appropriate punishment of any person not cooperating, to bring to justice the perpetrators who are not willing to cooperate, to facilitate the safe return of affected children to their families, to take further measures to eradicate the practice, in particular those cases connected with the passage of the government train through Bahr-al-Ghazal, and to implement the presidential decree ordering full cooperation with the Committee for the Eradication of Abduction of Women and Children and support more strongly and more effectively the work of the Committee, ensuring the appropriate funding, resources and staff for its activities;

(l) To call for an end to impunity for human rights violations and to try perpetrators in accordance with the rule of law, as well as to strengthen the role of the Advisory Council on Human Rights of the Sudan to investigate all reported human rights violations, including acts of torture;

(m) To create a legal framework facilitating the establishment of organizations in the field of human rights in order to put an end to the situation of insecurity, harassment, intimidation and prosecution that these organizations suffer at the hands of the security organs;

5. *Encourages* the Government of the Sudan to continue its cooperation with the United Nations in the field of human rights, through the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights and its expert in Khartoum entrusted with the task of advising the Government on the development of national capacity to promote and protect human rights;

6. *Calls upon* the international community:

(a) To expand its support for activities, in particular those of the Committee for the Eradication of Abduction of Women and Children, aimed at improving respect for human rights and humanitarian law;

(b) To consider how to expand the Office of the High Commissioner for Human Rights to include a monitoring role aimed at improving respect for human rights and humanitarian law;

7. *Decides*:

(a) To extend the mandate of the Special Rapporteur on the situation of human rights in the Sudan for a further year and requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-seventh session and to report to the Commission at its fifty-ninth session on the situation of human rights in the Sudan and to continue to keep a gender perspective in mind in the reporting process;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully.

*48th meeting*

*19 April 2002*

[Adopted by a recorded vote of 25 votes to 24, with 4 abstentions.

E/2002/23- E/CN.4/2002/200, see chap. IX.]