

## SUDAN

### CERD A/37/18 (1982)

341. The initial, second and third periodic reports of the Sudan submitted in one document (CERD/C/87/Add.1) were introduced by the representative of the reporting State. She said that part I of the report generally explained the policy of her Government in eliminating racial discrimination in all its forms and the legal framework within which racial discrimination as defined in the Convention was prohibited and eliminated. It also contained information on the demographic composition of the Sudan and on steps taken to solve the cultural, religious and racial conflicts in the country. Part II of the report showed how articles 2 to 7 of the Convention were reflected in the domestic legislation and administrative policy of the country. Promotion of racial understanding and tolerance had been the fundamental policy of all Governments in the Sudan since its independence.

342. Members of the Committee congratulated the Government of the Sudan for the excellent report submitted and for its commitment to the elimination of all forms of racial discrimination, as well as its efforts to solve religious, racial and cultural conflicts within the country and to implement the principles and provisions of the Convention. Nevertheless, it stated that it would have been preferable if the report had contained more specific legal documentation.

343. With reference to the provisions of art 2, several questions were asked, in particular, concerning the results of the Government's policy of regionalization. More detailed information was requested on the situation in the south as far as racial discrimination was concerned and what was being done to remedy existing disparities. It was also asked whether there was any statutory legislation on the redistribution of resources between the centre and the regions, bearing in mind the provisions of paragraph 1 (e) of article 2 of the Convention. Information was sought concerning the financing of the regions and the powers devolving on them, so that the Committee could see whether the system of regionalization could indeed overcome the former disparities which existed in the country. Details were requested in particular concerning the competence of the regions to adopt measures in the fields of education, culture and health, and about the relationship between the functions of regional and national organs. It was also pointed out that it would have been easier for the Committee to assess the situation in the Sudan, if the report had contained information on the country's demographic composition. If census data were not available, it would be useful to have some indication as to the country's linguistic and other groups. An important question was whether the political system allowed for equality among the various groups, and more detailed information was requested concerning the precise functioning of the political system. It was remarked that it would be useful for the Committee to see the text of the Addis Ababa Accord of 1972, which had ended the civil war, and the Regional Government Act, 1980, referred to in the report. Information was requested on how the Government was tackling the refugee problem in terms of the treatment, rehabilitation and resettlement of refugees. One member observed that the information regarding the implementation of article 2 of the Convention failed to mention any inquiry designed to find out whether there were in fact any laws institutionalizing racial discrimination.

344. In connection with article 3 of the Convention, satisfaction was expressed at the information provided in the report and on the implementation measures adopted by the Government.

345. With reference to article 4 of the Convention, the Government was invite to furnish the text of the relevant provisions of the Penal Code of 1974, so that the Committee could determine whether they fulfilled the requirements of that article. In this connection it was stressed that the Convention itself did not fix penalties for infringement, so that additional legislative measures were required to eliminate all forms of racial discrimination. The statement in the report that the Sudan had never witnessed any form of racial discrimination seemed to contradict the previous admission that cultural, racial and religious conflicts had indeed existed in the country. Furthermore, the assertion that all acts of racial discrimination were punishable under the Penal Code appeared to be contradicted by the later statement that there was no penal internal enactments made to implement the provisions of article 4 (a) and (b). One member expressed puzzlement at the assertion that the provisions of the Convention were guaranteed by the Penal Code, which was adopted in 1974, three years before the Convention itself entered into force in the Sudan. He asked whether there was some misunderstandings on that point or whether the Penal Code actually foresaw the provisions of the Convention. The hope was expressed that the next report would correct the misunderstandings which seemed to emerge from the current one and that the Sudan would emphasize the implementation of article 4 of the Convention.

346. With reference to article 5, questions were raised concerning the constitutional provisions relating to work. Further clarification was requested in connection with the military or civic necessity that would permit forced labour. Information was also sought on the implication of the view of work as a duty and it was asked whether certain constraints could be imposed upon a citizen who did not want a particular job. Regarding the relevant provisions in the Code of Criminal Procedure, further clarification of the term "independent legal advice" was requested. It was also noted that the principles of Islamic law were applicable for Moslems, while non-Moslems were governed by their own personal law, and it was asked whether that was the case only in civil law or whether that separation was maintained throughout the legal system. A question was also asked as to whether instruction was available in the various languages.

347. The Government of the Sudan was invited to include in its next report the relevant provisions of the Code of Civil Procedure of 1974, so that the Committee could determine whether they fulfilled the requirements of article 6 of the Convention, as well as the text of elements in the judicial system providing for compensation in the case of racial discrimination. It was remarked that the reason given in the report for the lack of cases brought before judicial organs of the State did not appear to be adequate since the Government's opposition to racial discrimination did not necessarily exclude its practice by individual citizens. More information was requested on the organization of the administration and the courts of the Sudan and the remedies available to citizens in both civil and criminal cases, including such matters as legal assistance and the rights of defence.

348. Detailed information was sought on whether the Government had any organized programmes to promote understanding among ethnic groups, on the kind of instruction included in school curricula, and, in general, on the measures taken to give effect to the provisions of article 7.

349. Replying to some of the questions asked, the representative of the Sudan referred to the process

of decentralization since the adoption of the Regional Government Act, 1980, and stated that by May 1982, all the regions had been in a position to constitute their parliaments and the regional governors had all been elected. As to the powers and role of the regional administrations relation to the central Government, she said that the latter retained responsibility for defence, foreign affairs, telecommunications and railways, while the former had control in the fields of education, health, intraregional transport, social welfare and economic development. Since the Addis Ababa Accord of 1972, the south had been enjoying equal opportunity in the political, economic, social and other spheres. The regions had the power to adopt legislation for regional application, while the national Parliament was responsible for adopting laws for the country as a whole. Admittedly, there could be a problem of co-ordination. Since 1972, the regional administration of the southern provinces had been focusing on the need to prevent overlapping and dual legislation. It was still too early in that legislative experiment for the Sudan to be able to predict the outcome. Concerning the application of Islamic law for Moslems and personal law for non-Moslems, she stated that the principles of Islamic law were applied for Moslems only in matters relating to the family. There were special courts to administer Islamic law, as well as special courts to administer customary law for the various tribes, depending on their place of origin. As far as Christians were concerned, the courts applied the law of the denomination in question. Concerning financial allocations for the development of the south, she was not aware of any legislation governing the financial aspects of decentralization. She knew, however, that the central Government was currently extending financial assistance to the regions, although, by law, they could generate their own resources.

350. Concerning the existence of large communities of immigrants from various African and other countries residing in the Sudan, she stated they were not subject to any discrimination. Her Government would be requested to provide information on such communities in its fourth periodic report. Various international bodies had already received from the Sudan a number of reports concerning the treatment of refugees. Her Government was doing much more than was required under the relevant international norms. In addition to accommodating refugees in camps, it was giving those who so desired an opportunity to settle in the Sudan and become assimilated into Sudanese society.

351. In conclusion, the representative assured the Committee that she would forward all the questions and comments to her Government, so that it could respond fully in the fourth periodic report. In particular, the texts of the relevant provisions of the Penal Code and the Code of Civil Procedure would be made available as requested.

## **CERD A/42/18 (1987)**

485. The fourth periodic report of the Sudan (CERD/C/114/Add.1/Rev.1) was considered by the Committee at its 784<sup>th</sup> and 785<sup>th</sup> meetings on 6 March 1987 (CERD/C/SR. 784 and SR. 785).

486. The report was introduced by the representative of the Sudan who stated that, under the transitional Constitution of 1985, his country was now, after 17 years of autocracy, a pluralist democracy. The judiciary was independent and the Government was freely elected by universal suffrage. The Sudan, one of the least developed countries, was emerging from a long and hard struggle against climatic conditions that had brought 8 million Sudanese, out of a total population of about 20 million, to the verge of famine. Nevertheless, the Sudan was the African country hosting the largest number of refugees: 1 in every 20 inhabitants of the Sudan was a refugee. He informed the Committee that, in a decision dated 25 November 1986, the Supreme Court had ruled that the verdict delivered against the late Mahmoud Muhammad Taha had been null and void. A constitutional conference, attended by all Sudanese political forces, would be held shortly to study all fundamental problems.

487. Members of the Committee commended the Sudanese Government for its excellent report, which showed how much it had accomplished in a short time. They praised the frankness of the report, which described how a third world country was overcoming the after-effects of a repressive régime and was embarking on the reinstatement of human rights, and appreciated the willingness of the Government to maintain a dialogue with the Committee. They noted the Government's efforts to promote national reconciliation and to solve the problems it was facing through negotiation and welcomed the political dialogue it had established as well as the announcement of a constitutional conference. They stated that the transition from a military régime to democracy was not easy, especially in a developing country faced with numerous problems such as debt, famine, refugees and ethnic problems to name only a few.

488. It was pointed out that, in order to justify the state of emergency in the Sudan, the Government was invoking the war and the need to avoid violence. Those problems should not be used as a pretext for undue prolongation of the emergency measures, which should be regarded as temporary. Members of the Committee said that legislative reform in the Sudan was urgently required for the settlement of the internal conflicts and the elimination of ethnic, racial and other forms of discrimination.

489. Some members of the Committee expressed concern at the fact that the penalties prescribed in the shariah were still incorporated in the Criminal Code. They noted that, although apparently, the September laws were to be repealed, the transitional Constitution stipulated that the Islamic shariah and customary usage were the two primary sources of legislation. It was pointed out that 400 persons were still in prison awaiting amputation, that the September laws were responsible for many amputations of young persons, persons from the north and the south, and persons who had not committed any offence. Information on such amputations was requested. It was also stated that the war that was tearing the Sudan apart was not a conflict between north and south or between Muslims and Christians, but rather a direct consequence of the promulgation of the September laws, which also constituted the main obstacle to peace. Some members observed, however, that it was not the

application of Islamic law as such that had given rise to problems, but rather its use to repress and liquidate the régime's political and religious opponents.

490. Members of the Committee noted that the Sudanese Government intended to amend the criminal legislation. They recommended that Sudanese legislation should be modified as early as possible to bring it in line with international human rights standards and the provisions of the Convention. In the new legislation, the Government and the legislative bodies should seek a way to safeguard the interests of the population as a whole, including those living in the south. They asked, in particular, what progress had been made in the drafting of the new legislation, when it would be adopted, what its content was, and which provisions of the Criminal Code would be applied in the meantime.

491. In relation with article 3 of the Convention, members of the Committee commended the Sudan for the courageous and extremely active role it had been playing in the struggle against apartheid.

492. With regard to article 5 taken in conjunction with article 2, paragraph 2, of the Convention, members of the Committee asked for a breakdown of the composition of the population by ethnic group. They pointed out that the most important problem facing the Government was the crisis between the north and the south, which was jeopardizing the full application of the Convention, and expressed their doubts as to whether it would be possible to solve those problems as long as the Koranic law was applied. They wished to know how education subsidies were allocated in a country in which over 150 languages were spoken and how the various cultures were located, so that they could compile a cultural map of the Sudan. Explanations were requested concerning economic and military policy with regard to the south and the Government's position vis-à-vis the Addis Ababa Agreement of 1972, which established a regional Government in the south. Further information was requested concerning the armed groups or militias whose establishment had been encouraged by the previous régime.

493. Members congratulated the Sudanese Government on its introduction of political pluralism and asked for information on the exercise of political rights particularly concerning participation in elections in the south. In that context, it was observed that the ideology of the two parties that had won the elections in April 1986 was more religious than political and that elections had been cancelled in more than half of the 68 constituencies in the south, where about one quarter of the population lived. It was also pointed out that the opposition to the Islamic shariah law predominantly in the south, and that region's demand for the establishment of a federal system remained major obstacles to its participation in political life. Members asked to be informed of the results of the constitutional conference.

494. They also wished to know what percentage of the representatives in the Constituent Assembly and other main national bodies were from the south, what rights were recognized in the Public Service Act and the Social Security Act, what amendments had been made to the Trade Union Regulatory Act, whether the new legislation being drafted would also apply to aliens, and whether the Local Government Act of 1980 was still in force. They requested information on the exercise of trade-union rights, the situation of different ethnic groups in regard to education and literacy, and the law on marriage, and asked whether that law applied equally to all citizens or whether it took into account the special characteristics of the various groups. They also asked whether the Sudan

was considering becoming a party to the International Covenant on Economic, Social and Cultural Rights.

495. Members of the Committee commended the manner in which the Sudan was dealing with the refugee problem, which was particularly onerous for a country with limited resources, and stressed that it should receive appropriate assistance from the international community. They observed that the number of political refugees from neighbouring countries exceeded 1 million and requested information on the origin of the refugees, their distribution within the country and the effect they had on Sudanese economy, as well as the Sudan's relations with neighbouring countries, arms traffic and the food supply situation within the country. They wished to know what proportion of the assistance was provided by the Office of the United Nations High Commissioner for Refugees (UNHCR) and the international community and what proportion was being borne by the Sudan, whether some refugees, such as the Ethiopians, had been in the Sudan for many years and, if so, whether arrangements had been made with a view to their permanent settlement. It was observed that the former Government had indicated in a previous report that, when admitting refugees to the camps, it also gave them the opportunity to assimilate into Sudanese society if they so desired, and it was asked what the position of the current Government was in that respect. Information was requested on the measures taken by the Government to solve the problem of political refugees as a whole, and in particular, that of a group of Ethiopian prisoners, whom the Tigrean Liberation Front had helped to escape from their prison and who had reached the Sudan, as well as on the Falasha refugees from Ethiopia.

496. On the implementation of article 6 of the Convention, members of the Committee welcomed the decision of the Supreme Court which had annulled the judgement delivered by the summary courts on the case of Mahmoud Muhammad Taha and expressed the hope that the text of that judgement would be published and communicated to the various human rights organizations as well as to Islamic countries. It was suggested that the Sudan might consider appointing an ombudsman, since that legal institution was particularly useful in a multi-ethnic society. It was hoped that measures could soon be taken to enable citizens belonging to various ethnic groups to use their own language in legal proceedings.

497. Members of the Committee noted with satisfaction that a centre for human rights was to be established at the Faculty of Law of Khartoum University.

498. In reply to the comments made and the questions raised by members of the Committee, the representative of the Sudan said that the sharing of wealth between different regions, and particularly with southern Sudan, would be a central issue at the forthcoming constitutional conference; he could add nothing further for the moment.

499. Concerning representation of the southern part of the country, there was no discrimination of any kind in elections to any office. Not all constituencies in the south were, however, represented in the Constituent Assembly as it had not been possible, for security reasons, to hold elections in certain areas. The background to the conflict in the south was very complicated and its roots were deeply entrenched in the history of the colonial period. In 1947, the tribal chiefs and others had decided unanimously on the unity of south and north. The schedule for the introduction of the new Constitution would be established on the basis of a consensus to be reached at the forthcoming

constitutional conference.

500. On the question of refugees, he drew attention to General Assembly resolution 41/139 of 4 December 1986 regarding the situation of refugees in the Sudan, in which the General Assembly had expressed grave concern at the consequences of the massive presence of refugees for the security and development of the country and had commended the Sudan for the humanitarian relief which it had provided, against a background of shrinking resources.

501. In connection with the educational system in his country, the representative of the Sudan said that different schools existed for different communities; education was free and communal schools would accept any Sudanese national. The basic language in schools was Arabic. In the eastern region, more than 60 per cent of the students came from the refugee population in that part of the country.

502. In conclusion, he wished to say that there were no problems between the north and the south as such; current events involved northerners and southerners on both sides. Regarding his country's compliance with article 3 of the Convention, he wished to add that Nelson Mandela had been awarded an honorary doctorate in the Sudan.

## **CERD A/48/18 (1993)**

100. The Committee considered the eighth periodic report of the Sudan (CERD/C/222/Add.1) at its 968<sup>th</sup>, 970<sup>th</sup>, 971<sup>st</sup> and 983<sup>rd</sup> meetings, held on 9, 10 and 18 March 1993 (see CERD/C/SR.968, 970, 971 and 983).

101. The report was introduced by the representative of the State party, who said that the Government of the Sudan attached considerable importance to the work of the Committee, the ultimate objective of which was the welfare of the Sudanese population. The previous Government, however, had not fulfilled its obligations to report under the various human rights treaties to which it was a party. A series of reports had since been prepared as quickly as possible in order to re-establish cooperation with the treaty bodies concerned.

102. Members of the Committee welcomed the willingness demonstrated by the State party to engage in self-criticism and undertake a dialogue with the Committee. Noting, however, that the Sudan had a multiracial and multicultural society, members of the Committee regretted that the report did not contain information on the demographic composition of the Sudan as requested in general recommendation IV of the Committee, nor did the report mention the most important subgroups of the southern Nile. It would be appreciated if the demographic composition was provided in the next report in tabular form. Members also requested information on the number of refugees and foreign students in the Sudan. In view of the campaign in the 1980s to eliminate certain tribal languages and establish a monocultural Islamic State, members asked how many languages were recognized by the Government and whether English was the principal language of the south.

103. It was noted that the Convention was no longer respected constitutionally, judicially or administratively and that the General Assembly, in its resolution 47/142, had called upon the Government of the Sudan to comply with applicable human rights instruments and to ensure that all individuals in its territory, including members of all religious and ethnic groups, enjoyed the rights recognized in those instruments. There were various reports from United Nations bodies, international non-governmental organizations and the media of ill-treatment of the population by security forces, including arbitrary detentions, extrajudicial executions, disappearances and forced detentions and ethnic cleansing campaigns in southern Sudan. Further information was requested on how the process of national integration mentioned in paragraph 29 of the report could be accelerated under conditions of armed conflict.

104. Members observed that, since the suspension of the 1989 transitional constitution, the National Salvation Revolutionary Command Council had been ruling by decree, assigning special powers to the President. Since the first decree had abolished existing legislative and political organs, members wished to know how the Sudan could implement the requirements of the Convention without enacting special legislation. In that connection, further information was requested on how the legislative, executive and judicial functions were structured.

105. Members recalled that article 4 of the Convention obligated States to introduce legislation to prevent acts of racial discrimination, and wished to know how that obligation was met.



106. Since the conflict appeared to have an ethnic component and religious questions sometimes overlapped with ethnic questions, members expressed concern about possible ethnic discrimination in the exercise of the rights referred to in article 5.

107. They noted reports that hundreds of Nuba and Fur villages had been razed and their inhabitants driven from the land in a vast programme of ethnic cleansing. In that connection, it had been reported that tens of thousands of people were being moved each month from the Nuba mountains and that the women were being used for mixed marriages or sold into slavery in the north. It would thus appear that article 5, paragraphs (d) (i), (iv) and (v) of the Convention were not being respected.

108. Concerning article 5 (b) of the Convention, providing for non-discrimination in the exercise of the rights of security of person and State protection, members of the Committee noted reports alleging mass killings and extrajudicial executions of civilians in the Nuba mountains, where the Government's programme of military action appeared to amount to ethnic cleansing. There had been similar reports of human rights violations by the Sudanese People's Liberation Army. In that regard, members stressed the importance of the right to life and noted that the offenses to which the death penalty applied were not clearly defined in Sudanese legislation. It was hoped that the Government would investigate reports of violations of the human rights of ethnic groups and bring those responsible to justice.

109. In relation to the effective implementation of article 5 (c) of the Convention, providing for non-discrimination in the right to take part in the Government as well as in the conduct of public affairs, members requested further information on the National Dialogue Conference of 1989. In that connection, members wished to know how the Government intended to allow groups to coexist within the federal system established by Decree No. 4 in response to demands from the south. Attempts to Islamicize the country by introducing Shariah appeared to go back on earlier agreements. Members also wished to know how it could be asserted that almost all shades of political opinion were represented in the Assembly when political parties had been banned and the legislature dismantled.

110. With respect to article 5 (d) (iv) of the Convention, members drew attention to the reference in paragraph 50 of the report to a non-Muslim wishing to marry the daughter of a Muslim being required to convert to Islam. It was also noted with concern that the right to non-discrimination in exercise of the freedoms of thought, conscience and religion, and opinion, provided for under article 5 (d) (vii) and (viii) of the Convention, might have been flouted and that the offence of apostasy carried the death penalty. The right to freedom of peaceful assembly and association had been denied since the declaration of the state of emergency. Similarly, trade unions had been banned and their leaders imprisoned, which would be contrary to article 5 (e) (ii) of the Convention if there was an ethnic bias. With respect to article 5 (e) (iii), members wished to know what the Government had done to rehabilitate the homeless, particularly homeless children.

111. Concerning the right to non-discrimination in education (article 5 (e) (v) of the Convention), members asked what the minimum and maximum ages for compulsory education were; whether the educational system was the same in the north as in the south; whether children in school could be taught in local languages; and what problems were created for children as a result of forced migration from the south to the north.

112. With regard to the comments of the representative of the International Labour Organization on the implementation of the ILO Convention concerning the Abolition of Forced Labour (No. 105) by Sudan and taking into account the allegations of slavery made before the Working Group on Contemporary Forms of Slavery, members requested further information on action being taken by the Government in that regard, in particular with respect to the problem of the illicit transfer of children.

113. With respect to article 6 of the Convention, members of the Committee wished to know how the Penal Code was applied in practice in cases of racial discrimination; whether it contained penalties for acts of racial discrimination; whether the Convention could be invoked in a court; how legal proceedings alleging racial discrimination could be brought; and what remedy was available to victims of racial discrimination. With regard to the independence of the judicial system, members of the Committee expressed concern over reports that judges not considered sympathetic to the regime had been replaced. With respect to the special criminal courts, members of the Committee wished to know under what circumstances those courts were established; what were the laws governing them; and whether they were empowered to apply special rules.

114. In relation to article 7 of the Convention, it was noted that the replies provided in the report were not in conformity with the provisions of the Convention and the Government was requested to provide a proper reply in its next report.

115. In his reply, the representative of the State party welcomed the questions and observations of the members of the Committee. They would help the Government, which was resolutely determined to give the highest importance to human rights and to improve its implementation of the Convention.

116. Responding to the questions, the representative stated that the National Dialogue Conference had formally recognized the legitimate rights of the population of the south. The Government had acknowledged that the south was economically backward in comparison with the north and an agency had been established to promote the development of the south. In the political sphere, the Government had set up a federal system of government under which resources and positions of responsibility were to be equally distributed. The Government had given considerable weight to the recommendations of the Conference, particularly those concerning linguistic and religious minorities. In that connection, the Government had decided that Shariah would not be applied in the south, where the inhabitants were of a different culture. Additionally, the Government was willing to accept some kind of power-sharing arrangement with the three rival factions representing the rebel movement in Sudan, possibly taking the form of a federal structure.

117. As far as relations between the executive, legislative and judicial branches were concerned, the judiciary was independent and still governed by a 1986 law. The legislative and executive powers had initially both been exercised by the Council of the Revolution. In order to terminate the monopoly of both branches of authority, it had been decided to entrust legislative authority to the Supreme Transition Council, composed of over 300 individuals representing the country's different provinces and population groups. In recent local elections, 1,600 municipal councillors had been elected by some 5.3 million voters. Those developments testified to the Government's determination to proceed towards democracy.

118. In response to questions raised by members, the representative stated that, although flogging was indeed a form of punishment, it had not been instituted by the 1991 Muslim Personal Law but by the Penal Code promulgated by the British in 1898. It was considered to be one of the best forms of punishment, not from a religious perspective but from that of modern criminology. Apostasy was not itself punishable and any Muslim could convert to Christianity. What was punishable under the Penal Code was incitement to apostasy, which could constitute a threat to peace and public order.

119. With regard to the allegations of torture and arbitrary trials and arrests, reference was made to the conclusions of an independent expert appointed by the United Nations whom the representative of the State party, in his capacity as Secretary-General of the Sudanese Commission on Human Rights, had accompanied during his visit to Sudan. On that occasion, the expert had been able to ascertain that those allegations had never been reliably attested to. He had been able to meet with someone who, according to Amnesty International and Africa Watch, had allegedly been tortured and had died. Other persons who had allegedly been arbitrarily arrested or tried had either been acquitted or convicted of written charges of which they had been informed. Moreover, the expert had ascertained that conditions under which prisoners were incarcerated were normal.

120. In reply to another question, the representative said that racial and religious discrimination was an offence under Sudanese statutory and case law. Furthermore, well before independence, the international instruments to which the Sudan had acceded had been part of domestic law, over which they took precedence. International standards condemning racial discrimination and torture were fully respected in the Sudan. Convictions for racial discrimination could be punished by imprisonment for up to two years, a fine or both.

121. With regard to the percentage of non-Arabs in the armed forces and the proportion of southern and northern Sudanese in them, the representative assured the Committee that there were far more non-Arabs than Arabs in the armed forces. Membership in the popular defense forces did not depend on religious considerations.

122. On the question of language, Arabic was undoubtedly the language of most Sudanese. However, it was the official language not for that reason, but because it was the language employed by all 500 tribes in the Sudan. English, which was the language of the elite, had preserved its important position within Sudanese society. Allegations of forced Arabization of the country were proved untrue by the fact that for the 1974 Interpretation of Laws and General Clauses the English version was the authentic version before Sudanese courts.

123. There had been a question about the Government's alleged refusal to allow international organizations to visit the Nuba mountains in the province of Kordofan. In fact, a representative of the United Nations High Commissioner for Refugees had visited that area. The Government had not yet set up a commission to investigate alleged human rights violations in the area, partly because it was waiting to see whether the Commission on Human Rights would appoint a Special Rapporteur on the Sudan, with whom the Government wished to cooperate fully. In that connection, the representative cordially invited any members of the Committee who were interested to visit the Sudan to observe the situation on the spot.

#### Concluding observations

124. The Committee expressed appreciation for the willingness of the Government of the Sudan to continue its dialogue with the Committee. The Committee expressed its deep concern at the serious human rights violations in the Sudan. It noted the statement of the representative that violations of human rights had been occurring and, in view of the Committee's anxieties, attached particular significance to the statement that the Government was taking every step to prevent further occurrences.

125. The Committee regretted the lack of information on the ethnic dimension to the current conflict in the country and the insufficiency of demographic data requested in the Committee's reporting guidelines and general recommendation IV. The Committee requested the Government to ensure the harmonization of the national legislation, regulations and practices of the Sudan with the provisions of the Convention, and their effective implementation.

126. The Committee took note of the information supplied concerning Sudanese legislation, but observed that there often appeared to be a disjunction between those provisions and the manner of their implementation. It expressed its concern about the situation in the Nuba mountains and that of the Fur and wished to learn about the findings of the Commission of Inquiry appointed on 25 November 1992.

127. In accordance with article 9, paragraph 1, of the Convention, the Committee requested further information as soon as possible but not later than 31 January 1994 from the Government of the Sudan concerning the implementation of the Convention. The Committee drew the attention of the State party to the availability of technical assistance from the advisory services programme of the Centre for Human Rights with regard to the preparation of its next report.

## **CERD A/49/18 (1994)**

444. In concluding observations adopted on the consideration of the eighth periodic report of the Sudan (CERD/C/222/Add.1), the Committee requested, in accordance with article 9, paragraph 1, of the Convention, further information on the implementation of the Convention in the Sudan. The Committee subsequently considered that information (CERD/C/222/Add.2) at its 1052<sup>nd</sup> and 1053<sup>rd</sup> meetings, on 8 and 9 August 1994 (see CERD/C/SR.1052 and 1053).

445. The report was introduced by the representative of the State party, who emphasized the importance attached by his country to the continued dialogue with the Committee.

446. The representative said that the conflict in the south of the country was not racially motivated and that the Sudan was not an arena for acts of racial discrimination. He noted, however, that the country's wealth was not equitably distributed among the various regions, a phenomenon which dated from the colonial era and which the current Government was trying to remedy by, among other measures, adopting constitutional decrees. Decree No. 10 of October 1993 had divided the Sudan into 26 states. Ten states had been created in the south - although on the basis of the size of its population, it should have comprised only seven states - which gave a greater voice to the minorities living there. Decree No. 7 embodied the human rights of all citizens, rights which were now part of the Constitution. By Decrees No. 8 and No. 9, the Revolutionary Council for National Salvation had, prior to its dissolution, appointed a President of the Republic who would subsequently be elected by universal suffrage. At the same time, a Transitional National Assembly had been set up, together with the State Councils. The elections deriving from those constitutional changes, which had initially been scheduled for March 1994, would be held in March 1995.

447. He also said that a number of corridors had been opened up to enable relief supplies to reach populations living in the war zones and that, at the urging of countries in the region (Ethiopia, Eritrea, Kenya, Uganda), the Sudan had proclaimed a unilateral cease-fire, which the rebels had also observed. A programme for the resettlement of populations displaced by natural disasters and the armed conflicts had been set up by the Government.

448. He noted that the Sudan had opened its doors to many non-governmental organizations and to the Special Rapporteur of the United Nations Commission on Human Rights.

449. The members of the Committee noted with appreciation the statement in the report that the Sudan was a multiracial, multireligious and multicultural society. They thanked the delegation of the Sudan for having come to provide the additional information requested by the Committee during its consideration of the Sudan's eighth periodic report and expressed their satisfaction with the information. They welcomed the Government's intention to ask for technical assistance under the advisory services programme of the Centre for Human Rights in preparing its next periodic report.

450. With regard to article 2 of the Convention, the members of the Committee asked what powers were conferred on the Transitional National Assembly, on what basis the 10 states in the south of the country had been established and whether the population had had any voice in the drawing of their boundaries. They also asked to what extent citizens actually benefitted from the new

constitutional and legislative provisions. They also wanted to know about the nature and legal force of the document on human rights issued by the National Assembly. They asked how the Government intended to comply with its obligations under the Convention if it was unable to amend a law based on the Koran, as referred to in paragraph 26 of the report, if that law were contrary to the provisions of the Convention.

451. With regard to article 5 of the Convention, the members of the Committee asked for information on internally displaced Sudanese and those who were refugees in Uganda, Kenya, Zaire, Ethiopia and the Central African Republic, and on the measures taken to encourage them to return. The Committee also asked how the resettlement of displaced populations was progressing, particularly in the Nuba Mountains, and whether the resettled populations were actually the ones which had been displaced.

452. They asked for explanations on the numerous allegations of torture, whether practiced by members of government security forces or not, and on judicial sentences involving corporal punishment (amputation and flogging). They also asked to what extent it was the courts alone which decided to keep an individual in detention for more than 24 or 48 hours.

453. The members of the Committee inquired whether the Shariah was applied in the non-Muslim states in the south of the country. They noted that religious and ethnic discrimination was practiced against displaced non-Muslim populations in the north, and throughout the country in the civil service, schools, universities and commercial enterprises.

454. The Committee wished to know more about the privatization of newspapers and the establishment of private newspapers as recommended by the new press code. They also asked to what extent freedom of association and peaceful assembly were guaranteed.

455. Regarding article 6 of the Convention, the members of the Committee asked for clarifications on the independence of the judiciary, as referred to in paragraph 12 of the report, particularly as far as the procedures for appointing and removing judges and their training were concerned.

456. Replying to the questions and comments of members of the Committee, the representative of the Sudan said that the federal legislative powers had been transferred to the Transitional National Assembly upon the dissolution of the Revolutionary Council for National Salvation. The Transitional National Assembly had been set up pending the elections scheduled for 1995. He went on to say that the document on human rights issued by the Transitional National Assembly had legal status by virtue of Constitutional Decree No. 7, which embodied all human rights and fundamental freedoms.

457. With regard to the equitable distribution of wealth among the country's regions, he said that each of the 26 states into which the Sudan was now divided had its own resources derived from local taxes and federal sources. The relative powers of the states and the central Government were set out in articles 8, 9 and 10 of Constitutional Decree No. 4. Each southern state had a governor of southern origin, and six ministers, five of southern origin and one from the north. The reverse was true in the north of the country. The task of drawing the borders of the new states in the south had been entrusted to a committee made up of prominent persons from each province, which had spent

six months in consultation with the local inhabitants, who had welcomed the results of the committee's work.

458. Replying to the question on the compatibility of Islamic law with international instruments, he said that there was no essential contradiction between the two.

459. On the question of refugees, he said that the majority of those who had fled the fighting in the south had sought refuge in the north of the country and not in neighbouring countries. The 250,000 Sudanese in neighboring countries were either rebels who had not accepted the general amnesty or persons situated beyond the rebel lines and who could not therefore seek refuge in northern Sudan.

460. He said that preventive detention was governed by the National Security Act and that initially it had not been subject to any judicial review. The National Security Act had subsequently been placed under the supervision of the Minister of Justice, and thus of the judiciary. Furthermore, preventive detention could not exceed 72 hours and could be extended only with judicial approval. There were many safeguards against improper or unlawful detention.

461. With reference to the situation in the Nuba Mountains, he quoted from a report by the Foreign Minister of a western country following a visit to refugee camps and villages in the region, which stated that the situation had improved in terms of water, food and medical supplies, the mortality rate, aid from Sudanese Christian and Muslim organizations and security. People were reported to be gradually returning to the deserted villages. Talks with representatives of two Churches had shown that the problems of the past, such as restrictions on freedom of movement and arrests of priests, had ceased. Sudanese nationals also had the right to change religion. Apostasy was a separate issue.

462. Abuses committed by members of the security forces were punishable under articles 89 and 90 of the Penal Code. Information relating to the trials of security and police officers had been made available to the Commission on Human Rights and could be supplied to the Committee. In some cases, the trials in question had led to the imposition of the death penalty.

463. Referring to questions on the independence of the judiciary, he said that, under article 7 of Constitutional Decree No. 1, the judiciary had the same status as before the assumption of power by the new Government. The appointment and removal of judges and magistrates were provided for in the 1986 Act concerning the judiciary.

#### Concluding observations

464. At its 1068<sup>th</sup> meeting, on 18 August 1994, the Committee adopted the following concluding observations.

#### (a) Introduction

465. Appreciation is expressed to the State party for the further information it submitted as requested by the Committee <sup>13/</sup> and for the presence of a competent delegation which presented that information to the Committee. It is regretted that the findings of the commission of inquiry appointed on 26 November 1992 are still not available for the Committee's consideration. Although the report focused primarily on legislative changes and contained little information on the actual implementation of legal guarantees recently enacted, the responses of the delegation provided much useful information on the situation in the Sudan, including the impact of the legislative and policy-making changes on Sudanese society. Appreciation is also expressed for the frankness of the delegation's responses to the questions and comments of the Committee members and the spirit of cooperation exhibited by the State party.

(b) Positive aspects

466. The State party's characterization of Sudanese society as multiracial, multireligious and multicultural is welcomed. In that regard, it appears that the State party has begun building the legislative structure and institutions necessary for implementing a policy of non-discrimination and for breaking down the barriers that have historically limited contacts between the Muslim and non-Muslim communities.

467. The declaration of the representative concerning the pre-eminence of the rule of law in the Sudan is welcomed. In this connection, it is noted that the promulgation of Constitutional Decree No. 789 represents progress in areas such as participation in Government and contains limited guarantees for freedom of religion, equality before the law and other basic rights and fundamental freedoms.

468. It is noted that major efforts appear to have been made regarding the search for solutions to the problems arising from the continuing ethnic conflict in the southern part of the country. In that connection, the changes in arrangements for a more equitable sharing of power among federal, state and local authorities are welcomed.

469. The State party's request for assistance from the Advisory Services and Technical Assistance Programme of the Centre for Human Rights is also welcomed.

(c) Principal subjects of concern

470. It is unclear whether racial discrimination has been defined in national law and whether racist activities, organizations and propaganda have been criminalized as required under the Convention.

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<sup>13/</sup> [Official Records of the General Assembly, Forty-seventh Session, Supplement No. 18 (A/47/18)], para. 127.

471. Further to the Committee's concluding observations adopted at its forty-second session, concern continues regarding the dichotomy between legal provisions and their actual application.



In this respect more demographic information is needed, particularly the results of the 1993 census. It is noted that continuing social and economic disparities between the northern and southern populations may constitute de facto discrimination and obstacles to the resolution of the ongoing conflict.

472. While taking note that the Sudan has received many refugees from other countries, the Committee expresses its deep concern over the large number of Sudanese who have become homeless as a result of the continuing conflict and who remain either internally displaced or as refugees living outside the country.

473. Concern is expressed over the application of legal guarantees in actual practice to prevent racial discrimination with respect to a number of fundamental freedoms, including the right to choose and to change one's religion. Concern is also expressed concerning the effective curtailment of police powers and concerning the independence of the judiciary, including conditions pertaining to the appointment, training and dismissal of magistrates.

(d) Suggestions and recommendations

474. The Committee recommends that the State party take further steps to strengthen respect for human rights and non-discrimination in the Sudan, particularly by clearly defining and prohibiting racial discrimination in the law as well as penalizing racist activities, organizations and propaganda as required under article 4 of the Convention.

475. The Committee recommends that the Government of the Sudan continue to take measures aimed at building confidence between the Arab and non-Arab communities and ensure that there are no legal barriers contributing to the separation of the two communities.

476. The Committee expresses its support for all efforts to end the continuing conflict with the aim of restoring the rule of law and respect for human rights, particularly with regard to the elimination of all forms of racial discrimination. In that connection, the Committee recommends that concrete steps be taken to encourage the voluntary return of all refugees and persons displaced in the conflict.

477. Underlining the crucial area of the administration of justice with regard to eliminating racial discrimination, the Committee recommends that police power be curtailed and that judges decide on the legality of detainment within reasonable time after arrest or taking into custody of a suspect. In this connection, the Committee points out that the State is obligated to ensure that law enforcement officials are fully responsible for adhering to the requirements of the Convention and that excesses of the security forces must be punished.

478. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the Fourteenth Meeting of States Parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

201. The Committee considered the ninth, tenth and eleventh periodic reports of the Sudan, which were due on 20 April 1994, 1996 and 1998, respectively, submitted as one document (CERD/C/334/Add.2), at its 1451st and 1452nd meetings (CERD/C/SR.1451 and 1452), on 14 and 15 March 2001. At its 1460th meeting (CERD/C/SR.1460), on 21 March 2001, it adopted the following concluding observations.

#### A. Introduction

202. The Committee welcomes the submission of the State party's report and appreciates the opportunity to continue its dialogue with the State party, in a spirit of constructiveness. While noting that the report was not adequately prepared in accordance with the guidelines for the preparation of reports, the Committee expresses its appreciation for the additional oral and written information provided by the delegation in response to the wide range of questions asked by Committee members.

#### B. Positive aspects

203. The Committee notes with interest the State party's increasing willingness to cooperate with some of the United Nations and international agencies and non-governmental organizations in the field of human rights, including on matters relating to racial discrimination.

204. The Committee welcomes the fact that international treaties ratified by the State party form part of domestic law and that treaties take precedence over national legislation in case of conflict.

205. The Committee welcomes the adoption by national referendum of the 1998 Constitution and commends the fact that the Constitution recognizes the cultural diversity of the Sudan. In this regard, the Committee notes the efforts by all parties to implement constitutional decree 14 of 1997 (Khartoum Peace Agreement), ending with a general referendum in the south on the question of unity or separation.

206. The Committee welcomes the efforts made by the State party to put into place a legislative framework, based on the common law system, to ensure the protection of constitutional rights and freedoms and, in particular, the 1998 amendment to the Criminal Act making racial discrimination a specific crime.

207. The Committee commends the development of some institutional structures to guarantee the objectives of the Constitution, including the Constitutional Court, the Office of the Ombudsman and the Advisory Council for Human Rights.

#### C. Factors and difficulties impeding the implementation of the Convention

208. The Committee bears in mind the long-lasting and ongoing civil war, fuelled by a complexity of issues relating to ethnicity, race, religion and culture, involving violations of human rights by all parties to the armed conflict. Massive loss of life, destruction of property, abductions, a decline in financial and material resources and political conflict overshadow all efforts made by the State party to implement the Convention.

#### D. Concerns and recommendations

209. While noting certain information given orally by the delegation, particularly the socio-economic indicators relating to women and children, the Committee regrets the lack of details in the report concerning the demographic composition of the population. The Committee recommends that the State party provide in its next report detailed information on the composition of the population, as requested in the reporting guidelines of the Committee. In particular, the Committee wishes to receive information on the economic and social status of all ethnic and religious minorities, disaggregated by gender, and any other groups covered by the scope of the Convention, as well as on their participation in public life.

210. With regard to articles 4, 5 and 6 of the Convention, the Committee recommends that the State party continue its efforts to establish a domestic legal order giving full effect to the provisions of the Convention and to ensure effective and equal access to remedies through the competent national tribunals and other State institutions against any acts of racial discrimination and related intolerance.

211. The Committee further reiterates its recommendations to the State party contained in its decision 5 (54) of 19 March 1999,<sup>4</sup> inter alia to implement immediately effective measures to guarantee all Sudanese, without distinction based on race, colour, descent, or national or ethnic origin, freedom of religion, opinion, expression and association; the right to security of person and protection by the State against violence or bodily harm; the right to study and communicate in a chosen language; and the right to enjoy their own culture without interference.

212. The Committee repeats its concern over continuous reports and allegations regarding the abduction by armed militia of, primarily, women and children belonging to other ethnic groups. In this regard, it notes that the State party, while disassociating itself from any such practices, attributes abduction to traditions deeply rooted among certain tribes. Notwithstanding this position, the Committee strongly emphasizes the State party's responsibility to undertake all measures to bring the practice of abduction to an end and to ensure that legal action is taken against those responsible for such acts, and compensation given to those aggrieved.

213. The Committee is deeply concerned about the forced relocation of civilians from the Nuer and Dinka ethnic groups in the Upper Nile region and reports that the relocations involved significant military force resulting in civilian casualties. The Committee urges the State party to uphold the fundamental economic and social rights of the Nuer and Dinka in the Upper Nile region, including the rights to personal security, to housing, to food, and to just compensation for property confiscated for public use.

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<sup>4</sup> [Official Records of the General Assembly], Fifty-fourth Session, Supplement No. 18 (A/54/18), chap. II, sect. A.

214. The Committee remains concerned about the large number of internally displaced communities within the territory of the State party, as a result of the civil war and natural disasters. The Committee reiterates its recommendation that the State party consider giving effect to the provisions

of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) of the Special Representative of the Secretary-General on internally displaced persons and implementing the right to free return of all displaced persons to their homes of origin under conditions of safety. It further urges the State party to do everything in its power to achieve peaceful settlement of the war, which undermines efforts at combating ethnic, racial and religious discrimination.

215. The Committee notes that different standards of treatment are reportedly used for different categories of asylum-seekers: whereas asylum-seekers from mainly neighbouring countries to the east, west and south, except Chad, are granted refugee status, asylum-seekers from Arab countries are allowed to stay on an informal and unofficial basis. The Committee recommends that the State party apply international and regional standards pertaining to refugees equally, regardless of the nationality of the asylum-seeker.

216. The Committee invites the State party to provide in its subsequent report, *inter alia*, information on cases pertaining specifically to violations of the Convention, on the activities of the Office of the Ombudsman and the Advisory Council for Human Rights, and on the results of the work of the Committee for the Eradication of Abductions of Women and Children.

217. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

218. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of making such a declaration be considered.

219. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties.

220. The Committee recommends that the State party submit its twelfth periodic report jointly with its thirteenth periodic report, due on 20 April 2002, and that it address all the points raised in the present observations.