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on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**REPLIES TO THE LIST OF ISSUES (CCPR/C/SDN/Q/3) TO BE TAKEN UP IN
CONNECTION WITH THE CONSIDERATION OF THE THIRD PERIODIC
REPORT OF THE GOVERNMENT OF SUDAN (CCPR/C/SDN/3)***

[25 June 2007]

[Arabic]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Advisory Council for Human Rights

Reply to question 1

1. In order to ensure that the legislation of the Sudan is compatible with the International Covenant on Civil and Political Rights and the Interim Constitution of the Republic of the Sudan of 2005, the Ministry of Justice was tasked with revising the laws with a view either to their amendment or the enactment of new legislation following their repeal. The Political Parties Act of 2007, which guarantees individuals the freedom to establish political parties, and the Civil Service Act of 2007, which recognizes women's right to work, equal pay and maternity leave, passed into law and numerous laws are being reviewed and examined, including the Human Rights Commission Act, the Electoral Act, which provides for wide-ranging consultations with all political parties, the Police Act and the Armed Forces Act.

Invoking articles of the Covenant

2. According to article 27 (3) of the Interim Constitution of 2005, all the rights and freedoms embodied in the International Covenant on Civil and Political Rights are part of the Constitution. The article also states that all international treaties ratified by the Sudan are an integral part of its domestic law.

Article 48 of the Constitution provides that the Constitutional Court and other competent tribunals shall safeguard and protect these rights. Article 122 furthermore provides that the Constitutional Court has competence for protecting human rights and fundamental freedoms and deciding on the constitutionality of laws. It also has competence for hearing cases against the President of the Republic and his deputies. Breaches of the Constitution are regarded as breaches of the Covenant.

Among the cases brought pursuant to the Interim Constitution was an appeal challenging the constitutionality of the Voluntary Work Act of 2006, to which reference is made in the reply to question 26 hereunder, and appeal No. C/CL/18/2005, which Mr. Najm al-Din filed against his death sentence on the grounds that he was under the age of 18.

Cases are referred to the Constitutional Court by means of a petition containing the petitioner's name and address, the law or decision which is the subject of the case and details of how the law or decision breaches the Constitution and of the constitutional right violated, the freedom infringed and the interest that has been damaged.

The costs of bringing a constitutional case are 100,000 Sudanese pounds (SD), the equivalent of \$50. After a constitutional case has been decided, a sum of SD 2 million, the equivalent of \$1,000, must be paid. The Court has the authority to waive the fees in accordance with article 19 (6) of the Constitutional Court Act.

The petition may be filed by a lawyer, a group or a political party.

Reply to question 2

We have not received any information.

Reply to question 3

(Statistics attached).

Reply to question 4

With regard to the number of complaints lodged with judicial bodies, particularly in regard to crimes committed in Darfur, investigation and inquiry panels set up pursuant to the recommendations of the National Commission of Inquiry into Human Rights Violations in Darfur have filed 12 complaints against more than 100 accused persons. These complaints include the incidents mentioned in the reports of the international and the national commissions of inquiry, such as the events in the villages of Hamada, Kaylak, etc.

There were two complaints about torture, one from the Kass area against a group of armed forces personnel in which a total of 105 persons were accused. The other complaint was against rebel elements.

The special court presided over by Justice Abkam heard approximately nine complaints. In one case, it sentenced the defendant, who was a member of the People's Armed Forces, to death.

As for crimes of violence against women, in over 70 cases defendants have been convicted and sentenced to imprisonment. Enclosed is a table showing the name of the court, the name of the defendant, the name of the complainant and the verdict.

We also attach the bi-annual report of the Advisory Council for Human Rights presented to Mr. Pronk, the Special Representative of the Secretary-General, at the meeting of the Joint Implementation Mechanism (JIM) of the Government of the Sudan and the United Nations. The report contains information on some cases.

Several complaints were referred for trial before the courts set up for that purpose by the Chief Justice. They include a complaint against Ali Kawshib and police colonel Salah al-Zayn. The accused persons appealed the arraignment order and the case is being reviewed by the Minister of Justice.

Another case was heard in Al-Fashir. The defendants were found guilty and two of them, both members of the armed forces, were sentenced to death.

The courts have heard over 80 complaints in cases involving violence against women. They have handed down over 70 prison sentences and fines.

Reply to question 5

Crimes covered by Decree No. 114 of July 2006, declaring a general amnesty:

- Article 21: accessory to a criminal conspiracy;
- Article 22: accessory but not to a criminal conspiracy;

- Article 50: sabotaging the constitutional system;
- Article 51: fomenting war against the State.

Article 51 reads as follows:

A person shall be regarded as having committed the offence of instigating a war against the State and shall be subject to a penalty of death, life imprisonment or a shorter term of detention and may also have all his assets confiscated, if he:

(a) Instigates a war against the State by military means, mobilizing or training men, amassing weapons or equipment or attempting to do so, or inciting or in any way supporting the perpetrator of such an offence;

(b) Works in the military or civil service of any State which is at war with the Sudan, or engages in any commercial or other transactions with that State or its agents;

(c) Mobilizes and equips militia in the Sudan, without the State's permission, to invade or carry out a hostile act against a foreign State that is likely to expose the country to the danger of war;

(d) Sabotages, destroys or damages any weapons, supplies, materiel, vessels, aircraft, means of transport or communications, public buildings or equipment belonging to public facilities such as electricity or water installations and the like with a view to weakening the combat status of the Sudan:

- Article 52: doing business with a hostile State;
- Article 53: spying on the Sudan;
- Article 54: allowing and helping prisoners to escape.

These are common law offences which are dealt with by the Criminal Code of 1991. In implementation of the Darfur Peace Agreement signed at Abuja, a general amnesty was declared for members of the movements that signed the Agreement. As a result, the charges against them for crimes against the State were dropped. The amnesty did not include violations of the rights of individuals or war crimes. Amnesty certificates were issued to the bearers of arms, with their names on them, establishing that the President of the Republic had granted an amnesty under articles 208-211 of the Code of Criminal Procedures for the crimes committed in Darfur.

Referral

The Sudan considers that it complies with the powers of the Security Council under the Charter of the United Nations, which it has signed. The Sudan did not sign the Rome Statute of the International Criminal Court. An agreement such as the Statute of the International Criminal Court, which has been concluded subsequent to the Charter, cannot vest the Security Council with new powers, since the Council's powers are established by the Charter and any additional

powers, such as the power of referral, cannot be attributed by means of an instrument that is signed by different parties from those which signed the Charter, unless the Charter is amended or an additional protocol is adopted.

Jurisdiction

There is no dispute over the fact that the authority of the Court does not take precedence over but rather supplements that of domestic courts. Referral by the Security Council and through other channels to the Criminal Court, as provided for in article 13 of the Court's Statute, does not empower the Court to initiate a case without first considering its admissibility under article 17 of its Statute and determining whether the State is unable or unwilling to carry out the prosecution.

Although the Sudan allowed delegations from the Court to pay six visits to the country in order to make that determination, the Court preferred to pre-empt matters by summoning the accused to appear.

Summons to appear

The request from the Prosecutor of the Criminal Court to Interpol to arrest the accused persons breaches the principle of cooperation to which articles 86-99 of the Rome Statute refer. There is no legal basis for this measure in the Statute of the Court. It also denies the accused the exercise of the rights guaranteed in articles 20 (3) and 89 (2) of the Statute to bring a challenge before a court against the court which initiates arrest procedures.

Question 6: implementation of the Peace Agreement

The President of the Republic issued a decree establishing a population census council to devise plans for the holding of a census and to define the rules and standards for the central population census authority. This census meets the requirements of article 219 of the Constitution. The rules and standards for the central census authority have been drawn up and three committees have been formed (the media committee, the follow-up and oversight committee and the finance committee). A copy of the decrees is attached.

The central census authority, the southern census authority and the branches in the states intend to hold the population census in November 2007.

Reply to question 7: naturalization under Sudanese law

The Nationality Act of 2005 was amended to guarantee children the right to acquire nationality from their mothers. Article 4 of the Act states that a child born to a mother who was Sudanese at birth shall, upon request, be entitled to Sudanese nationality from birth.

Registration of land and the right to property

Article 63 of the Civil Transactions Act of 1983 provides for the allocation of plots of land to families. The general-director of the Land Commission issued a circular explaining that the word "family" means a husband, a wife and children. On that basis, the following regulations on the allocation of housing plots were issued:

1. The husband and wife shall be given equal shares, provided that they both sign the initial lease allocating the housing plot. The husband must not sell the land without his wife's permission or consent.
2. In the absence of either party, owing to death, for example, the plot shall be given to the party present and the children. In this case, the land will be registered in the names of the persons present. From this it is clear that the law allows for land allocated under the housing plan to be registered jointly in the name of the husband and the wife.

The Constitution and the law guarantee a wife the right to own land and have established mechanisms to protect women from any infringement, reduction or loss of their rights as guaranteed by the Constitution and the law.

The crime of adultery

Article 145 of the Criminal Code of 1991 defines a perpetrator of the crime of adultery as:

- (a) Any man who has intercourse with a woman outside of marriage;
- (b) Any woman who allows a man to have intercourse with her outside of marriage.

Article 62 of the Law of Evidence Act of 1993 states that evidence of adultery can take any of the following forms:

- (a) A confession made in court, so long as the confession is not altered in any way before the execution of the sentence;
- (b) The testimony of four just men;
- (c) The wife being pregnant by another man, provided that the pregnancy is not criminally suspicious ("suspicious" here could mean a pregnancy resulting from a rape, for example. In that event, it would not be evidence of a crime);
- (d) The wife's refusal to take an oath denying adultery after her husband has taken an oath accusing her of adultery.

There is no discrimination between men and women with regard to the crime of adultery. Even in the event of pregnancy, if the woman proves that the pregnancy is the result of an offence like rape, for example, she will not face prosecution. Even if a woman admits that the pregnancy is the result of adultery and accuses a specific person, criminal proceedings will be taken against that other person.

Laws requiring approval from a woman's guardian before she may marry

Marriage contracts in the Sudan are drawn up according to the rules set out in the Personal Status Code of 1991. These rules are simple and uncomplicated. Marriage is contracted on the basis of consent and acceptance by a group of persons, consisting of two representatives and two witnesses. The marriage contract is then registered and the persons acting for the husband and wife and designated as the legal guardian sign the marriage contract.

The guardian is the representative of the spouse and does not have to have legal or other qualifications; article 33 of the Code states that the guardian must be an adult male of sound mind. Usually, the guardian is the father, brother or paternal or maternal uncle of the wife or husband or any other person who can show that he is entitled to act as his or her representative. For a marriage to be legally valid, the wife must consent to the marriage and marriage-gift. The guardian proclaims this consent on behalf of the husband or wife. The guardian does not have the right to take the initiative in this regard, i.e. to declare that one of the prospective partners consents to the marriage and accepts the marriage-gift. In such case, either spouse can demand an annulment of the marriage because consent was not given.

The presence of the guardian is not always a condition for the validity of the contract. A woman can apply directly to a court to marry her, if the guardian is unable to do so.

Women's travel

Freedom of movement is guaranteed under article 42 of the Interim Constitution, which states that every citizen is entitled to freedom of movement and freedom of residence. Paragraph 2 of the same article provides that every citizen has the right to leave and return to the country subject to the relevant legal regulations. The Passports and Immigration Act of 1994 grants the right to travel and to migrate without any discrimination and article 5 of the Act grants equal rights with respect to entry and departure from the Sudan. The regulations requiring the guardian's consent for a woman to be able to travel were revoked pursuant to a recommendation made by the Cabinet at its forty-third session held on 13 November 2003. A guardian's consent is only required for travel by children under the age of 18.

Reply to question 8: public office

According to the figures for 1997, the workforce in the Sudan comprises 8 million persons, 67.7 per cent of them males and 31.3 per cent females. Around 70 per cent of rural women work in agricultural activities, while women occupy 22 per cent of government posts in grades 7 to 4 and 57 per cent of posts in grades 10 to 4.

Women's representation in executive positions

- Legal advisor to the President of the Republic: Professor Farida Ibrahim;
- Federal Health Minister: Tabita Butrus Shawkaya;
- Minister for Social Welfare, Women and Children: Professor Samiyah Ahmad Mohammed;
- Minister for Social Welfare for the state of Khartoum: Professor Samiyah Habbani;
- Commissioner for the state of Khartoum: Professor Hikmat Hasan Sayid Ahmad;
- Chairperson of the National Assembly's legislation committee: Professor Badriyah Sulayman;
- Member of the Constitutional Court: Saniyah al-Rashid;

- Chairperson of the National Assembly’s human rights committee:
Farsikala Anya Niyaniq;
- Chairperson of the health and community development committee:
Margaret Samuel Aru;
- Minister of State for Agriculture and Forestry: Professor Ann Anyu;
- Minister of State for the Environment and Urban Development:
Professor Teresa Sarisu Ayru;
- Minister of State for Energy and Mining;
- Deputy Minister for Foreign Trade.

Women’s representation in the legislature

- There are five women members of the Khartoum state legislature;
- There are 78 women members of the National Assembly.

Women’s representation in the judiciary

There are 58 women in the judiciary; 6 of them are high court judges and 31 are appeal court judges.

Reply to question 9

Offences which carry the death penalty pursuant to the Criminal Code of 1991

Article	Offence
50	Destroying the constitutional system
51	Fomenting war against the State
53	Spying on the Sudan
126	Apostasy
130	Premeditated murder (where the aggrieved party insists on the penalty of retaliation (<i>qisas</i>))
134	Inciting a minor or insane person to commit suicide
146	Penalty for adultery by the married person
148	Sodomy (where the offender has been convicted three times of the offence)
149	Rape
150	Sexual intercourse with persons within the proscribed degrees of consanguinity
168	Armed robbery
177	Breach of faith (by a public official)

Article 36, paragraph 2, of the Interim Constitution of 2005 states that the death penalty may not be imposed on a person below the age of 18 or on someone who has reached the age of 70 unless in regard to *hadd* offences [for which a mandatory sentence is established under Islamic law] or *qisas* offences [for offences which the penalty is retaliation]. The Constitution, then, makes an exception for *hadd* and *qisas* offences.

A child is defined by law and in treaties as a person who is below 18 years of age unless, under the law applicable to the child, majority is attained earlier.

A conflict arises where a child below the age of 18 who displays physical signs of majority commits the offence of murder, which carries the death penalty, and thus becomes criminally responsible for the offence. The Constitution nevertheless recognizes all the rights and freedoms embodied in international conventions, treaties and charters to which the Republic of the Sudan is a party as being an integral part of the bill of rights (art. 32 (5)). Article 32, paragraph 5, of the Constitution provides that the State shall protect children's rights as recognized in the international and regional treaties which the Sudan has ratified.

Article 86 of the Children's Act of 2004 provides that a juvenile delinquent over 15 and under 18 years of age who commits an offence which is punishable by death shall be subject to a penalty of from 6 to 10 years' imprisonment.

The Convention on the Rights of the Child of 1989 prohibits the imposition of the death penalty on a person under 18 years of age. Article 37 provides that neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age. The Sudan has also acceded to and ratified the International Covenant on Civil and Political Rights, article 6, paragraph 5, of which stipulates that a sentence of death cannot be imposed for crimes committed by persons below 18 years of age. The Sudan is therefore bound to implement these treaties by virtue of having ratified them.

Notwithstanding article 36, paragraph 2, of the Interim Constitution, the Sudanese courts verify that persons accused of offences which carry the death penalty have reached the age of 18. In this connection, reference may be made to the following rulings:

Fatima Adam Yahya was convicted of killing her husband Abdallah Adam and was sentenced to death by the Dukka General Criminal Court, pursuant to article 130, paragraph 2, of the Criminal Code. The Federal Supreme Court annulled the death sentence and ordered that the case be sent back to the relevant court to determine whether her child was in fact the offspring of her late husband. The Supreme Court issued a final verdict confirming the death sentence.

Trial of Najm al-Din Qasm al-Sayid Abdallah

This man was convicted by the Dimazin Criminal Court under article 130 of the Criminal Code. The verdict was appealed before the Blue Nile State Appeal Court, where his lawyers pleaded that he had been under 18 when the offence was committed. The Appeal Court sent the case back to the court of first instance to determine the age of the defendant. The determination was made by a medical panel, which found that the defendant was well over 18. Most of the conviction and the sentence was confirmed, including by the Supreme Court. An application for a judicial review was submitted and rejected. The case is now being heard by the Constitutional

Court. The Advisory Council wrote to the Constitutional Court to ask what stage the case had reached. The reply was that the case was before the judge responsible for giving a second opinion.

Reply to question 10: measures taken to combat violence against women in Darfur

1. A unit to combat violence against women was set up.
2. In October 2004, the Minister of Justice issued Circular No. 2, concerning official form No. 8, to guarantee victims access to treatment without needing to comply with the conditions set out in official police form No. 8. The Government of the Sudan will endeavour to ensure effective compliance with the circular.
3. In May 2006, three workshops were held respectively in Niyala, Al-Fashir and Al-Janinah to draw attention to and explain the contents of the circular. The Government will organize similar briefings in the main towns and villages of the three states of Darfur.
4. The Government of the Sudan is taking steps to set up women's committees to investigate rapes.
5. A workshop was held in South Darfur on 10-11 December 2005 in cooperation with UNMIS. It was attended by 62 persons representing the police, the security services, the prosecution service, the Ministry of Social Welfare, the armed forces, lawyers, religious leaders, the media, civil society organizations and judicial institutions. A workshop was also held in Janinah in West Darfur on 17-18 December 2005. It was attended by representatives of UNMIS, international voluntary organizations, civil society organizations and the Humanitarian Aid Commission. The Government of the Sudan will hold similar workshops in the three states of Darfur.
6. In 2005, a number of seminars were held as part of the "16 Days of Activism Against Gender Violence" campaign to mark the International Day for the Elimination of Violence against Women.
7. At a press conference held on 28 November 2005, the State's plan for combating violence against women was unveiled, in the presence of the Minister of Justice. Several newspapers and news agencies were in attendance. Since the plan is still being implemented, the Government of the Sudan has undertaken to continue with it until it has been implemented fully and effectively. The State's plan for the elimination of violence against women in the three states of Darfur is attached.
8. A television programme on the subject of violence against women was recorded by the Blue Nile Channel on 22 November 2005.
9. A workshop was held at the Abd al-Majid Imam Centre on 29 November 2005, in conjunction with UNMIS.
10. A radio programme was broadcast on 30 November 2005.

11. A workshop was held by the Academy of Communication Sciences, in conjunction with the United Nations Population Fund (UNFPA), on 20 December 2006.
12. A workshop was held in Darfur on 7-8 December 2005.
13. A workshop was held for senior leaders in West Darfur on 18-23 November 2006.
14. Intensive awareness programmes for school students in the three states of Darfur were developed and a number of radio discussions were broadcast in West Darfur.
15. A workshop for mid-ranking leaders was held in West Darfur from 25 November to 5 December 2006 and training was given to policewomen.
16. A briefing was held at the Abu Dhirr camp by Zalinji University.
17. An open day was held by the West Darfur broadcasting company.
18. On 3 May 2007, in the city of Zalinji, a discussion was held on the West Darfur local radio station in which guests from the police and prosecution service explained the procedures for applying to judicial mechanisms when a violent crime occurs.
19. A guide to dealing with rape cases was produced in a cooperative effort between the Ministry of Health and UNFPA. The Government will distribute and circulate it as widely as possible in the three states of Darfur.
20. A total of 45 persons from civil society organizations received training in October 2006. The Government will continue this process in keeping with the plan.
21. The plan on combating violence against women was presented in Brussels in June 2006, in cooperation with UNFPA.
22. Civil society organizations have been trained to provide technical, social and medical assistance to victims of rape.
23. A media committee has been formed comprising representatives of media organizations, UNMIS and UNFPA. It has drawn up a governmental and a state media plan, hopefully for implementation in 2007.
24. A woman's investigation bureau has been established in the state of South Darfur.
25. Representatives of internally displaced women have been brought into the committee on violence against women.
26. The plan has been publicized at numerous press conferences held by the chief of the gender violence unit. The plan was unveiled at a press conference held by the Advisory Council for Human Rights.

27. A press conference was held on 28 November 2005 at which the state's plan on eliminating violence against women was unveiled, in the presence of the Minister of Justice. A number of newspapers and news agencies attended.
28. The plan on violence against women was printed and distributed.
29. A number of workshops were held to publicize the plan.
30. The plan was disseminated through the media.
31. Efforts were made to ensure compliance with Circular No. 2 issued by the Minister of Justice on official form No. 8. The circular guarantees treatment to victims without needing them to meet the conditions stipulated in the form.
32. Seminars were held in the main towns and villages of the three states of Darfur to draw attention to and explain the contents of Circular No. 2.
33. Seminars were held in the three states as part of the "16 Days" campaign to mark the International Day for the Elimination of Violence against Women.
34. The State plan on combating violence against women continued to be implemented in a fully effective manner.
35. Civil society organizations continued to receive training on providing technical, social and medical assistance to victims of rape.

The Government of the Sudan will continue and intensify these activities until the plan has fully met its objectives.

The gender violence unit

The gender violence unit was established by a decision of the Council of Ministers. The unit reports to the Minister of Justice and is headed by Ms. Atiyat Mustapha, a member of the National Assembly. It formulates policies on gender-based violence and organizes studies and research on the scale, causes and manifestations of the phenomenon in the Sudan. It is also responsible for establishing a database and liaising between the different ministries of relevance.

The unit is in the process of establishing state units to gather information and implement national plans and policies within local communities, to work with civil society organizations on applying the concepts behind traditions and practices that are harmful to women and children, and to train specialists of all kinds who are involved in combating violence against women and children.

The unit follows up on the implementation of the national plan of action to combat violence against women and the submission of periodic reports (plan attached).

Funding for the unit

Approximately SD 100 million was allocated to the unit in the State's general budget.

Achievements of the unit

1. A meeting of the unit's technical committee was held in February 2006 to review the implementation of the plan and recommend future action.
2. A meeting was held with United Nations agencies and the donor country to discuss the unit's role in implementing the plan and the Organization's role in providing material support for the plan.
3. A visit was made to South Darfur, together with the director of the UNMIS human rights bureau, representatives of the embassies of the United States, United Kingdom and the Netherlands, representatives of the African Union and the UNFPA and some human rights monitors, in order to follow up on the activities of the committee to combat gender-based violence since its establishment one year previously and to utilize its experience in other states. The unit chief met with the governor of South Darfur, women's and children's commissioners, the speaker of the legislative assembly and the Minister of Finance and discussed the role of the national unit to combat violence against women and children and the importance of establishing a similar unit in South Darfur. On 6 March 2006, the governor issued an order for the establishment of such a unit under the auspices of the women's and children's commissioner.
4. A meeting was held with the Minister for Local Government in April 2006 in order to devise a strategy for coordination with the states.
5. In May 2006, the Advisory Council held three workshops in Niyala, Al-Fashir and Janinah respectively to raise awareness about Circular No. 2 issued by the Minister of Justice and the rules concerning the use of official form No. 8.
6. A unit to combat violence against women was set up in South and West Darfur by order of the governor.
7. A workshop was held for the gender violence units in the three states and the UNMIS human rights section. The plans of the three states were discussed and on 8 June 2006 a specific action plan was drawn up for Darfur.
8. A seminar on gender-based violence was held in Brussels. It was attended by the director of the national unit, the governor's advisor on women's and children's affairs in West Darfur and representatives of voluntary organizations in South Darfur. The Brussels Declaration and Call to Action were adopted with a view to mobilizing financial support for efforts to combat gender-based violence through international and domestic organizations. The Declaration is not being implemented, however.
9. A guide on dealing with victims of rape was published.

10. Preparations were made for a promotional campaign in the three states of Darfur by advisers with the support of the national unit, the UNMIS gender unit and UNFPA. In August 2006, a promotional plan of action was devised through the “16 Days of Activism Against Gender Violence” campaign.

11. In October 2005, 45 community leaders from Darfur were given training in psychological management of victims of gender-based violence in civil society organizations. It was recommended that an action plan be formulated for the state on psychological and social training for victims of gender-based violence.

12. From 16 November to 10 December, the “16 Days of Activism Against Gender Violence” campaign was run in the three states, with the assistance and financial support of all national units, the three Darfur units and UNFPA.

Reply to question 11

Article 32, paragraph 3, of the Constitution provides that the State shall combat harmful customs and traditions which undermine the dignity and status of women, while paragraph 5 provides that the State shall protect children’s rights as embodied in the international and regional treaties which the Sudan ratifies.

The State has taken numerous steps to bring an end to female genital mutilation, as illustrated below.

1. The Sudanese Medical Council issued a ruling in 2004 prohibiting doctors from performing excision and infibulation operations on women.
2. The Council of Islamic Jurisprudence issued a ruling prohibiting female genital mutilation.
3. The importance of the functions of women’s genitalia and of eliminating the practice of female genital mutilation has been included as a subject in general and higher education curricula and in the curricula followed by health practitioners and at midwifery schools.
4. The State cooperates with women’s and civil society organizations in regard to awareness and educational programmes.

The State intends to take the following measures:

- To enact explicit legislation on the elimination and criminalization of the practice of female genital mutilation once it has ensured that awareness programmes have reached all sectors in urban and rural communities, so that the phenomenon does not shift to the black or hidden market, giving rise to complications such as AIDS;
- To establish a national coordination and capacity-building mechanism.

The State supports awareness programmes and campaigns by including the elimination of female genital mutilation as a subject in school and university curricula and by focusing attention on health practitioners such as doctors, midwives, etc. These efforts have brought about a reduction, in urban areas, in the incidence of the most dangerous or radical types of female

genital mutilation from 97 to 40 per cent. In the state of Khartoum and some state capitals such practices have fallen to 24 per cent. In rural areas, the decline has been smaller, according to the most recent studies.

At the most recent workshop held by the National Council for Child Welfare, the following recommendations were made:

- Prepare a comprehensive strategy on the elimination of female genital mutilation;
- Strengthen the partnership between civil society, governmental institutions and international and domestic organizations;
- Establish a national coordination and capacity-building mechanism and promote the community movement so that it includes all states of the Sudan.

Reply to question 12

1. There are no militias under the armed forces' control, except for the Popular Defence and the Popular Police forces.
2. The Government complies with domestic and international laws and does not engage in any arbitrary acts against humanitarian personnel. Most abuses are perpetrated by the rebel movements which have not signed the Abuja Agreement.

As for the movements that did sign the Agreement, there is a joint security arrangements Commission which is responsible for implementing and applying the relevant terms of the Abuja Agreement. These movements issued a joint communiqué undertaking to respect and not to endanger humanitarian work. The Commission undertakes the tasks of disarmament, demobilization and reintegration and there are no militias under armed forces' control.

Reply to question 13: measures to eliminate torture

Article 13 of the Interim Constitution of 2005 provides that no one may be subjected to torture or to cruel, inhuman or degrading treatment. Article 31 of the National Security Act of 1999 prohibits torture and ill-treatment of prisoners. The regulation on the treatment of prisoners by the security services also prohibits any acts of torture or ill-treatment. Anyone who breaches the Act will be brought to book and will be punished. By way of an example, there is the case of Hamd al-Nur, who was arrested and tortured by members of the security services in Danqala. Those responsible had their immunity lifted and were put on trial. The court found them guilty and sentenced them to imprisonment and discharge from the security services. It also ordered them to pay 300,000 dinars in compensation to the complainant.

Case of Government of the Sudan v. Samih Ali Mohammed et al.

- The accused were members of the criminal investigations department;
- They tortured and beat the victim to death in the presence of the officer on duty;

- The court sentenced the first defendant to death and dismissed the charges against the others;
- The verdict was upheld by the Supreme Court;
- The immunity of the duty officer was waived so that he could be sent for trial.

We attach herewith a list of some verdicts handed down against persons found guilty of torture. The draft terms of reference of the National Human Rights Committee, which were approved by the Constitution Committee, vest the Committee with the authority to investigate such offences.

Reply to question 14

In order to put a stop to child abductions which normally occur among tribes in the Southern states of Darfur, South Kordofan, West Kordofan and North and West Bahr al-Ghazal, because of the war in southern Sudan and tribal disputes over scarce resources and water, the Committee for the Eradication of Abduction of Women and Children (CEAWC) was established in 1999 pursuant to a judicial order on the abduction of children and women issued by the Minister of Justice and the Chairman of the Advisory Council for Human Rights on 15 May 1999. CEAWC was restructured pursuant to Presidential Decree No. 14 of January 2004. The purpose of the Decree was to provide additional resources and powers to the CEAWC and to enable it to function effectively by attaching it to the Office of the President.

The Committee, which is chaired by Ahmad al-Mufti, in conjunction with the social affairs ministers for South Darfur and West Kordofan, includes representatives from a number of government agencies and national human rights NGOs, as well as the chairman of the Dinka committee, representatives of the Dinka, Messeria and Riziqat tribes and the Women's Union.

The Committee operates through 22 joint tribal committees covering each of the target areas and acting as its executive arm. Membership is evenly divided between the tribes affected by this phenomenon.

Although legal action against abductors is the best way of eradicating abductions, the tribes affected by the phenomenon, including the Salatin Dinka Committee, have asked CEAWC not to resort to legal action unless peaceful efforts by the tribal committees fail to bring about the return of abductees. The idea is to facilitate the Committee's work and to ensure it receives cooperation from local communities and also to contribute to peace-building in the area. Criminal proceedings hamper peaceful efforts.

The best option is to facilitate the safe return of affected children and women to their families by providing full support, in the form of material, administrative or other kinds of assistance, for the efforts of the joint tribal committees.

CEAWC investigates reports of abductions of women and children. Its work is carried out in cooperation, consultation and coordination with the international community and with the international organizations such as the European Union, the United Nations Children's Fund

(UNICEF), the United Kingdom Save the Children organization, Save the Children Sweden and the Deputy Special Representative of the Secretary-General for the Sudan. These parties cooperate so closely with CEAWC as to make them partners and not just donors.

Over the five-year period from its establishment in May 1999 until the beginning of 2004, CEAWC, with donor funding, managed to document 1,842 cases (according to CEAWC figures 3,500 cases) and to return 1,496 persons to their families.

Over a 32-month period from March 2004 to 20 November 2006, CEAWC, with government funding for its preliminary work, managed to document 11,237 cases. Of these, 3,398 individuals, mostly from southern Sudan, were reunited with their families and the remainder will be reunited with their families at a later stage.

- There have been no new cases of abduction; the phenomenon has stopped.

The penalties and offences enumerated in the chapter of the Criminal Code of 1991 concerned with offences against individual liberty are listed here below:

- The offence of enticement (art. 161), for which the penalty is seven years' imprisonment and possibly a fine;
- Abduction (art. 162), for which the penalty is up to 10 years' imprisonment and/or a fine;
- Forced labour (art. 163), for which the penalty is up to one year's imprisonment and/or a fine;
- Unlawful detention (art. 164), for which the penalty is up to three years' imprisonment and/or a fine.

Reply to question 15: child soldiers

A policy on child soldiers was devised within a specific legal framework (based on international and regional conventions and treaties and domestic laws). The policy lays out its fundamental underlying principles (national ownership of the programme, the best interests of the child). It identifies the target group, the basic stage for implementation of the programme and the importance of paying attention to data, and identifying partners from international and national organizations and relevant ministries. The policy has been submitted to the partners (UNICEF).

The child soldiers focal point developed its own operational framework in partnership with relevant government institutions, United Nations agencies and civil society organizations. It then established an operational plan for 2007.

Focal points were set up in all the states to the north of the 1965 border, through a special structure, in coordination and cooperation with UNICEF.

The child soldiers focal point joined the legislative committee of the Children's Council and emphasizes the right of these children to social and economic integration and the importance of punishment in preventing recruitment and re-enlistment.

Preparatory programmes for partners and agencies

In the period from December 2005 to November 2006, a number of workshops and meetings were held to train partners and to brief relevant organizations on programmes and activities, including:

1. A training workshop on human rights programming (30 May to 1 June 2007);
2. A promotional workshop with leaders of armed factions (friendly forces, 24 February 2005);
3. A planning workshop for domestic and international organizations on integration opportunities (4-5 March 2006);
4. An awareness-raising workshop for journalists on child soldiers (22-23 February 2006);
5. A practical workshop designed to formulate a plan for the child soldiers focal point (20 September 2006);
6. A briefing on child soldiers in the state of Kassala (7 March 2006);
7. A briefing on child soldiers in Damazin (18 March 2006).

The cluster carried out a survey of friendly forces and identified 21 child soldiers. It set up a programme to reintegrate the children with funding from UNICEF.

In joint operations with the commission in the south, 16 children were reunited with their families in the state of Khartoum. A further 24 children were reunited with their families in the state of Qadarif after the Popular Movement brought them back from the town of Bantayu. There are some inaccurate figures for the states of Darfur and the East.

The child soldiers focal point is a member of the legislative committee of the Children's Council and emphasizes the right of these children to social and economic integration and the importance of punishment in preventing recruitment and re-enlistment.

The Disarmament, Demobilization and Reintegration Commission for Northern Sudan

The Disarmament, Demobilization and Reintegration Commission for Northern Sudan was established by Presidential Decree No. 5 of 2006.

The National Council for Coordination of Disarmament, Demobilization and Reintegration was established pursuant to Presidential Decree No. 4 of 2005.

The Ministry of Social Welfare is a member of both of the above-named institutions.

Protection of children

The “child soldiers” programme of the Disarmament, Demobilization and Reintegration Commission was developed along the following lines.

A joint policy of the Government of National Unity to resolve the situation of child soldiers who have been separated from their families was prepared. The policy includes the following elements:

1. All the international treaties and protocols on the involvement of children in armed conflicts.
2. Eighteen years was established as the age for enlistment in the armed forces and standards were set for assessing children’s ages and the target numbers for the programme (7,000 children).
3. Interventions were designed according to gender (boys and girls), having due regard to persons with special needs.
4. UNICEF was identified as an international partner for the purposes of the implementation of the Commission’s programme under the Peace Agreement.
5. A meeting was held with the International Committee of the Red Cross (ICRC) on helping with follow-up on children separated from their families; they promised to help.
6. All international and national organizations and ministries concerned with children, notably the National Council for Child Welfare, were involved in workshops and training.
7. Local communities and families in priority areas in the Blue Nile, Kassala, Abyei and Kaduqli were involved through local workshops.
8. Preliminary surveys were carried out of children in Damazin and areas occupied by friendly forces in Khartoum and the south. The surveys showed that there were around 300 child combatants in the Blue Nile and some 4,000 children among the friendly forces.

Reply to question 16

1. Under the National Security Forces Act, arrests are subject to scrutiny by the prosecution service, as represented by the competent deputy public prosecutor. The Act grants deputy public prosecutors, who have the same rank as public justices and are appointed by the Minister of Justice, the authority to inspect conditions in prison in order to ensure compliance with legal time limits on imprisonment and to receive any complaints, should there be any.
2. Prisons are also subject to judicial oversight; the Act provides for the appointment of a judge by the Constitutional Court to whom a prisoner may go in order to appeal against his detention order. The judge may issue whatever ruling he deems appropriate, after reviewing the reasons for the arrest. The competent judge also has the right to inspect custody centres and to verify compliance with prison regulations.

Article 31 (c) of the National Security Act of 1999 provides that every member designated by the director shall have the authority to make arrests under the Police Act and the Code of Criminal Procedures in regard to offences which threaten national security.

Paragraph (d) of the same article gives members of the security services the authority to detain a person for up to three days for questioning and investigation, provided that they explain the charges to that person.

Article 32 of the Security Act of 1999 defines the rights of persons under arrest or in detention. These persons have the right to be informed of the reasons for their arrest; to notify their family; to receive treatment conducive to the preservation of their dignity; and not to be subjected to physical or psychological harm.

Paragraph 5 requires the competent deputy public prosecutor to inspect custody facilities on an ongoing basis in order to ensure compliance with regulations on imprisonment and receive any complaints from inmates.

Article 41 stipulates that the Criminal Code shall apply to members who commit offences under the Code other than those enumerated in the Security Act.

Article 47 stipulates that a member of the security services shall face up to 10 years' imprisonment for abusing his authority and office with intent to do harm to others.

Article 90 of the Criminal Code of 1991 prescribes a term of up to three years' imprisonment for any public servant who, in exercising his authority to make an arrest or to keep a person in prison, knowingly breaks the law.

Article 164 prohibits unlawful detention and article 165 prescribes a penalty of up to one year's imprisonment for unlawful detention. The penalty for placing a person in incommunicado detention is up to three years in prison.

Immunity of members of the security services

Article 33 (b) of the National Security Act provides for this kind of immunity, which is procedural but not substantive immunity. The practice is to lift immunity whenever there is *prime facie* evidence to justify the laying of charges.

The reason why permission must be obtained from a superior officer is that he is the person best qualified to say whether or not the act was committed in the course of duty. Furthermore, officers in charge are able to monitor their men's behaviour and to apply administrative measures against them if they are found guilty of an offence. It is the public prosecutor who lifts the member's immunity. If the immunity is not lifted, the matter is referred to the courts.

Reply to question 17

There are not now any secret places of detention or practices of incommunicado detention (see reply to question 16).

The following measures have been taken to combat arbitrary detention:

- The Constitutional Court oversees prisoners pursuant to article 16 (c) of the Constitutional Court Act of 2005;
- Judicial oversight;
- Inspection of custody centres by a public prosecutor;
- The Board of Grievances and Public Accountability;
- The National Assembly's security and defence committee;
- The Advisory Council for Human Rights monitors the conditions of prisoners and helps to obtain permission for prison visits and to have prisoners examined by doctors. The Council visits places of detention. The Council also has a committee to follow up on any case of unlawful detention. The Council is also reviewing the convention on enforced disappearances with a view to accession by the Sudan and the establishment of a related mechanism;
- UNMIS and the African Union mission pay visits to security detention facilities;
- Training courses are held for members of the security forces;
- The Security Act is being amended by the Ministry of Justice.

Reply to question 18: measures taken to address poor conditions of detention

1. The Ministry of the Interior established the Coordinating Council for Human Rights pursuant to directives No. 142/2006 of 19 March 2006. The Council is a mechanism with responsibility inter alia for monitoring conditions of detention.
2. The Ministry of the Interior established community police centres, in addition to family and child units.
3. The national security services established a department for prisoners' affairs and a medical unit, in order to improve conditions in prisons. There is also regular maintenance of detention facilities. The security services also pay for operations which prisoners undergo in certain well-known hospitals.
4. Three training courses designed according to international standards were held for persons who work in this area. The courses were run in conjunction with the ICRC (February, June and September 2006).

Independent mechanisms for monitoring detention

- The Constitutional Court;
- The Ministry of Justice;
- The Advisory Council for Human Rights;

- The National Human Rights Commission;
- An office was set up to receive complaints and requests for information from prisoners and to organize visits. Lists of prisoners are displayed on a board in the office;
- Prison visits are carried out by relevant organizations, including UNMIS and the African Union mission.

Reply to question 19: freedom of movement

Article 42, paragraph 1, of the Interim Constitution states that every citizen has the right to freedom of movement and freedom of residence, unless otherwise provided by law for reasons of public health or public safety. There are no restrictions on movement between the different states of the Sudan, including between the northern and southern states.

Measures for the protection of displaced persons

The war is the cause of forced displacement and homelessness in the Sudan. Citizens move to government-controlled areas in order to benefit from security and services. The Government protects displaced persons camps using a police force made up of 17,000 men.

Humanitarian and medical assistance is provided in these camps and the Humanitarian Aid Commission provides humanitarian organizations with assistance, through the fast track system, which grants access to humanitarian aid and enables the staff of these organizations to achieve their objectives unhampered and in a timely fashion.

Closure of refugee facilities and camps in Khartoum

There are no refugee camps in Khartoum. The State deals with and regards these homes and camps as makeshift shelters constructed on State-owned territory. The State develops plans for these areas in order to regularize their status. What happened in Suba was that the authorities responsible for urban development drew up a plan for the area and compensated those adversely affected by offering them alternative sites. Some objected to the compensation being offered and this led to rioting and attacks against the police. Those responsible for causing the riots were tried in court.

Reply to question 20: fair trial guarantees

All judicial institutions, including the courts, prosecution departments and law-enforcement agencies, comply with the guarantees articulated in article 34 of the Interim Constitution of the Sudan of 2005, concerning criminal justice standards, and the Criminal Code of 1991. These guarantees are the international standards and principles pertaining to the three stages of trials: i.e., before, during and after trial. These guarantees do not change, depending on whether or not the trial is a summary trial. Monitoring of these guarantees is effected during the different stages of appeal up until the final verdict issued by the Supreme Court. The Constitutional Court, as the custodian of the rights and freedoms embodied in the Constitution, guarantees the application of these principles and standards at all levels of due process.

Admissibility of confessions extracted under torture

The Interim Constitution of the Sudan of 2005 prohibits torture and cruel or inhuman treatment of any person (art. 33). With regard to confessions extracted under torture, article 20, paragraph 2, of the Law of Evidence Act of 1994 states: "A confession in a criminal case shall be null and valid if it was obtained as a result of any form of enticement or coercion." Likewise, article 16, paragraph 2, of the same Act states: "A confession made before any para-judicial authority shall not be regarded as a legal confession in criminal cases."

Relationship between the judicial authority and the President of the Republic

According to article 123, paragraph 2, of the Interim Constitution, the judicial authority is independent of the legislature and the executive, and it enjoys financial and administrative independence.

It is clear from the above that the judicial authority, as represented by the Chief Justice, is accountable to the President of the Republic for general oversight of the conduct of the judiciary. The President of the Republic has no involvement in decisions handed down by the different courts, other than to uphold death sentences. The President may not comment on or express his views about any court ruling and he is answerable to the Constitutional Court pursuant to article 122, paragraph 2, of the Constitution and article 15 (g) of the Constitutional Court Act of 2005.

Article 129 of the Constitution provides for the establishment of the National Judicial Service Commission to undertake, under the chairmanship of the Chief Justice, overall administration of the national judiciary.

Reply to question 21

According to the Machakos Protocol, nationally enacted legislation having effect only in respect of the states outside Southern Sudan shall have as its source of legislation the sharia and the consensus of the people. Nationally enacted legislation applicable to the southern states or the southern region shall have as its source popular consensus and the values and customs of the people of Sudan, including their traditions and religious beliefs, having due regard to the diversity of the Sudan (3.2.2 and 3.2.3).

Article 5, paragraph 3, of the Interim Constitution of 2005 stipulates that where national legislation that is currently in force or is enacted takes as its source religious or customary law, then a state with a majority population that does not practise the said religion or customs may, subject to article 26, paragraph 2 (a), of the Constitution, regarding Southern Sudan:

(a) Enact legislation to allow or provide for institutions or practices in that state consistent with the population's religion or customs;

(b) Refer the law to the Council of States for approval by a two-thirds majority, or initiate national legislation to provide for the establishment of whatever appropriate alternative institutions may be required;

The above provisions make it clear that the sharia and *hadd* penalties apply to the northern states and not to the southern states.

It follows that since, under the Peace Agreement, the Islamic sharia is the source of legislation, the Criminal Code is already in line with the Interim Constitution of 2005 and there is no need therefore to bring it into line with the Constitution.

Religious extremism

Freedom of religious belief and freedom of worship are guaranteed under article 38 of the Interim Constitution of the Sudan of 2005, together with the freedom to profess beliefs, to receive education and to follow and observe rituals or festivals, subject to the requirements of the law and public order. Central and state Governments approve the establishment and funding of churches and the teaching of subjects relating to Christianity in Christian schools throughout the Sudan. The practice or observance of religious beliefs is not regarded as extremism that is punishable by law, unless the practice or observance in question is a crime or breaches public order.

Reply to question 22

The President of the Republic issued Decree No. 72 of 2007 appointing members to the Commission for the Rights of Non-Muslims in Khartoum, which is chaired by Mr. Joshua Diyo and has 27 members, 12 of them Christians.

Aims of the Commission

1. To ensure that the national capital is a symbol of national unity and reflects the Sudan's religious and cultural diversity.
2. To guarantee the rights of non-Muslims in the national capital in the light of the application of the Islamic sharia.
3. To work for the establishment of a spirit of tolerance and peaceful coexistence among the inhabitants of the capital.

Functions of the Commission

1. To ensure that the rights of non-Muslims are observed in the context of the application of the sharia.
2. To ensure respect for all religions, faiths and customs and to create a spirit of tolerance and coexistence among non-Muslim communities and different cultures.
3. To submit whatever comments and recommendations it deems appropriate to the presidency of the Republic.

The Machakos Agreement states that the Sudan is a multi-faith and multicultural society and that no one must be subject to discrimination on grounds of religion. Eligibility for public office is based on citizenship.

Appointment of Christians to posts in the Ministry of the Interior

Father Aday Ambrose was appointed chief of the Ministry's Department of Churches.

Promotion of inter-religious dialogue

The Council for Religious Coexistence was established in November 2002 and brings together Sudanese Islamic and Christian religious leaders. Its general assembly comprises 46 members evenly divided between Muslims and Christians.

The Council has held a number of meetings to promote inter-religious dialogue and cooperation, including the following:

- A religious dialogue with Lord Carey, the former Archbishop of Canterbury, which was attended by a number of individuals from the religious and political spheres;
- A seminar on dialogue between civilizations with Mr. Recep Tayyip Erdogan, the Prime Minister of Turkey;
- Meetings of Islamic and Christian organizations aimed at establishing joint cooperation;
- A seminar on the values common to Islam and Christianity, which was attended by Professor William Baker;
- A training workshop on protection of religious freedom in which a number of young persons took part and various faith-based groups were represented;
- A lecture on the Islamic world and multiculturalism at which Prince Hasan Bin Talal gave an address.

Abroad, the Council has taken part in several conferences and workshops on the promotion of inter-religious dialogue, including:

- (a) A religious summit in Johannesburg that was organized by the Religious Plan for Peace in Africa organization;
- (b) A "religion for peace" conference in the Netherlands;
- (c) A meeting of the Arab team for Islamo-Christian dialogue in Jordan;
- (d) A conference of religious leaders in Washington.

Activities of the Council to protect religious freedoms

1. Convinced the Minister for Roads and Bridges to rebuild the Episcopalian Church's secondary school in Renek, which was demolished as a result of the construction of the Peace Highway.

2. Increased the number of hours devoted to broadcasts of Christian programmes on radio and television.
3. Submitted a plan of activities for the Armenian Church Council which had been at a standstill for 10 months because of a malicious report.
4. Asked for a decision from the governor of Khartoum prohibiting the construction of commercial outlets around Christian cemeteries, after graves had been desecrated during digging works.
5. Surveyed 32 homeless children's institutions after learning from international reports that children were being forced to become Muslims. The investigation found the allegation to be untrue.
6. The Council closely examines and endeavours to conduct inquiries relating to international reports on religious freedom in the Sudan.
7. Convinced the authorities to compensate the Catholic Church for the Catholic club which had been taken from it after its licence had expired and to give it another site and pay it financial compensation.
8. In cooperation with the Ministry of Guidance and Islamic Endowments, held an international conference in July [2007] on Muslim-Christian dialogue.

Number of Christians in parliament

There are 450 members, of whom 125 are Christians. The Vice-President of the Republic is a Christian, one third of government ministers are Christians and several Christians are employed as lecturers in various universities.

Department of Churches

Churches are registered by the Department of Church Affairs at the Ministry of Guidance and Endowments, which also facilitates the procedures for the discharge of their work. The Department regulates the evangelical movement, clergymen and foreigners. The administrative problems of churches are resolved and churches are exempt from duty on services. A conference on inter-religious dialogue was held under the auspices of the Ministry of Guidance and Endowments.

Reply to question 23

The Sudanese press enjoys considerable freedom to criticize the actions of the Government, provided that such criticism does not give rise to an offence of any kind. Journalists are summoned to appear before the Press Council, in pursuance of article 9 (i) of the Press Act, whenever the latter hears complaints from aggrieved parties. Alternatively, they may be summoned by the prosecution service, pursuant to article 47 of the Code of Criminal Procedures, whenever a published story breaches the Criminal Code. A summons does not result in suspension of the newspaper's activities.

The Prosecutor-General of the Republic of the Sudan issued a ruling annulling the application of article 130 of the Code of Criminal Procedures of 1991 to the press and journalists. The security services do not have the right to stop publication of a newspaper. They merely forward complaints to the competent authorities in the Press Council or the prosecution service.

The Press Act of 2004

The 1999 Press Act was repealed pursuant to the Press and Press Publications Act of 2004, which is in conformity with the Constitution. The powers of the Press Council are spelt out in article 9 of the Act as follows:

- (a) To license press corporations and institutions, newspapers, newspaper print works, press publishing and distribution companies and press services centres;
- (b) To establish a journalists' register, hold professional examinations and issue the necessary certificates for the practice of journalism;
- (c) To close down a newspaper that breaches any of the terms of its licence;
- (d) In conjunction with the Union of Journalists, to hold journalists to account in accordance with the Act and the Union's statutes;
- (e) To ensure that press institutions and companies comply with the regulations laid down in the Act. It must ask for reports from these institutions and companies on their annual performance, particularly with regard to the holding of meetings of their boards of governors, their budgets and their accounts;
- (f) To provide possible and appropriate assistance for the performance of the work and the activities of press institutions;
- (g) To establish specialized committees and regulate their proceedings;
- (h) To accredit press offices, correspondents, radio companies and foreign news agencies and to register their correspondents, without prejudice to the functions of the Ministry;
- (i) To review complaints from aggrieved parties concerning the publication of newspaper articles and to suspend newspapers until the complaint has been heard or for any shorter period of time;
- (j) To help settle disputes within the press community, without prejudice to the powers laid down in the statutes of the General Union of Journalists;
- (k) To establish a secretariat for the Council, engage staff and recommend their conditions of service;
- (l) To delegate any of its powers jointly to its president and general secretary, provided that they submit their decisions, under their delegated authority, to the Council, at its first meeting, for approval or rejection;

- (m) To impose the penalties prescribed by law;
- (n) To verify the level of circulation of newspapers and press publications;
- (o) To delegate any of its powers to any competent body in any state.

Issuance of licences

The following conditions on licensing of newspapers are laid down in article 25 of the Press Act:

- (a) The basic purpose of the press institution must be to issue newspapers, publish press items or produce press information;
- (b) The press institution must deposit a sum of money, of which the amount is to be determined by the Council in accordance with the relevant regulations, into a separate bank account designated by the Council in the regulation on development of press activities. It must undertake to refrain from using the deposited amount for purposes other than publication. The Council may issue a decision increasing the minimum deposit, as dictated by circumstances or the public interest;
- (c) The press institution must have contracts with a sufficient number of competent and experienced journalists, provided that the size and qualifications of the workforce do not fall below the minimum standards set in the regulation on the development of press work;
- (d) The press institution shall be a centre for the pursuit of press activities and its conditions and standards shall be laid down in regulations;
- (e) The press institution shall be an information centre accredited in accordance with the stipulations in the regulations;
- (f) The newspaper or press institution shall restrict its activities to its authorized area of specialization.

There are currently 48 newspapers operating in the Sudan (see attached list). They are all independent, non-governmental newspapers and some are organs of opposition political parties.

Challenges against decisions to refuse a licence

A decision by the Press Council to deny a licence is an administrative decision which is subject to judicial oversight, pursuant to the Administrative Court Act of 2005.

Radio and television stations

The question of press freedoms is not one for the print media alone. A number of privately-owned radio and television stations operate in the Sudan, in addition to the government stations in the capital and the states.

Reply to question 24

Article 40 of the Constitution guarantees everyone the right to peaceful assembly, the freedom to organize and the right to form political parties, associations and trade unions. Article 25, paragraph 2, of the Political Parties Act of 2007 provides that political parties have the right to hold peaceful demonstrations subject to the rules of law in a democratic country.

To hold a demonstration it is necessary to obtain authorization from the authorities, in order to maintain order. A demonstration or gathering is regarded as unlawful if this authorization is not obtained. The authorities only refuse permission for reasons that are explained to the party making the request. The two sides make whatever agreement they deem appropriate. One of the most conspicuous examples of authorization was that given to *Al-Minbar* newspaper, headed by journalist Uthman Mirghani, to hold a number of public meetings. Likewise, Mr. Al-Sadiq al-Mahdi, President of the Ummah Party, held several meetings in Dimazin and other areas. Dr. Hasan al-Turabi also held meetings in Darfur, Kordofan, the Blue Nile, Al-Jazirah and East Sudan.

Dispersal of demonstrators

The Code of Criminal Procedures of 1991, in articles 124-127, regulates the procedures for dealing with demonstrators.

Article 124: Any officer in charge or deputy public prosecutor may order the dispersal of any unlawful gathering that is likely to commit the offences of rioting or disturbing the peace.

Article 125 (1): If the gathering mentioned in article 124 fails to disperse when the order is given or acts in a manner that is in breach of the order, the officer in charge may order the dispersal of the crowd using the minimum necessary force, provided that firearms are not used, unless with the permission of a deputy public prosecutor.

- (2) The officer in charge or the deputy public prosecutor may seek assistance from any person in order to disperse a crowd.
- (3) The police may arrest anyone who takes part in such a gathering.
- (4) The right to use force under this article does not sanction the deliberate causing of death.

Article 126: Where a senior deputy prosecutor or, as the case may be, a senior officer in charge considers that the use of force for which article 125 provides is not sufficient to disperse the crowd, he may request assistance from any non-commissioned officer in charge of an armed force in order to disperse the crowd and thus to restore order and keep the peace.

Article 127: Any prefect or governor, depending on the limits of his powers, may issue an order banning or restricting any meeting, gathering or demonstration in the streets or public places that could lead to a breach of the peace. We provide hereunder some examples of unlawful gatherings that were dispersed by force.

1. The events at Khartoum University on 2 May 2007 were contained after a group of students went out of the university campus and blocked the main road on University Street to pedestrians and traffic, so that the police had to use tear gas. Four criminal indictments were filed against some of the students for rioting, disturbing the peace and unlawful assembly.
2. The rise in fuel prices on 6 September 2006 led to unauthorized demonstrations which were spearheaded by some political parties. The police dealt with them using tear gas, which is a means given to them to deal with riots, unlawful gatherings and security lapses. Ms. Miriam al-Sadiq and others were arrested and charged in connection with indictments 9447-9501, North Khartoum, and were later released.
3. An example of a recent incident is one where a group of citizens in the Kajabar area, from the villages of Sabu and Fariq, went out to protest against the construction of the Kajabar Dam. The police fought the group off with tear gas, but another small group approached the installations at the complex and tried to set fire to them. This led to clashes with the police, who fired shots which killed four persons. A committee was set up to investigate the incident.

Reply to question 25

Article 40, paragraph 1, of the Interim Constitution of 2005 guarantees everyone the right to peaceful assembly and the right to freedom of association, including the right to form or join political parties, associations and trade and professional unions.

Paragraph 2 of the article stipulates that the formation and regulation of political parties, associations and trade and professional unions shall be regulated by law, subject to the exigencies of a democratic society.

Paragraph 3 of the article stipulates that no organization shall function as a political party nationally, in Southern Sudan or at the State level, unless:

- (a) Its membership is open to any Sudanese, irrespective of his or her religion, ethnic origin or place of birth;
- (b) Its programme does not contravene the Interim Constitution of 2005;
- (c) It has democratically-elected leaders and institutions;
- (d) Its sources of funding are transparent and publicly disclosed.

After the Interim Constitution was approved, the Political Parties Act (attached) was issued in 2007, abrogating the Political Parties and Organizations Act of 2001.

Key aspects of the Political Parties Act of 2007

Article 4 of the Act stipulates that political parties which were registered under the Political Parties and Organizations Act of 2001 remain in existence, as if they had been registered under the new Act.

Paragraph 2 stipulates that non-registered parties, including those which are proscribed, have 90 days from the date of the Act's entry into force to bring their rules into line with article 14 and to deposit their constitution with the registrar.

Paragraph 3 stipulates that no political party may engage in political activity before it has been registered.

2. The Act provides for the creation of a council to deal with matters relating to political parties. This council is made up of a full-time chairman and eight members. It conducts its work independently and submits reports on its progress to the National Council. These are published and are available to the public. The council is authorized to register political parties and issue the relevant certification.

3. Article 12 of the Act stipulates that every Sudanese aged 18 years or over has the right to participate in the establishment and membership of a political party, except for certain State officials, namely, members of the army; judges; legal advisers at the Ministry of Justice; the higher echelons of the civil service and diplomats in the Ministry of Foreign Affairs.

4. Article 14 lays down the conditions for establishing a political party: a party's membership should be open to any Sudanese who adheres to its goals and principles; its programme should not contradict the Comprehensive Peace Agreement and the Constitution; its leadership and that of its organizations at all levels should be democratically elected with consideration given to the representation of women; its sources of funding should be transparent and publicly disclosed; it should have a constitution that is endorsed by its organizations; its founders should number no fewer than 500 men and women; and it must not practise or incite violence or provoke tension between ethnic groups, religions and races.

5. Article 5 stipulates that the documents required for registration must be deposited with the council. A decision will be issued by the council within 15 days of receipt of these documents. In the event of a refusal, a party has the right to appeal the decision before a court.

6. Article 19 stipulates that the Constitutional Court, based on a case brought by at least a two-thirds majority of the members of the council, may issue a ruling excluding a political party from elections, suspending its activities or ordering its dissolution, if there is evidence that the political party has contravened article 40 (3) of the Constitution.

7. Article 25 provides that political parties have the right to produce newspapers, publications, magazines, printed matter and other information and publicity material. They also have the right to hold internal meetings, organize social, cultural and political activities and hold peaceful demonstrations in keeping with the terms of the law. As at 10 June 2007, the total number of registered political parties was 33 (list attached).

Reply to question 26: registration of associations and organizations

Organizations and associations are registered under the Humanitarian Voluntary Work Act of 2006, article 8 of which states that voluntary and charitable organizations and civil society

organizations which provide civil assistance must register with the general registrar for voluntary work and humanitarian organizations. The United Nations and its specialized agencies and ICRC are exempt from registration.

Article 9 lays down the conditions for registration of domestic organizations, namely, provision of a list of the founders, the constitution of the organization and the name of the director. Article 9 also allows for registration of foreign organizations subject to the fulfilment of straightforward conditions, namely: the organization must be registered in the country of origin; it must describe the nature of the work that it intends to perform in the Sudan and its financial and technical resources; and it must sign a country agreement.

Article 22 states that the Minister for Humanitarian Affairs must appoint a general registrar for voluntary work organizations, who possesses legal qualifications and expertise, to register organizations. If the registrar denies a request for registration under article 13 (1), the Act allows for an appeal against the decision to be submitted to the Minister for Humanitarian Affairs, within 15 days, pursuant to article 13 (3) of the same Act. It is also possible to appeal the Minister's decision in court pursuant to the Administrative and Constitutional Courts Act of 2005.

Judicial oversight

According to article 4 of the Administrative Courts Act of 2005, decisions issued under the Voluntary Work Act by parties other than the courts are regarded as administrative decisions which can be challenged in court by means of an appeal submitted to the judge with competence for hearing administrative appeals. The competent judge may deliver his verdict, overturning the administrative decision being appealed or compensating the party that has been damaged by the administrative decision.

The Act allows for appeals to be made against the decision of the administrative appeals court judge before the administrative division of the Supreme Court, which has competence for hearing such cases within 15 days from the date on which the appellant is notified of the decision (art. 14 (1)). The ruling of the administrative division is final, unless the chief justice authorizes a review.

The petition submitted by one organization only, namely, the Sudanese Environment Conservation Society, challenging the constitutionality of the new Act was filed on 6 March 2006. The petition was allowed and was filed as appeal No. 35. It is now before the Constitutional Court judge.

Reply to question 27

The Constitution recognizes the rights guaranteed by the Covenant. In order to guarantee Sudanese nationals the exercise of these rights, the Constitution adopted a decentralized system of government, whereby its Government and legislative assembly are elected. The schedule on power-sharing provides for the distribution of power between the centre and the regions. The schedule on wealth distribution establishes the regions' shares of their own wealth and of

national wealth. Every state in the Sudan has its own constitution consistent with the Interim Constitution of 2005. Thus, as indicated above, these rights have become an integral part of the law and, pursuant to article 48, they are protected by the Constitutional Court, the competent courts and the Human Rights Commission.

The census scheduled for November 2007 will provide a clear picture of the demographic composition of the Sudan.

Minorities' use of their own languages and practice of their own religions

Article 1, paragraph 1, of the Constitution asserts that the Republic of the Sudan is an independent and sovereign State and a democratic, decentralized, multicultural and multilingual State in which different races, traditions and religions coexist. Paragraph 2 provides that the State is committed to respect for and the promotion of human dignity and is founded on justice, equality and the advancement of human rights. Paragraph 3 provides that the Constitution is founded on and guided by the following principles: religion, beliefs, traditions and customs are a source of moral strength and inspiration for the people, and the cultural and social diversity of the people of the Sudan is the basis of national cohesion and may not be used to create division.

Article 8 provides that all the indigenous languages of the Sudan are national languages, while article 13 (4) provides that the State shall recognize cultural diversity and encourage different cultures to thrive and express themselves through the media.

Freedom of belief and freedom of worship are recognized in article 38, which states that everyone has the right to freedom of religious belief and worship and the right to profess or express his religion or faith through worship, education, the practice of rites or the observance of religious festivals, subject to the exigencies of the law and public order. No one may be forced to adopt a religion in which he or she does not believe or to perform rites or rituals that he or she does not accept voluntarily.

Article 47 stipulates that racial and cultural groups have the right freely to enjoy and to develop their own culture. Members of these groups have the right to practise their beliefs, to use their own languages, to maintain their own religions and customs and to raise their children in the framework of these cultures and traditions. In this connection, religious minorities enjoy freedom of worship and the freedom to establish their own schools. The Ministry of Education appoints teachers for this purpose.

Reply to question 28

Training for State officials on the Covenant

The Advisory Council for Human Rights has set up regular training sessions on the human rights principles set out in the International Covenant on Civil and Political Rights for judges, legal advisers, the police, security personnel, lawyers and members of civic society groups. A number of sessions have been held in which governmental agencies, United Nations bodies, local and international organizations, civil society groups and individuals have participated (list attached).

Human rights departments have been set up within:

- The National Assembly (a human rights committee);
- The Ministry of Foreign Affairs (a human rights department);
- The police force (the Advisory Council for Human Rights for the police);
- The security forces (a human rights department).

Human rights principles have been added as a subject to the school curriculum.

The submission of reports and concluding observations

Reports are prepared by a designated committee at the Advisory Council, which comprises all the agencies concerned with the report in hand, as well as representatives of national organizations and civil society groups.

When the third periodic report of the Sudan under the Covenant was drafted, the Advisory Council, pursuant to a memorandum of understanding with UNMIG, invited groups from civil society to participate in the drafting exercise. It also invited them to participate in drafting the report of the Sudan under the African Charter.

The previous concluding observations were dealt with by the Ministry of Justice and the Advisory Council for Human Rights. The current concluding observations will be considered in conjunction with different agencies and copies will be sent to civil society groups and published on the Internet.
