

# £SUDAN

## @Monitoring human rights

### A problem of credibility

Report after report on Sudan, whether by the United Nations (UN) Special Rapporteur on the situation of human rights in the Sudan, by the European Parliament, or by non-governmental organizations such as Amnesty International, spell out the seriousness of the human rights situation, describing abuses both by the Sudan Government and the armed opposition Sudan People's Liberation Army (SPLA) and South Sudan Independence Army (SSIA).

All the parties to Sudan's conflict face an uphill task in convincing the international community that they are taking genuine measures to combat the abuse of human rights.

The **Sudan Government** claims that the truth about the human rights situation in the country is consistently misrepresented at the UN Commission on Human Rights and the UN General Assembly, at the African Commission on Human and Peoples' Rights, and by human rights organizations and the foreign news media.

For example, the government dismisses the UN Special Rapporteur on Sudan as politically partisan and in 1994 even accused him of insulting Islam.<sup>1</sup> The authorities have barred him from visiting, just as they have at various times barred critical non-governmental organizations such as Amnesty International and Pax Christi.

In this atmosphere, actions such as the Sudan Government's partial closure in March 1995 of a detention centre and the announcement in late August 1995 of the release of 32 political detainees held without charge or trial and 18 prisoners convicted on political charges have received only a cautious welcome from human rights organizations. While measures which benefit certain individual prisoners are positive and to be encouraged, the government's past record has left human rights organizations highly sceptical about the lasting significance of these steps.

The partially closed detention centre -- the notorious "City Bank ghost house" -- is only the best known of a number of locations where the security services are reported to

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<sup>1</sup> The Sudan Government has also accused Amnesty International of having an anti-Islamic political agenda. See *The crocodile tears: a response by the Government of the Sudan to the highly dramatic book published recently by Amnesty International under the title "The Tears of Orphans"* (distributed as an official document of the 51st session of the UN Commission on Human Rights E/CN.4/1995/174).

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hold detainees.<sup>2</sup> It appears to have been replaced by a section of Kober prison in Khartoum taken over by the security services from the prisons authorities. Previous formally announced releases in 1991 and 1992 did not involve the release of all political detainees. Nor did they put an end to abuses, despite the government's claims made at the time, as new arrests of political prisoners, including prisoners of conscience, followed soon afterwards.<sup>3</sup>

Early signs suggest that this pattern is continuing. Within days of the releases in August 1995 there were reports of new arrests. In the early hours of 1 September three Islamist political opponents of the government were reportedly detained without charge in Khartoum. On 2 September 10 students and recent graduates were detained. Although at least one, a woman student from the University of Khartoum, was known to have been released within 24 hours, at least three students were reported to remain in detention over a week later.

The government claims that it takes action against those who violate human rights. Again, observers are rarely impressed because details of cases, methods of investigation and action taken are not provided.

It is difficult for observers to accept the government's word at face value when experience points to a gap between rhetoric and reality. This is especially marked with regard to incidents in places where the authorities believe they can operate without scrutiny.

For example, on 28 March 1995 the government announced a ceasefire with the SPLA. Yet both the army and the government's paramilitary Popular Defence Force (PDF) continued to kill civilians and burn villages in the isolated Nuba Mountains and along the railway line in northern Bahr al-Ghazal. Three villagers are reported to have been deliberately and arbitrarily killed on 27 April 1995 when soldiers burned Dabiker on the edge of the Moro hills. In May 1995 civilians were reportedly deliberately and arbitrarily killed as PDF troops cleared people from the railway line in northern Bahr al-Ghazal in advance of the movement of a government train. Similar incidents were documented by Amnesty International representatives who visited northern Bahr al-Ghazal in June 1994.<sup>4</sup>

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<sup>2</sup> The security authorities are reported to have demolished a number of purpose-built cells at this detention centre but are alleged to have retained two rooms which since March 1995 have been used to hold prisoners for short periods.

<sup>3</sup> See, for example, a short supplementary report to the UN Human Rights Committee in July 1991, *Developments subsequent to the submission of the initial report on January 3, 1991*, where the Sudan Government stated "the Government of Sudan has, on April 29, 1991, released all political detainees".

<sup>4</sup> *Sudan: "The tears of orphans"-- no future without human rights* (AFR 54/02/95), January 1995.

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The government claims it is misrepresented. It claims that when it takes action on human rights it is not given due recognition. It claims that both the UN expert appointed to monitor the situation of human rights in the Sudan and non-governmental human rights organizations that issue critical reports are biased. Yet banning human rights observers from visiting the country undermines its claim that it has nothing to hide.

The armed opposition **Sudan People's Liberation Army (SPLA)**, while apparently taking a more open stance on human rights abuses by its own forces, also has a credibility problem. In June 1995 the SPLA sent a response to Amnesty International's 1995 campaign on human rights abuses in Sudan to the organization's Secretary General, acknowledging that "there have been serious human rights violations by some members of the SPLA". It expressed determination that these should be rectified and indicated that the SPLA intended to hold a workshop on *Human rights, civil society and administration of justice* involving representatives from international organizations, the SPLA and Sudanese civil society.<sup>5</sup> While the tone of this letter was positive, and a workshop on human rights might lead to welcome debate on human rights in SPLA-controlled parts of the southern Sudan, it was an inadequate response if the SPLA regarded this as taking action on human rights abuses. Developing the capacity of civil society to exert pressure on those in authority on human rights issues is vital. But it is only action on human rights issues which address the real seat of power – and in the SPLA case this means soldiers and not civilians – which will convince those monitoring the human rights situation that the SPLA is taking human rights issues seriously. Such action should include measures to prevent abuses, investigations into reports of abuses and those responsible for abuses being removed from positions where they have power and authority over others.

In July 1995 the SPLA leader Dr John Garang de Mabior signed an agreement with the UN Operation Lifeline Sudan (OLS) making explicit the SPLA's commitment to respecting basic humanitarian principles as laid down in the UN Convention on the Rights of the Child, the Geneva Conventions of 1949 and the 1977 Additional Protocols to the Geneva Conventions. It was also agreed that the SPLA would set up a mechanism for monitoring adherence to this agreement.

The SPLA is already bound as a minimum to apply Common Article 3 of the Geneva Conventions of 1949, which protects "persons taking no active part in the hostilities" by prohibiting a range of human rights abuses, including "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture". Nevertheless, a signed commitment to this and additional principles is an important act, especially one which appears to include a commitment to creating a monitoring mechanism which ought to have a

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<sup>5</sup> Letter dated 5 June 1995 from Dr Peter Nyot Kok, Secretary for Legal Affairs, the Sudan People's Liberation Movement, to Mr Pierre Sané, Secretary General, Amnesty International.

human rights component as part of its terms of reference. But whether or not these steps are meaningful will be determined by the SPLA's conduct.

One SPLA commander does appear to have taken steps towards creating a positive atmosphere for human rights, steps which include accepting the important principle of monitoring and accountability. The SPLA commander in the Nuba mountains has allowed the creation of a small human rights monitoring team of civilians from the area. In a situation as polarized as the conflict in Sudan, monitors which are only allowed to monitor the behaviour of "the enemy" would have limited credibility. According to reports, however, it appears that in the Nuba Mountains the SPLA authorities are prepared to accept the principle that their forces should also be monitored. How often this happens in reality is not yet clear.

Elsewhere the situation is not positive. On 30 July 1995 over 150 people, including over 120 children, were reportedly deliberately and arbitrarily killed in an attack by SPLA forces and armed civilians on villages around Ganyiel on the west side of the Nile in southern Upper Nile. Similar incidents have been repeatedly documented by human rights organizations, making paper commitments ring hollow and underlining the long way the SPLA as a whole has to travel if it is to build a reputation for respecting human rights.

The rival armed opposition **South Sudan Independence Army (SSIA)**, which since 1994 has been split by a leadership crisis with competing commanders bidding for control, is also obliged to respect international humanitarian law. But like the SPLA, the organization's record has not lived up to its promise to establish respect for human rights among its own forces. In 1991 the leadership of what later became the SSIA cited human rights abuses by the SPLA as one of the principal reasons behind its creation. Yet within days forces of the new entity were responsible for the massacre of thousands of civilians in southern Upper Nile, as has been thoroughly documented.<sup>6</sup> More recently, on 24 October 1994 SSIA soldiers involved in an attack on villages and cattle camps around Akot in southern Bahr al-Ghazal deliberately and arbitrarily killed over 100 civilians. A few days later SSIA leader, Dr Riek Machar Teny-Dhurgon, wrote to Amnesty International indicating that the group was setting up a body called the South Sudan Human Rights Commission to monitor human rights abuses in parts of Sudan under its control. Amnesty International has no further evidence that the SSIA's Commission was ever actually created – and has no evidence that the SSIA took other action to investigate the Akot killings or to remove from positions of power over others those responsible for them.

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<sup>6</sup> Documented in Amnesty International reports published in 1992, *Sudan: A continuing human rights crisis* (AFR 54/03/92); in 1993, *Sudan: The ravages of war: political killings and humanitarian disaster* (AFR 54/29/93); and in 1995, *Sudan: The tears of orphans - no future without human rights* (AFR 54/02/95).

## **An international dilemma**

The **international community** is faced with a dilemma. It has recognised the need and accepted the burden of alleviating the disastrous humanitarian consequences of war in Sudan. Each year the UN transports tens of thousands of tonnes of food, seed and medical supplies to areas controlled by the government, by the SPLA and the SSIA, while providing logistical support for scores of non-governmental agencies engaged in relief and development work. However, this important – and vastly expensive – work is in the end little more than a palliative. Much of the humanitarian need in Sudan is ultimately created by the gross abuse of human rights – by murderous attacks on civilians in a climate in which those in authority do not regard themselves as accountable. The extent of need varies from year to year and place to place according to factors such as rainfall and the quality of the harvest. But above all it is influenced by conflict, and within that conflict by the fact that all parties deliberately target civilians as a tactic of war. In the Sudan, the issue of humanitarian need cannot be separated from the issue of respect for human rights. A Sudan where human rights are respected would be a Sudan far less prone to humanitarian disaster.

When operational UN agencies with a human rights component to their work, such as the United Nations Children's Fund (UNICEF), which has a responsibility to promote the UN Convention on the Rights of the Child, have sought to implement their full mandate, the government has reacted with extreme suspicion. In the face of this, it is vital that UN agencies with a responsibility for human rights, such as UNICEF, receive clear and public support from member states of the UN. All UN agencies operating in Sudan should have a clear perspective on the vital significance of human rights protection to the well-being of Sudanese.

The UN General Assembly and the UN Commission on Human Rights have passed resolutions expressing deep concern over the human rights situation in Sudan. These resolutions have two purposes. First, they provide a measure of the strength of international outrage at the human rights situation in the country, both in the language used and the pattern of voting. The pattern of voting demonstrates that Sudan stands condemned and in isolation because of the persistent abuse of human rights.<sup>7</sup>

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<sup>7</sup> Resolution 49/198 at the 49th UN General Assembly was adopted on 23 December 1994 with 101 votes in favour, 13 against and 49 abstentions; the Sudan resolution under Agenda item 12 at the 51st session of the UN Commission on Human Rights was adopted on 8 March 1995 with 33 votes in favour, 7 against and 10 abstentions. It is not just UN bodies that have passed resolutions expressing concern about Sudan: on 20 March 1995 the 17th Session of the African Commission on Human and People's Rights, the body set up by the Organization of African Unity (OAU) to monitor the African Charter on Human and People's Rights, adopted a resolution expressing deep concern about the human rights situation.

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The second use of such resolutions is to make specific demands for action which are not only important in themselves but which can be used as benchmarks against which human rights performance can be measured. In January 1995 Amnesty International criticised UN resolutions on Sudan for being long on rhetoric and short on demands for action.<sup>8</sup> Past resolutions had tended to emphasize the human rights problem in the war zones and had consistently failed to make specific demands for action in a way which would enable the international community to measure whether the Sudanese authorities, both government and armed opposition, were taking any steps on human rights in response to international pressure.

As Amnesty International has repeatedly pointed out, the problem of human rights in Sudan extends well beyond the war zones. Human rights violations are committed in Sudan in parts of the country well away from the fighting for reasons unconnected with it, reasons which include the efforts of the current government, which seized power in a military coup on 30 June 1989, to consolidate itself in power and to impose its own ideological program on the nation.

To some extent, the resolution on the situation of human rights in the Sudan passed on the 8 March 1995 at the UN Commission on Human Rights represented an improvement on previous resolutions. First, it made strong reference to human rights violations taking place in all parts of the country and not just the war zones. Secondly, it asked the government to take specific steps in relation to political detainees, political prisoners, torture and detention centres. The government would appear to have taken some action in relation to these demands (but there are reports of new arrests and detainees are still held without charge or trial in unacknowledged places of detention).

However, the Commission's March 1995 resolution was unsatisfactory in that it did not, with one exception, call for impartial and independent investigations into specific reports of abuse, with public reports which make clear both the results of the investigations, their methodology and recommendations made. It is difficult to establish to what extent real, lasting measures are being taken if the government is not requested to issue detailed public reports on what it has done.

The one exception was the repetition of a call for an investigation into the killings of Sudanese employees of foreign government relief organizations, a call which was originally made by the UN General Assembly in December 1992. These killings took place in Juba in June and July 1992 in the context of the "disappearance" of at least 230 other Sudanese soldiers and civilians which UN resolutions have failed to pursue. Amnesty International has been calling since 1992 for impartial investigations and the issuing of public reports into these "disappearances". Despite in November 1992 announcing an inquiry into "incidents

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<sup>8</sup> *Sudan: The tears of orphans: no future without human rights* (AFR 54/02/95), January 1995.

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witnessed by Juba town in June and July" – an inquiry that may or may not have contained a human rights brief – the government has failed to produce any evidence that the "disappearances" have actually been investigated.<sup>9</sup> So far, therefore, attempts to pursue this method of establishing accountability have not proved successful.

## **Human rights monitoring**

Where those who abuse human rights believe that they are unobserved, they behave with impunity and the abuses continue. On 8 March 1995 the UN Commission on Human Rights took the important step of setting in motion the creation of a UN human rights monitoring team "to be placed in such locations as would facilitate improved information flow and assessment and would help the independent verification of reports on the situation of human rights in Sudan".

Amnesty International welcomes this development which is a significant step along the path towards revealing the extent of human rights abuse in Sudan. However, unless these monitors are both properly resourced and have access to Sudan their effectiveness will be reduced.

The outside world cannot solve the problems confronting human rights in Sudan on its own. Responsibility for protecting and building respect for human rights lies with Sudanese, both those in authority, who have the power and legal obligation to do so, and those in civil society, who have the responsibility to work towards keeping those in power accountable. In the Sudanese situation this is a difficult and dangerous task.

Monitoring, therefore, is more than just collecting and verifying information. The task of the international community – and any human rights operation set up by the UN – is to help Sudanese find a way forward on human rights. In addition to the public exposure of abuses, the mandate of a monitoring operation should include working with Sudanese to strengthen the capacity of institutions and civil society to build respect for human rights. In the case of the authorities, this should only follow their clear demonstration of real political commitment towards establishing respect for human rights,

A monitoring team should therefore be mandated to engage in four inter-connected areas of human rights work:

First, it should actively search out and verify information about human rights abuses. It should have the authority to enter places of detention, whether they be civil prisons,

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<sup>9</sup> Amnesty International fears that these men have been executed, in the case of 55, after unfair summary trials, and in the case of the remainder, extrajudicially.

detention centres run by the security services, or SPLA prisons, and be able to interview prisoners in private. Reports on abuses should be made public, in order to continue the vital role public opinion plays in holding those in authority accountable and to encourage them to see that it is in their interests to respect human rights.

Secondly, where appropriate, a monitoring team should also bring information about human rights abuses to the attention of the relevant authorities in the expectation of remedial action, and be able to follow up such cases until they are considered resolved. Monitors should report on disciplinary and other action taken by officials in relation to offending personnel. Reports on official action should also be made public – both to exert further pressure on those in authority and publicly to acknowledge appropriate action being taken.

Thirdly, a human rights monitoring team should work with Sudanese civil society in promoting knowledge of human rights and how to protect them. This could include fostering the capacity of Sudanese non-governmental organizations to work on human rights issues. The human rights abuses discussed above are committed by those with power over others, whether power sanctioned or allowed by the Sudan Government or power appropriated by armed opposition groups. But the protection of human rights is too important for it to be left to those with power alone.

Fourthly, once the authorities have demonstrated a genuine political commitment to establishing respect for human rights, the monitoring team should work with them to ensure the effective implementation of Sudan's obligations under international human rights and humanitarian law. This could include providing training and advice in order to establish effective systems of investigation and remedial action to combat human rights violations. It could include promoting information and knowledge about human rights and humanitarian law standards as well as ways of protecting human rights.

## **Conclusion**

Given past experience, the only way the international community will come to believe that the Sudan Government, the SPLA and the SSIA are seriously engaged in establishing respect for human rights is if the steps these bodies claim are being taken can be clearly monitored and assessed. The creation of an independent, impartial and skilled team with full access to all parts of Sudan would be the most obvious and appropriate way of achieving this.

Close monitoring by such a body would give the authorities the opportunity to demonstrate the lasting nature of measures they say they are taking and would be a step towards restoring some credibility on human rights issues. If the authorities are genuine

about establishing respect for human rights, they have nothing to lose by working with such a team and allowing their action to be observed.

If the international community, as represented by the member states of the UN, is serious about addressing the situation of human rights in Sudan then it should be prepared to invest in creating a properly resourced, appropriately skilled and adequately mandated monitoring program.

Amnesty International urges member states of the UN to make an explicit recommendation to the Sudan Government to invite the deployment of a civilian, impartial and independent UN monitoring team inside Sudan with full access to all parts of the country.

The organization calls on UN member states to commit themselves to resourcing fully such an operation.

Amnesty International also calls directly on the Sudan Government, the SPLA and the SSIA to invite such a UN human rights monitoring team to work inside the Sudan, including in all areas they claim to control, to commit themselves to cooperating with it and to allowing it to operate without interference.

Amnesty International also urges UN member states to take the opportunity of the 50th regular session of the General Assembly to give full, public backing to the UN agencies working on Sudan which by their mandates have explicit responsibility for promoting and monitoring human rights provisions.

In addition, Amnesty International urges the General Assembly to make an explicit recommendation that all UN agencies operating in Sudan fully recognize the central importance of respect for human rights to the well-being of the Sudanese people.