

# AMNESTY INTERNATIONAL PRESS RELEASE

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## **Sudan: New constitution provides sweeping immunity for high level officials**

The new Interim Constitution for Sudan, ratified today, provides sweeping immunity for the highest levels of the Sudanese government and demonstrates that the government is not serious about combating impunity, said Amnesty International.

The organization added that this provides further evidence that the government of Sudan should not sideline the International Criminal Court in favour of national prosecutions of possible war crimes committed in the armed conflict in Darfur.

"It is extremely troubling that in the context of one of the most serious conflicts in the world, in which tens of thousands of Sudanese have been the victims of gross human rights violations, a new interim Constitution would be approved that neglects to cite international crimes such as war crimes and crimes against humanity as crimes that should never carry immunity -- no matter what level of government the alleged perpetrator might occupy," said Kolawole Olaniyan, Director of Amnesty International's Africa Programme.

"Although we welcome some of the human rights provisions in the new Constitution, particularly the greater emphasis placed on the rights of women and children, we have serious concerns that the Constitution grants high level immunity from prosecution for most crimes."

Article 60 of the Interim Constitution grants immunity from prosecution to the President and First Vice President of the Republic of the Sudan for all crimes except those of high treason, gross misconduct in relation to State affairs, and gross violations of the Constitution. In these cases, action against alleged perpetrators can only be undertaken with the approval of three quarters of National Legislature members. Article 92 grants similar immunity for members of the National Legislature. No reference is made to international legal standards in limiting immunity in either article.

"Even though no high-ranking officials have been named in connection with international crimes in Darfur, the provisions of the new Constitution call into serious question claims by the Sudanese government that the special national tribunals recently formed to deal with crimes in Darfur could be considered a suitable permanent substitute for the International Criminal Court," said Kolawole Olaniyan.

"In short, by not excluding immunity for international crimes, the Interim Constitution risks enshrining impunity for those at the highest levels of government -- limited only by crimes the Government chooses to recognise as worthy of exemption from such immunity."

Amnesty International also condemned the limiting of the Article 33 of the Interim Constitution to include a prohibition on cruel, inhuman or degrading treatment -- but not punishment. Previous drafts of the Constitution had prohibited "cruel, inhuman or degrading treatment or punishment", in line with international standards. The deletion of the word "punishment" from the final draft of the Constitution leaves the door open to punishments such as flogging and amputation, which now remain legal under Sudanese law. This omission constitutes a serious breach of Sudan's obligations under Article 7 of the International Covenant on Civil and Political Rights (ICCPR), to which it is a party.

Amnesty International also expressed serious concern at today's failure to abolish the death penalty in Sudan -- particularly as it applies to those under the age of 18. The organization said that this failure is incompatible with Sudan's legal obligations under the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the African Charter on the Rights and Welfare of the Child.

### **Background**

Amnesty International issued a *Memorandum to National Constitutional Review Commission* regarding its recommendations on the draft Constitution in May 2005. For further details please see <http://web.amnesty.org/pages/sdn-index-eng>.

### Public Document

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