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Sudan: North-South peace deal leaves future of human rights uncertain

Amnesty International hopes that the comprehensive peace agreement between the Sudanese government and the Sudan People's Liberation Movement/Army (SPLM/A) will usher in a new era for the protection of the rights of the Sudanese people as well as reforms to address injustice, discrimination and gross human rights violations in the country.

"A major cause of the conflicts which have shattered the lives of so many Sudanese has been injustice and marginalization. Unless these basic human rights concerns are seriously addressed it will be difficult to have a lasting peace," Kolawole Olaniyan, Director of the Africa Program said. "Human rights, encompassing justice and an end to discrimination, have to be at the core of any agreement. But human rights will not arrive simply through hope and rhetorical declarations, they need to be guaranteed and safeguarded."

The parties to the peace agreement and the international peace mediators, Kenya, the UK, the US, Norway and the UN, must address the following concerns in order to consolidate peace in Sudan:

Fundamental human rights must not only be listed in the peace agreement, they must be respected
The Power-Sharing Protocol signed in May 2004 states that the *"Republic of the Sudan, including all levels of Government throughout the country, shall comply fully with its obligations under the international human rights treaties to which it is or becomes a party."* It lists fundamental human rights, including the rights to life, personal liberty, freedom of expression, assembly and religion and the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment.

At the moment, in both North and South, these rights are not respected. The Sudanese people continue to be denied freedom of expression and association and, especially in the context of the Darfur conflict, to be killed, arbitrarily detained, tortured and forcibly displaced.

If the commitment to human rights is to be meaningful a timetable of concrete measures for respecting and protecting rights must be developed as a matter of urgency.

The National Constitutional Review Commission must be qualified and independent

A National Constitutional Review Commission (NCRC) is due to draft an Interim National Constitution for

Sudan within six weeks of the signing of the Comprehensive Peace Agreement.

However, Amnesty International is concerned that there are inadequate provisions for the participation of civil society, including women, and of independent human rights and legal experts from all parts of Sudan.

The NCRC is to be composed of representatives of the ruling National Congress, the SPLA and other political forces in proportions defined by the protocols. The Implementation Agreement states that "each party must include civil society". This falls short of a guarantee of the participation of Sudanese civil society.

"In the interim period all bodies are apparently to be nominated by political groupings, and we fear that this will mean that politics, not human rights, will be pre-eminent," said Kolawole Olaniyan. "It is important to ensure that members of commissions such as the NCRC and the proposed Human Rights Commission and Civil Service Commission are of the highest integrity, independence and impartiality."

Legislation must be brought into conformity with international human rights law

Shortly before the signing of the peace agreement, the Sudanese government announced an extension of the state of emergency in the whole country for a year. The state of emergency allows the Sudanese authorities to ban meetings and break up peaceful demonstrations. The National Security Forces Act passed under the state of emergency allows prolonged incommunicado detention without charge and allows immunity to the security forces for violations of human rights.

Under the Power-Sharing Protocol and the Agreement on Implementation Modalities there are to be a number of new laws put before the interim National Legislature, which will also apparently be appointed by political groupings in the proportions defined by the peace accords. The new laws will include a National Security Act.

"The reform of this and other laws must ensure that they conform to Sudan's obligations under international human rights treaties to which it is a party," Kolawole Olaniyan said. The organization also called for political detainees held without charge to be brought to fair trial or immediately released. "A state of emergency which violates basic freedoms should not be allowed to remain. It is inconsistent with the African Charter of Human and People's Rights".

There must be no impunity for war crimes and crimes against humanity

The peace deal allows for a new government, drawn from officials of the current government and the SPLM/A. Both sides have been responsible for appalling human rights violations in the conflict in the South, including unlawful killings of civilians, abductions, rapes, torture and forced displacement. The government and its militias have committed crimes against humanity and war crimes, such as forced displacement and large-scale rape, including since 2003 in Darfur, western Sudan.

Such crimes committed by all sides must be investigated and those responsible for gross human rights violations must be brought to justice. The fate of thousands of people "disappeared" in the context of the civil war in South Sudan must be clarified. Whilst perpetrators of human rights violations must be brought to justice the parties should also consider complementary mechanisms - such as a form of truth and reconciliation commission - that may play a role in ensuring that the traumas caused by past injustices are addressed.

"There should be no amnesty for those responsible for war crimes, crimes against humanity and torture," Kolawole Olaniyan stressed.

Background

Two final protocols, the Agreement on Implementation Modalities of the Protocols and Agreements, and the Agreement on the Final Ceasefire and Security Arrangements were signed on 31 December 2004. These

protocols, together with six others, including the Machakos Protocol, signed in July 2002, protocols on security, power-sharing, wealth-sharing, and on the marginalised areas of Blue Nile and Southern Kordofan (the Nuba Mountains) and of Abyei, will make up the Comprehensive Peace Agreement which is to be signed on 9 January 2005.

Public Document

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