

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme & des Peuples</i>
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Thirty-Fifth Ordinary Session

21 May to 4 June 2004, in Banjul, The Gambia

Consideration of Reports Submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights

Concluding Observations and Recommendations on the Periodic Report of the Republic of Sudan

I- Introduction

1. These Concluding Observations follow from the presentation of the Periodic Report of the Republic of Sudan (Sudan), a State Party to the African Charter on Human and Peoples' Rights (the African Charter), having ratified it on 6 July 1986.
2. Sudan presented its initial report in April 1997 during the 21st Ordinary Session of the African Commission on Human and Peoples' Rights (the African Commission or the Commission). The present Periodic Report combines outstanding reports since 1999. It is accompanied with a number of important annexes from the Sudanese legislation relating to the institutional system, the judicial system and different texts concerning the promotion of human rights.
3. The present Periodic Report was submitted to the Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) on 22 May 2003 and was considered by the 35th Ordinary Session of the African Commission held in Banjul, The Gambia, from 21 May to 4 June 2004.

4. The present Periodic Report was presented by a Delegation led by Mr. Abdu Daim M. Zumrawi, Undersecretary in the Ministry of Justice of Sudan.
5. During the 35th Ordinary Session of the African Commission, the Delegation of Sudan submitted other documents updating the Periodic Report as well as a specific report on the situation in Darfur and the Government's efforts towards the socio-economic development of this region of Sudan.
6. These Concluding Observations give an account of the positive aspects identified in the Report as well as those factors restricting the enjoyment of the human and peoples' rights stipulated by the African Charter.
7. They also mention the concerns expressed with regard to the contents of the Report and the relevant recommendations made by the African Commission.

II- Positive Aspects

The African Commission:

8. Congratulates Sudan for presenting its periodic report in conformity with the provisions of Article 62 of the African Charter, and the fact that both format and presentation of the report complies with the guidelines established in this regard by the African Commission.
9. Appreciates the efforts of the Government of Sudan in implementing the rights and freedoms stipulated and guaranteed by the African Charter. In this connection, the African Commission notes that Sudan:
 - has made considerable efforts in order to resolve definitively the conflicts that the country is involved in and requests Sudan to keep up these efforts so as to consolidate peace with all the armed factions;
 - has adopted a Constitution through a referendum held in June 1998 and organized credible general elections, putting an end to the transitional period decreed following the take over of the Government on 30 June 1989;
 - has ratified regional and international instruments relating to human rights and tries hard to implement them;

- has put in place legislative and regulatory mechanisms as well as institutional and legal mechanisms for the promotion and protection of human rights, particularly a National Human Rights Commission and consultative councils for the protection of the freedom of conscience and the freedom of expression;
- has made commendable and sustainable efforts to support the African Union, the African Commission, Non-Governmental Organisations (NGOs), other actors and partners for the improvement of the socio-economic situation of the people of Sudan;
- has established a quota system for the integration of women in the running of the Government of Sudan.

III- Factors Restricting the Enjoyment of the Rights Guaranteed in the African Charter

10. Bloody and devastating armed conflicts which have been going on for decades in some parts of Sudan have resulted in often serious violations of human rights and represent a major obstacle to the implementation of the rights and freedoms prescribed and guaranteed by the African Charter.
11. For several years, Sudan has been in a state of emergency, particularly those parts of the country which have been affected by rebellions and armed conflicts. This emergency situation curtails the normal exercise and enjoyment of the rights and freedoms prescribed by international instruments relating to human rights and to the African Charter.
12. The application of some criminal law provisions from *shari'a* or Islamic law in the whole country entails the risk of extending it to individuals belonging to religious groups other than Muslims living in some parts of Sudan.
13. Some harmful traditional practices such as Female Genital Mutilation (FGM) are still practised in Sudan and contribute to the violation of human rights of women and the girl child, though the fight by the State and other actors of civil society against these practices has started to yield some results.
14. The social marginalization and economic discrimination of some socio-ethnic groups in Sudan is an obstacle to the harmonious development of a national citizenry in Sudan.

IV- Areas of Concern

While recognising the efforts of Sudan to promote and protect human rights and to create awareness on the principles and provisions of the African Charter, the African Commission remains concerned that:

15. The system of judicial supervision through police custody and its duration in case of arrest of citizens by law enforcement agents for political offences is not satisfactory;
16. The application of penalties consisting of corporal punishment is not always done according to strict criteria, and this seems to have given way to many abuses;
17. The Report does not give adequate account of the activities carried out by Sudanese institutions responsible for the promotion and protection of human rights in the country, particularly with regard to the fight against impunity, legal proceedings and judgments against individuals found guilty of serious and flagrant violations of human rights;
18. The time taken in the handling of cases pending before the courts and the requirements for obtaining legal assistance are a source of concern;
19. The Report does not give sufficient and detailed information on the situation of prisons and places of detention while this is of major concern in Sudan;
20. The rights of women and the child are not adequately protected, and vulnerable or destitute individuals and groups are not given adequate legal assistance;
21. The Report recognizes the persistence of some harmful traditional practices against women and the girl child in Sudan, but it does not mention any remedial measures taken by the authorities;
22. The Report does not inform sufficiently the African Commission about the situation of internally displaced persons and refugees in Sudan who still are many due to the numerous conflicts that have devastated Sudan and neighbouring States;
23. The Report does not give information on the situation of people living with HIV/AIDS and measures taken to raise public awareness and assist the sick or carriers of the virus;

24. The Report does not cover the situation of some vulnerable groups such as persons with disabilities who are certainly many, especially as a result of the wars fought in this country;
25. The average rate of education in Sudan is very low (less than 30%) and yet the Report does not mention sufficiently the reasons for this situation and the remedial measures taken by the Authorities and other stakeholders.

V- Recommendations

The African Commission recommends that the Government of Sudan should:

26. Continue with the efforts to consolidate the Peace Agreement of Machakos and Naivasha putting an end to the conflict in Southern Sudan and the humanitarian ceasefire Agreement of Ndjamen to end the conflict in Darfur;
27. Intensify efforts for effective implementation of the African Charter, ensuring particularly that the gender dimension is integrated in all the relevant programmes, structures and activities;
28. Diligently carry out appropriate investigations with a view to prosecuting, before independent and impartial courts, the perpetrators of human rights violations in Sudan;
29. Ensure that measures are taken for specific protection of the rights of refugees and displaced persons in Sudan;
30. Take, implement and monitor measures to fight against the violation of specific rights of women and the child in Sudan;
31. Involve more civil society actors and other partners in the process of implementing regional and international instruments to which Sudan is party, particularly the African Charter;
32. Adopt and implement positive measures for the integration of vulnerable and minority groups living in Sudan;
33. Ensure, without prejudice to the quota policy introduced in favour of women, that women take a more significant part in the running of government in Sudan;
34. Make the necessary arrangements for the prompt ratification of regional and international instruments relating to human rights,

particularly the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

35. Inform the African Commission, in its next Periodic Report, of the steps it has taken to address the areas of concern, as well as how it has implemented the recommendations in this Concluding Observations.

Adopted at the 35th Ordinary Session of the African Commission on Human and Peoples' Rights held from 21 May to 4 June May 2004, Banjul, The Gambia