REPORT OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
MISSION TO THE SUDAN
1-7 DECEMBER 1996
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I. INTRODUCTION

1. In pursuit of its policy of entering into dialogue with States Parties to The African Charter on Human and Peoples Rights (the Charter) over issues relating to their compliance with the obligations which they have undertaken under the Charter, the African Commission on Human and Peoples' Rights (the Commission) decided to send a mission made up of Prof. E. V. O. Dankwa, Vice-Chairman of the Commission, Justice R. H. Kisanga and Dr. K. Rezag-Bara to Sudan. The mission was undertaken from 1 - 7 December, 1996 and it was accompanied by Dr. Essombe Edimo Joseph, Legal Officer of the Commission.

2. As has been the nature of previous missions to other States Parties, the mission was expected to take up with the government of Sudan communications which had been brought before the Commission on the basis of Article 55 of the Charter. The hope was that these communications would be amicably settled during the mission. It was also expected that the mission would present to the Commission a factual account of the human rights situation in Sudan. Additionally, members of the mission were expected to meet non-governmental organisations and others for the purposes of making the existence and the work of the Commission known in Sudan. Needless to say, government officials with whom members of the mission would come into contact would be briefed about the Charter and the Commission. Against the foregoing background it was not difficult for the terms of reference of the mission to be formulated.

II. TERMS OF REFERENCE

3. The mission was to be undertaken with the terms of reference stated below:

   a. Endeavour to settle amicably with the government of Sudan communications which had been brought against it before the Commission.

   b. Present to the Commission as accurately as possible the human rights situation in Sudan.

   c. To promote human rights in Sudan by, inter alia, making the work of the Commission known, and meeting with non-governmental organisations, other bodies and as many individuals as possible.

III. ORGANISATION OF WORK AND ACKNOWLEDGEMENT

4. Raoul Wallenberg Institute of Human Rights and Humanitarian Law (the Institute), Lund, Sweden arranged the travel schedule for members of the mission and got us to Khartoum
from Germany where Prof. Dankwa was, Tanzania (Justice Kisanga), Algeria (Dr. Rezag-Bara), and The Gambia (Dr. Essombe). The Commission is grateful for this and the financial support from the Institute which made the mission possible.

5. A team of officials led by Mr. Mohamed Elkarib of the Ministry of Foreign Affairs welcomed us at Khartoum Airport and facilitated our entry into Sudan.

6. The mission discussed with the relevant officials a programme which had been drawn up for us. It was agreed at a meeting of members of the mission that beyond the official programme we would draw upon contacts and sources which we had, and new ones which we would come across.

7. Everything was done by the government of Sudan to facilitate the mission. Warm reception and no small kindness awaited us at every stage of our mission, and we are grateful to the people and government of Sudan for their sisterly and brotherly affection.

IV. THE COUNTRY

8. It is recalled that it was a Sudanese Head of State, His Excellency Ja'afer Numeiri who in 1979 sponsored with President Leopold Sedar Senghor of Senegal a motion for the drafting of the African Charter on Human and Peoples’ Rights by the Organisation of African Unity.

9. Covering an area of 2.5 million square kilometres (about one million square miles) Sudan is the largest country in Africa. It has a population of about 27 million people made up of 19 ethnic groups and 597 smaller groups within the former ones.

10. According to conservative estimates Arabs constitute 40% of the population, Dinka 12%, Beja 7% and people termed West African 6% and others. Between 60%-70% adhere to the state religion, Islam, about 25% are adherents of traditional religions, and christians constitute approximately 5% of the population. Arabic is the official language but almost every government official understands English. There are 119 other languages.

11. Among Muslims there are a number of sects (Ansar, Ansar al Sunna and Khatmiyya for instance), and among Christians, there are Catholics and Protestants.

12. Sudan is divided into 26 provinces. With its fertile soil in the South, Sudan was once thought of as a country which could produce sufficient food to feed the whole continent of Africa. The Southern part of Sudan is also known to have oil.

13. However, civil war which has raged since immediately before independence except for the period 1972-1983, has wrought such havoc on the economy of Sudan as to lead to its classification as a poor country.

14. The customs of the people particularly those in the South, the influence of British colonial rule from 1898 - 1956 and Islamization in Sudan has left the country with a multiple legal
system of Sha'ria law, customary law and common law.

15. As intimated above, Sudan gained its independence in 1956. 30 years of the post-independence era have been spent under military rule of General Abboud, General Ja'afar Numeiri and Lt. General Omar Al-Bashir.

16. It is fair to say that widespread allegations of arbitrary arrest and detention, slavery, forced labour, absence of religious freedom and violations of other civil, political, economic and cultural rights under the administration of Lt. General Omar Al-Bashir who came to power in 1989 occasioned the mission.

17. An account of the meetings and interviews which the mission had is stated below. This is followed by our findings, comments and recommendations. The unsettled situation in the south, infrequent flights to Port Sudan, where we had intended to visit, and the limited time of the mission confined us to the three towns of Khartoum, Omdurman and Khartooum North as well as Jabel-awlia.

V. MEETINGS AND INTERVIEWS

1st December, 1996

18. Being a Sunday, our first port of call was the Catholic Church, Khartoum. The Cathedral was full, and many people waited outside for the second service, there being 3 services, an Arabic service followed by an English service in the morning and an evening service also in English.

19. We mingled among those waiting outside for their service. They looked over their shoulders before talking. Although standing at a far off distance, the presence of a government official who had gone to show us the Church seemed to be sufficient reason for us to be passed by; one look in his direction ensured that end.

20. We passed by a second Church, All Saints Cathedral but entered neither the Church nor its precincts as it appeared closed.

21. At Saint Peter and Paul Roman Catholic Church, which was completed in 1970, there were many worshippers who had just closed form one service. As at the first Church, three services were conducted on Sundays: a morning service in Arabic, another Arabic service at 5 pm, and a service in English at 7.30 pm. It was noticed that some of the women were dressed as if they were Muslims.

22. There are Christian schools as well as Muslim schools. The Catholic archdiocese had
arranged for the children of displaced persons to be educated in schools. Although languages of the south used to be taught in schools, it was no longer so. Arabic is, however, taught in schools in the south. These we gathered from the Christians.

23. We also visited a Coptic Church, Marie Mari Georgios Coptic Orthodox. This is one of 4 such Churches in the above 3 towns. 60% of members of the Church are Sudanese, and the rest are Egyptians. The Church no longer has any school of its own because all coptic schools were taken over and closed down. Children of church members go to Sudanese and private schools.

The Higher Authority for Elections

24. Among officials of the above whom we met was A. Monein Z. Nahas, a retired Deputy Chief Justice. The Higher Elections Authority (the Authority) is the first permanent body in Sudan set up to supervise elections.

25. Prior to its establishment elections were supervised by ad hoc committees which operated for about six weeks at each election. Any Sudanese aged 18 or above can vote. A permanent list of voters was being prepared. The last election held in March 1996 was the first time that a Sudanese President had been elected directly by the people. 41 people contested for the Presidency. There are no political parties in Sudan. 72 per cent of those eligible to vote, exercised their franchise during the last election.

26. The President appoints members of the Authority but they are independent. They function like judges. Members of the Authority consist of a former judicial officer, an army-general, a police general, a lady, and former civil servants, all persons of integrity.

Monday 2nd December, 1996
Meeting with the Minister of Justice, H. E. Abdel Basit Sabdarat

27. We were at the Ministry of Justice, introduced to members of the Human Rights Advisory Council. It was established under the Human Rights Advisory Council (Establishment) Republican Decree, 1994.

28. It is constituted as below:
a) the Minister of Justice, the Attorney-General, Chairman
b) the Chairman in appointing members of the Council should have regard to representation from:
   i) The Judiciary
   ii) The Attorney General's Chamber
   iii) The Transitional National Assembly
   iv) The Public Security Bureau
   v) The Ministry of Foreign Affairs
   vi) The Ministry of Interior
   vii) The Ministry of Labour and Administrative Reform
   viii) The Ministry of Culture and Information
   ix) The Relief Secretariat
   x) The Refugees Affairs Commissariat
xi) Universities, Faculties of Law;

xii) The Bar Association; and

xiii) Non-Governmental Organisations working in the field of human rights.

29. By virtue of paragraph 4 of the Decree the Council is empowered to:
a) provide advice and consultancy to the State in the field of human rights;
b) conduct the necessary research and studies in the field of human rights, reply to such queries as may be addressed thereto, and make comments thereon if necessary;
c) require the necessary information and data from any of the State organs, or any other organs;
d) participate in the relevant local, regional and international conferences and committees;
e) organise and prepare for visits, by individuals and organisations having connection to Sudan; and
f) make such internal regulations to regulate its procedures.

30. It was noted that the Advisory Council had advised that Sudan should be represented at all the Sessions of the Commission. Notice of these sessions should, however, be sent in good time to Sudan.

31. Special courts, the mission was informed, had ceased to exist. The Director of Public Prosecution (D.P.P.) was present at the meeting.

Monday 2nd December, 1996
Meeting with the State Minister for External Relations, Bishop Gabriel Roreg

32. The Director of African Affairs of the Ministry of Foreign Affairs who was present at the meeting deplored what he termed 'politicisation of human rights'. The Commission, he stated, should protect the continent against outsiders who want to present their model to Africa. Africa should have its own model. Western countries, in his view, are using human rights against African states.

33. He advised the Commission not to judge the State Parties in their absence; they should be allowed to express their complaints before the Commission. Sudan was prepared to play host to a seminar on African contribution to human rights.

34. The Director of Public Prosecution who was also present at the meeting reiterated the importance of the cardinal principle that you should not be sentenced before being heard.

Meeting with Commission for Refugees

35. Our hosts at the meeting were the Director of Public Prosecution and the Commissioner
for Refugees. This body caters for both refugees from other countries and Sudanese refugees.

36. We were informed that Sudan was host to more than 1 million refugees from five countries: Ethiopia, Zaire, Chad, Uganda and Central African Republic. Sudan was committed to international and regional conventions on refugees namely the Geneva Convention (1951) the Protocol (1967) and OAU Convention on Refugees (1969). The Sudanese Asylum Act of 1974 incorporates these Conventions, we were informed. Some of the refugees who so opted were being repatriated to Ethiopia and Eritrea. 35% of the refugees in various camps were being assisted by the International Committee of the Red Cross. The remaining 65% lived in Sudanese towns.

37. Sudanese refugees were to be found mainly in Uganda and Kenya. These were estimated to be about 300,000. Some of the Sudanese had been killed by rebels.

Meeting with State Minister of Social Planning

38. A Consultant on Churches from the Department of Churches, Women Affairs, Non-Governmental affairs, churches and mosques who was introduced as a Christian painted a glowing picture of Sudan.

39. In Sudan, she asserted emphatically, there was no distinction between men and women. The rights to education and employment of both men and women were respected. By the close of 1996 women constituted 44% of the workforce of the ministries. Of graduates entering the civil service 65% were women; and women also constituted 13% of top officials in the civil service.

40. A pamphlet entitled "The Displaced Women, Population and Development" describes how the Ministry of Social Planning initiated a "Special programme to enhance the status of women, particularly young disadvantaged women and their children in Hay Baraka, El Haj Yousif". Assistance for this project came from UNFPA and the German Development Services (DED).

41. Booklets on (i) The Disabled, Rehabilitation and Care; (ii) Care for Orphans in the Sudan; and (iii) Age Care in Sudan describe what is being done to help these vulnerable members of Sudanese society.

42. The efforts which have been made by the government and people of Sudan over the past 30 years to care for refugees are also detailed in (i) Ministry of Interior Commission for Refugees (1995); (ii) Refugees in The Sudan (A General Survey) by Commissioner For Refugees (1996); and (iii) Information Paper On the Refugee Situation In The Sudan; Ministry of Interior, Commission for Refugees.

43. As regards ownership of property, there was no discrimination on the ground of gender. We received literature which showed the height attained by Sudanese women in society. An example is "Status of Women In Sudanese Law" by Mrs. Badria Sliman Abbas.
44. Freedom of worship for Christians was presented as good. This claim was supported by statistics. The consultant informed us that 183 churches had been built; 249 shanty churches had also been erected; and there were 475 foreign preachers. Churches also had 222 schools, voluntary societies and social centres. Sudan had room for all denominations, Catholic, Orthodox, Evangelical, Sudan Interior Church, Episcopal, Ethiopian, Eritrean and Presbyterians.

45. We considered it a privilege to have been given statistics on expatriate personnel of the Catholic Church. Meticulously kept particulars of the names, nationality, date of entry and place of work revealed that from 1989 to 1996, two hundred and five (205) personnel of the Catholic Church, made up of one hundred and eight (108) Sisters, fifty-four (54) fathers and forty-three (43) Brothers were granted permission to work in Sudan. They covered the whole gamut nationalities: British, German, Dutch, Italian, Eritrean, American, Maltese, Polish, Egyptian, Spanish, Austrian, Canadian, Indian, Australian, Ugandan, French, Kenyan, Irish and Iraqi.

46. The wide cultural diversity in Sudan makes for religious tolerance, the Consultant stated. Coptic schools were taken over and Sudanised. They had been registered in the name of the Egyptian government and followed the Egyptian curriculum.

Sha'ria applied to all people in the north of Sudan.

Children
Child soldier: Sudanese law prohibits children being recruited as soldiers. The rebels, however, have child soldiers. A person must be 19 years old before he can enter the army.

The government of Sudan is so much concerned about child soldier that it has asked UNHCR to facilitate visits to Kenya where Sudanese child soldiers are. A Higher Authority has been formed with the purpose of reuniting these children and their parents.

47. With regard to trial and detention of children, children are not remanded with adult. Juvenile courts were being planned.

48. It was admitted that child labour existed in Sudan, but it was also emphasized that education is compulsory for the first eight years of education, and hopefully it will have a beneficial impact on the question of child labour.

49. Concerning Female Genital Mutilation, non-governmental organizations and the government were working at it with the aim of eradicating it. Education against the practice was going on.

50. NGOs and Displacement in Sudan
Various non-governmental organizations have facilitated and co-ordinated assistance to
the needy who have been displaced mostly as a result of the civil war in the South. People from the South migrate to the North. Repatriation to the South is optional, and the displaced can also choose to stay in the North.

Khartoum State Council

The mission met the Speaker and members of the above Council. The Council has sixty (60) members, twenty-seven (27) are elected by the electorate, twenty-seven (27) by popular representation and six (6) are nominees. 45 per cent of them are graduates, 17 per cent postgraduates, and the rest are secondary and junior secondary leavers.

The Council is responsible for human rights education. The Council also legislates bye-laws. It has had eight (8) workshops on education, public health, non-governmental organizations, and women and living conditions.

Included in those present at this meeting were the Minister of Education, Khartoum State and the President of Khartoum Human Rights Education Committee. This Committee was made up of non-governmental organisations.

The Committee has demonstrated that the Universal Declaration on Human Rights has a basis in the Koran.

Meeting with Supreme Council for Peace

As the name suggests, this is a body formed as part of the peace process initiated by the government to end the war in the South. This Council is headed by a former Speaker of the Sudanese Parliament.

The conflict in Sudan started in 1955. It is neither religious nor cultural; it is political and should be solved politically.

The Council held a national conference for peace. Representative from all over the country attended and concluded on the importance of the following:

1. Good governance;
2. Sha'ria should be the law of a Muslim state;
3. Christians should be governed by customary law; and
4. Negotiations and dialogue should be resorted to in the peace process.

On 10 April 1996 the government signed a political charter with the split faction of the SPLA. This was a comprehensive agreement covering a transitional period during which a referendum will be held to decide on unity or secession.

The Foreign Minister and Spokesman of the Nuba Mountain Group, as he was
introduced to us, Abdelgagi H Kaber stated that there were abuses of human rights in the SPLA. It was stated at this meeting that the division of Sudan into twenty-six (26) provinces was done in accordance with the will of the people.

59. In response to a question from the mission as to why Nuba mountain and Ingasena hill are forbidden areas for independent human rights monitoring groups one of the members of the Council denied that those areas were forbidden areas. It was stated that it is just that the difficult terrain does not make them accessible. OLS claimed that it was not mandated to work in the Nuba mountain, it was added.

A second member of the Council, however, stated that they are accessible but the United Nations did not operate there.

60. The point about Sudan not having child soldiers was reiterated at this meeting. It was also added that Garang is the one who trains children as soldiers. In 1984, the mission was informed, Garang closed schools and marched children to Ethiopia to be trained as soldiers. In 1983 there were 83,000 child soldiers in Garang's camps. UNICEF reports attests to this claim (check); and Red Cross Reports during Mengistu's regime confirm the claim (check this also).

Meeting with Minister for Engineering Affairs, Dr. Sharaf Al-Din Bannaga

The Minister is responsible for displaced persons.

61. In his address to us he pointed out that the right to housing was becoming a human right and it was required and demanded by Sharia Laws. The Ministry felt obliged to house people or at least give them access to housing by providing land for those wishing to build. All this should be done within the planning scheme for Khartoum. Land had been distributed three times more under the current government than the whole period from independence to the coming into power of Lt. General Omar Bashir.

62. The Ministry provides public utility services. Two-thirds of Khartoum were settled by squatters and displaced persons. Four (4) areas have been designated for squatters. Nearly three million of the population of Khartoum are squatters. There were 80,000 displaced families and 99 squatter settlements. Sixteen were to be relocated while others would be replanned.

63. Asked about how many licenses had been issued for the construction of churches in the past ten years, the Minister responded that the licensing authority was the State and Province Committees.

Ashisha Camp

64. The mission tried to ascertain how the residents of the camp got there through random
65. Respondent 1 came from the South to look for work. He moved from a place where there was no water, school or hospital. He was not aware of anyone who was forcibly brought to the camp. Two other respondents had similar responses.

66. Although we were at some distance from officials who showed us the camp their presence was visible to the respondents.

**Meeting with Special Committee to Investigate Allegations of Involuntary Disappearance and Slavery.**

67. From the Secretary-General of the Sudanese Human Rights Organisation, the Mission learned that the Committee was established by the Minister of Justice in May 1996. The investigation was still in progress.

68. The Committee went to Nuba Mountains in July 1996 to investigate an allegation that two hundred and forty-eight (248) people had been taken from the area. The Committee met thirty (30) of these people who informed the former that the remaining two hundred and eighteen (218) people had voluntarily gone to Khartoum and other places.

69. People living in "subdued areas" of their own free will went to the army and were then sent to villages of peace. The Committee advertised in newspapers and on the radio its establishment and invited information on the subject. It also wrote to the Red Cross and Red Crescent for any information they may have on the subject.

70. The government has invited the United Nations to send policemen to investigate the whereabouts of the alleged attempted murderers of H.E. Hosni Mubarak, President of Egypt.

71. Detention in Sudan can last for three (3) months. Ghost houses do not exist in Sudan, we were informed.

72. Investigation has been carried out into the alleged existence of slavery but no evidence of it has been found. Future allegations would also be investigated.

**Wednesday, 4 December**

**Ahfad University for Girls**

73. "Ahfad" means grandchildren. It was established by Babiker Badir, a Sudanese soldier who lived in the nineteenth century. He fought against Turkey, and also took part in an attempt to conquer Egypt. He was defeated but lived in Egypt for two years. He returned to his homeland where he became a merchant. He subsequently took to teaching, and started a government school in 1903 in his village. In 1907 he set up a school for girls. At the age of 70 in 1929 he retired from government service.

74. At that age he established a school in his village, and called it Afhad. He moved it to Omdurman in 1931. He died in 1954 when the school had become co-educational. His son continued in his footsteps. In 1966 Ahfad University for women opened. It is neither sectarian nor religious. Students from all over the country are enrolled in the University.
It now has a student population of 4500. In 1990 a medical school was added to the University. The first batch of doctors were expected to pass out by the middle of December 1996.

95% of the expenditure of Afhad University comes out of tuition fees. The University also receives donations from individuals, companies and others.

47% of students in higher education institutions are female.

Thursday, 4 December
Meeting at Faculty of Law, Khartoum

The mission had discussion with the Dean, Hafiz EL-SHEIK AL-ZAKI and senior members of the above Faculty.

The Faculty of Law was established in 1937. All the subjects offered by the Faculty except 4 are taught in Arabic. Fewer and fewer English cases are being referred to in teaching. A Sudan Law Journal exists. The Faculty has 5 Departments: Private Law, General Law, Commercial Law, Public Law and Sharia Law.

The Dean was not quite sure as to the position of international instruments, which Sudan has ratified in Sudanese legal system, and he referred us to the Ministry of Justice. But we did not have to go that far because one of the lecturers ably provided the answer. Treaties are not self-executing in Sudan; they must be incorporated into Sudanese municipal law by legislation.

Questioned by the mission about investigations into the shooting and killing of students allegedly by security forces, the Dean responded that a student who was killed was not from Khartoum University.

A number of the lecturers echoed a refrain which had been heard from others during the mission: people were not aware of the existence of the Commission.

The mission learnt that Sharia had become the law of the land. Sharia law does not, however apply in the sphere of criminal law in the southern part of Sudan. But all that does not contradict Sharia in English law which was inherited from Britain is still part of Sudanese law.

Meeting with Sadiq al Mahdi

Although our comments are reserved to a later stage, we cannot postpone the expression of our gratitude to and delight in the government so readily acceding to our request to have a meeting arranged with the above gentleman. We were transported to his residence by government cars, but we were left alone with him and had a long discussion with him.
As is well known, Sadiq al Mahdi was the prime minister of Sudan when he was overthrown by Lt. Gen. Omar al Bashir. He is also the leader of the banned Umma Party and the Ansar sect on which the party was based.

Sadiq al Mahdi is the great-grandson of the great Sudanese leader and patriot Mohammed Ahmed Al-Mahdi. Towards the end of the last century, Mohammed Ahmed Al-Mahdi led an uprising against the main facets of Ottoman - Egyptian rule. He succeeded in bringing an end to foreign rule and in 1885 established a new state called the Mahdiyya.

Sadiq Almadi condemned in no uncertain terms oppressive laws promulgated by Lt. Gen. Omar Bashir which deny human rights and restrict the liberty of the citizen. For instance, Constitutional Order No. 2 abolishes basic freedom.

The regime of Lt. Gen. Omar Bashir acts as an occupation force compelling the majority to do its bidding. The number of Sudanese emigres and refugees is enormous. The government is steadfast in its use of economic power as a means of oppression. Capital flight from Sudan is devastating. Professionals and technicians have also left the country in droves.

Arbitrary and extra-judicial punishment is imposed on innocent citizens. He for instance, was not allowed to leave Khartoum. Security car trailed him. His colleagues Ali Allmuda and Abelmani were arrested for three weeks and others were in detention. Some people have to report to the security agencies everyday. Ashwag Yusuf and Seida Mahmoud are examples; they report in the morning and do not leave until the evening. Adam Ahmed Yusuf and Mohamed Adwal had gone through this ordeal for three weeks, and it had not ended. Ismael Adam Ali was in prison, but had not been tried.

He confessed that from June 1995 to the day of our meeting there had been a more careful handling of oppression. His general appraisal was that the methods of oppression and denial of human rights in Sudan were not different from methods used elsewhere in Africa but their impact in Sudan was greater because the country had known governments which respected freedom of the press and the independence of the judiciary.

Sudan needs an independent body to monitor human rights.

The press used to be totally oppressed. But this was no longer so; papers which are not owned by governments still exist.

However, Constitutional Decree No. 2 providing for emergency courts should be repealed before press freedom can be fully enjoyed. Only those who were tolerated by government could set up newspapers.

As stated at the beginning, a faithful and accurate account of what our hosts and respondents stated is recounted in this part of the report.

Shortly after our mission, however, he fled the country.
94. Constitutional Decree 13 saved previous Consitutional Decrees.

95. The current government is a party. It is the most sectarian government which Sudan has ever known. It is very partisan. The majority of Sudanese who have political persuasion have criticised the government.

96. The elections have accentuated the political crisis in the country. The government is a particular Islamic party. It is the minority of the National Islamic Front which is in government now. What is being applied in Sudan is a mutilation of Sharia.

97. Federalism has been decided by the government instead of the people deciding it. A constitutional conference should decide on the application of Sharia and federation. 27 governments (26 provincial and the central governments) are too many for a country like Sudan. Power which is given by the central government to states or provinces cannot constitute federation. It just enables the government to have greater control over the people.

98. Recounting his ordeal, he stated that in 1989 he was detained for two and half years. He had been arrested ten times. On one occasion he was interrogated for 48 hours continuously. On a second occasion the interrogation lasted for 36 hours, and on another for 12 hours. His property has also been confiscated.

**Deputy General-Secretary of the Sudanese Council of Churches**

99. 14 churches constitute this body. It is engaged in relief activities, medical services and education. Difficulty in getting land for construction of churches is one big problem for them.

**Deputy Speaker of Parliament and Human Rights Committee of National Assembly**

100. We listened to the views of the Deputy Speaker, Mr. Shiddo who was of the view that complaints relating to African countries under 1503 procedure ECOSOC should be referred to our Commission.

101. He was concerned about our limited resources. He was even prepared to organise a seminar to discuss how our Commission could be made more effective.

102. Despite universality of human rights, sufficient attention should be given to customs, religious values etc. A distinction should also be drawn between violations of human rights in areas of armed conflict and those in areas of executive authority. It is conceivable that violations of human rights have occurred during armed conflict or in areas of armed conflict in Sudan. The international community must help in this area. The international community has been selective in condemnation; it has applied double standards. A government should be blamed only if violations are repeated. In such cases the government of Sudan has acted. Some soldiers have been tried and condemned to death.
103. The government of Sudan is committed to the respect of human rights, a stance which stems from religious belief and tradition in Sudan. Limited technical and human resources may account for inability of Sudan to make its respect of human rights known to the world.

104. The credibility of the international human rights system should be addressed. More technical assistance should be given to African states than the condemnation which they suffer or receive.

105. The Assembly's human rights committee should work with the Commission to determine how respect for human rights can be made effective in Africa instead of individual complaints being the main concern.

106. The High Consultative Council has set up committees to investigate allegations of human rights violations. Those alleged to have disappeared have been found. As regards slavery, Islam prohibits it. It is also a crime under Sudanese law. The issue of slavery used to create conflict between Sudan and other African countries. Sudan does not engage in slavery; and no African will respect a Sudanese who approves of slavery.

107. Sudan is very concerned about human rights. Sudanese cultural values dictate respect for human rights.

108. In August 1995 all political detainees were released from custody. Admittedly, some arrests have been made since then but the maximum period of detention has been and is 3 months. Even so nobody has served that maximum.

**Sudan Bar Association**

109. Members of this body were all officials we had met in other capacities. The DPP, the Chairman of Disappearances Committee, another member of this Committee and Mr. Elkarib of the Ministry of Foreign Affairs were present at this meeting.

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**Thursday, 5 December**

**Kober Prison**

110. The officer in charge informed us that periodically he drew the attention of the Chief Justice and the President to overcrowding and releases followed.

111. During the mission we heard and read of the pardon and release of 192 inmates on the occasion of the Holy Season of Ramadan.

112. We were taken round the prison, and saw the cells, inmates having classes, others worshipping in a church and a mosque and yet some more engaged in trades such as carpentry.
113. All the inmates were neatly attired, even if a few had new uniforms.

International Council for Peoples' Friendship

114. The objective of this body is to promote understanding and foster good relationship between Sudanese people and peoples all over the world.

115. It establishes friendship societies; there are twenty of such societies. A group among them monitors the activities of the United Nations. The Council mobilizes assistance for the needy everywhere. It has done so for Somalia, for instance. A semi-autonomous institution, it gets assistance from government.

SUDANESE COUNCIL OF VOLUNTARY SERVICES (SCOVA)

116. SCOVA is an umbrella organisation of 102 non-governmental organisations working all over Sudan especially in disaster and war-torn areas.

117. They follow up cases of children abducted by rebel factions and work hard for their release and return to their families. In this respect, they have a good working relationship with Sudan Read Crescent and ICRC.

118. They denied the existence of slavery in Sudan and were concerned about the persistence of this allegation. They also cater and care for orphans and homeless children.

119. Funding and capacity building were however for SCOVA to be more effective.

Ministry of Defence

120. The spokesperson of the Sudanese Peoples' Armed Forces, Lt. General Sanusi in the company of General Abdullah, Chief of Staff of the Air Force and other officers of the military warmly welcomed us to his office and briefed us on the Sudanese Armed Forces.

121. The mission was interested in knowing how the military combined respect for human rights with active participation in the civil war. Although black Sudanese contribute a majority of the armed forces, people from all over the country are to found in the latter, the General stated. It was observed that the spokesperson looked like one in the majority.

122. Given the multi-ethnic nature of the military commanders would not get their troops to attack and kill their own people. Moreover, as a matter of policy, the Sudanese army does not attack non-combatants. Neither does it burn settlements in the armed conflict areas. Equally, the army has a simple task of protecting Sudanese borders. Furthermore, both Islam and Christianity abhor wanton killing. Human rights education is included in the curriculum of non-commissioned officers.
123. As regards forced recruitment into the armed forces, he explained that since 1971 every Sudanese aged 18 was required to render service to the nation. It is not compulsory for females to do national service in combat duties. A person must be 18 years before he can be recruited into the army. The age is confirmed through medical examination.

124. On the question of slavery, it was stated that it is unacceptable to Sudanese. The army does not tolerate it. Sometimes domestic help is erroneously termed slavery. Captured rebels were tried and treated in accordance with law.

125. The Sudanese army has never permitted or practiced any form of abuse against women and children. Whoever engages in such an act must be prosecuted because it is against the law and tradition of Sudanese.

126. Asked about army officers who were arrested and detained in Port Sudan in August 1995, the mission was told that this was done in accordance with the Penal Code of Sudan and the law governing the armed forces. The officers conspired against the state; they attempted to overthrow the government.

127. Investigations were still going on. Among the detained persons are retired officers and civilians. Civilians can be tried under military law only with the consent of the Attorney-General.

Lawyers are allowed to represent accused persons in trials before military courts. There is a right of appeal to a higher court within the military system.

Ministry of Interior

128. The Minister of Justice who is the Chairman of the Advisory Council on Human Rights received us in the presence of Senior Police Officers. In his address to us, he emphasized the point that Sudan respect human rights. Their religion obligates them to do so.

129. The head of Passport, Immigration and Identity Cards informed us that there was no discrimination in the areas under his authority.

130. Sudan has 3 maximum security prisons, 9 state prisons, 20 provisional prisons and 35 open camps who are not guarded. Prisoners are grouped according to crime, sex and sentence. Humanitarian treatment is given to prisoners. There is no discrimination on the ground of religion, and there is freedom of worship in prisons.

131. Pregnant women are given special treatment.

132. A recommendation is made to the president for the release of prisoners who attain the age of 70. Release of prisoners is not uncommon: it occurs at Christmas and during Ramadan. Individuals and organisations also pay fines for the release of prisoners.

133. Prisoners are allowed conjugal visits some of which result in birth.

134. As soon as a person is detained he has a right to counsel. Sudanese values and religion
prohibit torture. A representative of the Attorney-General visits the police station both in the morning and in the night to ensure that there is no arbitrary detention. The police can detain a person for 72 hours.

135. The wives of those who were executed demonstrated, and the former were asked to report daily for long periods of time.

136. Arrests, detention and trial are done in accordance with the laws of Sudan. Sudan respects all human rights.

137. There is no discrimination in recruitment into the police service.

**Friday, 6 December, 1997**

**The Political System**

138. Dr. Awad Alkarim Musa gave us a lecture on the political system of Sudan.

139. Sudan has a presidential system with participatory democracy based on Sudanese political experience and traditional sources of Arab and African experience. Sudan has what, they term, 3 democracy: villages, tribe and religion, especially Islam which is the fundamental of all religions and human rights.

140. The country has had one party and multi-party systems of government. Sudan with its rich experience has the right to evolve a system of government it sees fit. Evolution is being attempted in the West in liberalism which is not the end of history. Partisan politics is not a pre-requisite to democracy.

141. One party system is not democratic. Consequently a more democratic system was sought. The main Sudanese political parties were religious and sectarian, and therefore closed to non-Muslims. Christians were obliged to form minority parties with marginal power.

142. The present system ensures political equality. Past colonial parties could not attain any tangible economic development.

143. Sudanese from all walks of life convened a national conference to find a suitable system which addresses the social realities, and a political system was devised based on direct participation of villages and districts called the basic congress. The congress laid out basic principles which went to upper or state congresses until they were finalised at a national congress. Popular congresses have political authority.

144. There are legislative organs. The 3 main organs are described below:

(i) Political authority of the congresses.
(ii) Legislative authority of the councils. The councils are elected from 2 sources: one-third of the membership are elected from the congresses as electoral colleges, and one-thirds are elected directly.
(iii) Executive power resides in the federal and state government.

145. The judiciary is totally independent. Any aggrieved person can appeal to the Supreme Court any presidential or ministerial action or an action of the national assembly or presidential decree if any human right is infringed. He can also appeal against any action, law or decree at the presidential level. This is the safeguard in participatory democracy. It is based on the universal declaration of human rights. The political system has adopted the doctrine of separation of power.

146. Government is accountable to the elected Legislative Assembly. Civic organisations and social forces can take in this system. Free and fair elections are observed and practiced in Sudan.

147. The system seeks to correct great imbalances between men and women. It requires that at least 25 of the members of Parliament, Popular Congress, and Legislative Council are women.

148. Citizenship is the basis of rights and duties. States can choose their source of legislation. Constitutional Decree No. 13 provides that any state which wants to opt out of Sharia can do so.

149. There are more Muslims in the South than Christians. Animists in the South outnumber Christians and Muslims.

150. About 35 members of parliament come from Sadiq al Mahdi's party.

SUDANSE WOMEN'S GENERAL UNION (THE UNION)

151. It was set up in 1990. It is a non-governmental organisation working throughout Sudan at grassroots level: residential areas, villages, where they concentrate their efforts on education and sanitation.

152. Its secretariat is chosen from Congress. Every branch of the Union pursues literacy classes and economic support programme. The Union guarantees loans to their groups from the banks. It organises seminars, workshops and lectures.

153. It has a weekly publication and weekly magazine. It also receives complaints about violations of women's rights, abduction of children by rebels, and their use as soldiers.

154. It is also engaged in lobbying government and parliament in the drafting of laws especially those affecting women. For instance, a 1937 law prohibited females from driving government cars. Partly through the work of the Union, the law was changed in 1993. It has also made an impact on the definition of citizenship. Previously, a Sudanese was a person born to a Sudanese father. But now, a Sudanese is a person born to a Sudanese man or woman. There are 6 female ministers and 1 female governor. 3 women were
appointed to the Supreme Court in 1994.

155. Generally, women in Sudan make important contribution to public life. In some ministries, females are in the majority. In the past four years, more than fifty per cent of those entering tertiary institutions have been females. There are more female teachers than male teachers.

156. The concern was expressed that female representation in the OAU and other international bodies was negligible or not noticeable.

157. Women are not obliged to serve in the army.

158. The Union has been considering alternative employment for women who brew alcohol. It has never been lawful for any person to brew alcohol in Sudan. It was forbidden during the colonial era.

The Judiciary

159. On Tuesday, 3 December, the mission met the Chief Justice and members of the Judiciary.

160. Questioned about the dismissal of 100 judges, the Chief Justice responded that he assumed duty in August 1994 and could not answer for what transpired before his assumption of office.

161. Confession extracted under torture is inadmissible and generally prohibited.

162. As regards judicial supervision of detention procedures, the mission was informed that the courts could inquire into detention and also supervise the detention. There were no executive orders for long detention. There were no Public Order Courts anymore.

163. Noting that Article 10 of the Code of Criminal Procedure and Section 6 of the Judiciary Act provide for the establishment of Special Courts to be designated by the Chief Justice, and that the powers of each such courts are as "... provided for in ... the order of its establishment" (Article 8 of the Code of Criminal Procedure) and enquiring about their procedure the Chief Justice replied that generally the ordinary Rules of Procedure governed.

164. A diagram of the "Sudan Judiciary, Criminal Courts in Sudan, 1996" and a paper entitled "Organisation of the Sudan's Judicial Structure" given to us by the Chief Justice speak so eloquently about the judiciary in Sudan that we attach them to this report as appendix I and II respectively.

V. COMMUNICATIONS

165. The mission met a team of officials led by the Director of Public Prosecutions to consider the communications which have been brought against Sudan before the Commission. The
government's response is stated below each communication.

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166. Dr. Maamun Mohamed Hussein was sentenced to death by the political parties. The sentence was not carried out. He used to work for the Ministry of Health. He now has a private office in Khartoum. The present government has removed the restrictions imposed on them.

He travelled to Saudi Arabia. He was detained for six months before he was freed by this government. He was a supporter of the Nimeiri regime.

167. Dr. Ushari Ahmed Mahmud has gone to South Africa. But he works with UNICEF in Khartoum. He was detained for one month for security reasons. He could not travel under Sadiq al Mahdi, but he can now travel. His book was banned.

168. Al Tijani al-Taieb of the Communist Party of Sudan lives in Cairo.

169. The officials had no knowledge of Mekki-al Nassibu, Ali al-Omda and Hassan Hussein Mohammed. The same was true of Farouk el Bereir and Ishaq al Gassim Shadad.

170. Asked by the mission about (i) extra-judicial executions by militias during the civil war and (ii) whether the report of a Commission of Enquiry set up by Dr. Abdel Nabi Ali Ahmed, governor of South Darfur in 1987 had been made public, the DPP replied that he was not aware that it was made public.

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171. The officials were not aware of Mansour Abdal-Qadir, Muhamed Salman and Babiker Yahya

172. Abdulla-al-Hassan, President of the Sudan Bar Association was detained without charge or trial, and released in November 1989. It was admitted that he was arrested for a month during the coup d'etat.

173. Mustafa Abdelkadir. He lives in Khartoum North, and practices law in the city. It was admitted that he was detained for a month.

174. Sadiq-Sid-Ahmed Al-Shami. He was a member of the Baath Party. He was detained in the early days of the coup, and was released a long time ago.

175. Said Issa was a relative of the first Vice-President. He was working in the Gulf.

176. Gafar Hussein Abbas is a lawyer in Qatar.

177. The officials were not aware of the following persons:
Mohammed Osman Abu-Shawq
Saleh Mahmoud Mohammed Ousman
Motassin Ibrahim Sudani
Al Sir Khider Abdel Aziz
178. The mission sought information about the death in Kober prison of Dr. Ali Fadul. The response was that he had malaria and died as a result of it. An autopsy was carried out, and it showed the cause of death as stated above. The medical report was published.

179. We were promised a copy of the report, but did not receive it.

180. Asked whether the 28 army officers who were executed on 24 April 1990 had legal representation, the mission was informed that they attempted to overthrow the government. They were tried under military law and all the legal processes were followed, the mission was informed.

181. A further question about whether Revolutionary Security Courts existed elicited the response that they do not. Sudan has not courts outside the judicial system, it was added.

VI. COMMENTS AND FINDINGS

182. The civil war in Sudan has had devastating effect on Sudanese life and human rights in particular. Lives including those of non-combatants have been lost. Many Sudanese from the South have been displaced to live in harsher environments in the north than what obtained in their homes. Relatedly, laws which were not enforced in the south, like brewing of beer, because of their anachronism in southern circumstances, are rigorously applied in the north with the result of displaced southern women in the north finding themselves in and out of prisons. Children are forced to bear arms. Many other children do not have the care of their parents and face bleak future. The use and exploitation of rich resources including oil which could alleviate poverty and improve the lives of the average citizen have become a mirage. Nothing, therefore, justifies the continuation of the war.

183. Sudan is at odds with its neighbours or the neighbours of Sudan are at odds with Sudan. A deep sense of isolation is felt, arriving and living in the country.

184. The unity of purpose of officials with which the NGOs we met have identified, the confident belief in the correctness of the new path being chartered by those in authority, the faultless functioning of state institutions and attribution of all the ills, atrocities and horrors of the civil war to John Garang and his men was disturbingly worrying, as we pointed out at the Ministry of Interior. That, for instance, there is twice daily inspection of police cells by an external authority to ensure that there is no arbitrary detention; that there is medical examination to ensure that only adults are recruited into the army; and that prisoners have conjugal visits are claims that stretch the credulity of the average person to an unacceptable limit.

185. (i) One evening we chanced upon a group of very young people marching in such military fashion that riding in different cars we were each struck by the incident. Asked who the group was, an official who had not been with us previously blurted out "we have military
(ii) Having learnt that children were being trained for the war front at Kober prison, we asked to see them. The circuitous route which we were taken, first to a section where there was nothing and nobody, and eventually to a group of young prisoners dressed exactly like those described in (i) above made us believe that there was some credence in the allegation. We formed this belief inspite of the statement by the Commissioner of Prisons that the group had too much energy and needed exercise and that even in Britain this occurred. The young people were on parade when we met them.

(iii) Another chance encounter brought us face to face with a young person in military uniform who seemed under age. On inquiry, he gave his age as that stipulated by law for military service. He had, however he informed us, served in the military two years previously. The inescapable conclusion, we found, was that in the military are people who are under age, and this may be so for some of those at the warfront.

186. (i) As is evidenced by appendix II, the executive has too much power over the judiciary: "The Judicial power in the Sudan is vested in one Judicial body known as 'The Judiciary' which in discharging its function, is directly responsible to the President of the Republic". (p.1, Para 1)

(ii) That appointment, removal from office and retirement of judges are functions of the president, even if he receives advice on these issues from the Supreme Council of the Judiciary, compromises the independence of the judiciary.

(iii) The budget of the judiciary is passed by Presidential decree.

(iv) There is no indication of what is "Justice Conference" although a Supreme Council "determines general policy of the judiciary in accordance with "natural strategy and the recommendations of the Justice Conference". (ibid p.1 Para 2)

187. (i) The Chief Justice has too wide discretionary powers. By virtue of item 5 under Classification of Courts, the Chief Justice may establish any court by a decree which specifies "the manner of its constitution, location, jurisdiction and procedure".

(ii) The Chief Justice also "constitutes the circuits of the Federal Supreme Court and regulates its procedures and functions". (appendix II).

(iii) He/She has the power to appoint Special Judges.

(iv) The Courts of Appeal are established by warrants of establishment by the Chief Justice.

188. The distinction between the original jurisdiction and the appellate jurisdiction of the Court of Appeal is not clear.

189. The minimum age for appointment as a Court of Appeal judge is not stated while those for other courts are stated.

190. Those 100 judges were dismissed under inexplicable circumstances is evidence of absence.
Among officialdom there was not certainty as to who had responsibility to grant licenses for construction of churches. At the Ministry of Social Planning, in the presence of the Consultant on churches, we were referred to the Ministry of Engineering, but the Minister disclaimed any such responsibility. An allegation that Christians cannot get licenses to build churches is, therefore, credible.

Because one's religion, tradition and customs forbid certain conduct and acts, it does not follow that the forbidden acts and conduct do not occur. If indeed they do not occur, some evidence other than the commands and injunctions of religion, traditions and customs must be adduced to prove the assertion.

The observation is made in relation to the frequent view expressed on slavery, forced labour, extra-judicial execution, abuse of women and children where religion and tradition were invoked to disprove their non-existence in Sudan.

Relatedly, the view that the army consists of all ethnic groups in Sudan and therefore all soldiers will not engage in wanton killing of Sudanese, their compatriots needs reconsideration. Were it not so these would be no problem in Northern Ireland, and Rwanda and Burundi would be blissful countries. Indeed there should not be a civil war.

We acknowledge that our parent body, the Organisation of African Unity observed the elections in Sudan in March 1996 and found it to be fair. We are also acutely aware that you will not find a society where everybody agrees with either government on all issues.

However, the chasm between views of officials, on for instance the direction of state policy, and what we got whenever we strayed from officials was disturbing. There was deep-seated dissatisfaction with the imposition of "the views and desires of a minority on the whole nation". The just expressed view may be the feeling of a minority, but it was disturbing, at the very least it must be addressed satisfactorily to ensure that they have a say in the task of nation building.

There was resentment among a section of the populations that by subtle means the religion and culture of a dominant group was being forced on a minority. While we did not find evidence to substantiate the allegation concerning such means in prison (through deprivation of food, for instance), it ought to be guarded against.

In matters of dress, the practice as we observed would seem to justify the concern. On directives of the Ministry of Education, we were informed by private sources that girls who do not dress in accordance with the tenets of the Muslim faith were to be turned away from schools.

RECOMMENDATIONS
199. The government of Sudan should intensify its efforts to bring an end to the war. Nothing should stand between peace and the combatants in the civil war.

200. The government of Sudan should pursue all lawful means to maintain friendly relations with its neighbours. What we say to Sudan, we also say to Sudan's neighbours.

201. Espousal of views which are different from those of government should be encouraged. It will inure to the advantage of government to have the benefit of such views.

202. Professional bodies like the Bar Association should be encouraged to be truly independent by not having mainly government officials in it.

203. The critical stance of NGOs can contribute in no small measure to sustainable development of a country and the emergence and growth of independent NGOs whose views are not necessarily identical with those of government should be encouraged and tolerated.

204. The minimum age for recruitment into the military should be observed.

205. A review of the judicial system should be undertaken with a view to making it independent. The powers of the Chief Justice should be narrowed. Legislation should also lay down the functions and jurisdiction of the courts. They should not be left to be determined by an official, not even the Chief Justice. Security of tenure of judges and judicial officers should be respected in the review. Annual appointments should be avoided.

206. To dispel allegations of extra-judicial executions, the report of the Commission of Enquiry into the subject set up by Dr. Abdel Nabi Ali Ahmed, governor of South Darfur should be made public.

207. Detention without trial offends against the Charter and should be avoided. At the very least, they occurred either before General Omar Bashir took power or immediately after his seizure of power.

208. The Special Committee to investigate allegations of Involuntary Disappearances and slavery should intensify its effort to know the truth about the allegation concerning the disappearance of 248 people. (Refer to paragraph 78). Contrary to what the Committee told us that all 248 people were accounted for, we met a near-weeping man who asked that he and his relatives should be led to his uncle who had not been seen but, was among the 248.

209. Finally, as an African proverb states: "He who charts a path does not know that part of it is crooked" (for he looks ahead). It is those who stand by who see the crookedness. We urge the government of Sudan, therefore, to consider carefully divergent views on the new society it is trying to build to avoid any crookedness, to say the least. The tragedy of experiments with new forms of government on our continents is there to guide us.