

@The Penal Code

Human rights violations enshrined in law

S

The Penal Code introduced by Sudan's military government in 1991 contains provisions which violate fundamental human rights.

U

For certain criminal offences the law prescribes the cruel, inhuman and degrading punishments of flogging, hand and foot amputation, hanging or stoning to death and hanging followed by the crucifixion of the body. The majority of these punishments are known as *hudud* – penalties and offences deriving from *shari'a* (Islamic) law.

D

Hundreds of men and women have been flogged since the 1991 code was introduced. The number of people who have had hands or hands and feet amputated is unknown. However, officials have indicated that some sentences have been carried out.

A

The law also contains a system of "equivalence" (*qisas*) under which an offender can be punished in the same manner as he or she offended. This can lead, for example, to murderers being executed in the way they killed their victim or criminals who cause bodily injury being punished by the judicial infliction of an equivalent injury.

N

The 1991 laws define the offence of apostasy (*riiddah*), turning away from Islam after being a Muslim, for which the penalty is death.

Universally accepted international human

rights standards such as those recognised in the *Universal Declaration of Human Rights* and treaties such as the *International Covenant on Civil and Political Rights (ICCPR)* and the *African Charter on Human and People's Rights* to which Sudan is a party outlaw punishments which are cruel, inhuman and degrading.

In 1986 the United Nations Special Rapporteur on torture concluded that:

"Corporal punishments as 'lawful sanctions' under domestic laws may constitute 'severe pain or suffering' under international law. Consequently, this kind of chastisement should be revised in order to prevent torture, particularly amputations, caning or flogging."

The 1994 report of UN Special Rapporteur on the situation of human rights in Sudan concludes that sections of the Penal Code prescribing or allowing flogging, amputation and certain other punishments contravene Sudan's treaty obligations to prohibit torture and cruel, inhuman and degrading punishments.

Amnesty International believes that the death penalty – irrespective of the method of execution used – is the



ultimate cruel, inhuman degrading punishment and a violation of the basic human right to life.

The definition of an offence of apostasy contravenes Article 18 of the *Universal Declaration of Human Rights* and Article 18 of the *ICCPR* which recognize the fundamental right to freedom of conscience and religion.

The government, which holds the moral re-orientation of Sudanese society along the lines of its own interpretation of Islam as a key political objective, asserts that the offence of apostasy, the system of *qisas* and the *hudud* punishments in the Penal Code all derive from the revealed word of God.

At least one-third of Sudan's 26 million people are non-Muslims. The government has declared that the legal provisions deriving from *shari'a* law do not apply in the three southern states, where non-Muslims are in the majority. However, millions of non-Muslims live outside these states, many displaced by the war, others working on agricultural schemes or in the capital and other major cities.

While stating its acceptance that fundamental standards of human rights apply universally to all persons, the Sudan Government, in virtually the same breath, has attempted to impose qualifications. In May 1994 'Abd al-Aziz Shiddo, Sudan's Minister of Justice, said:

Universality (of human rights) is acceptable. Indivisibility of standards is acceptable – provided the United Nations sets

its standards and norms in a way which would not conflict with religious beliefs.

In other words, the Minister of Justice says the Sudan Government will only accept universal standards if these conform to its own religious ideas.

This undermines the basic premise of universality which is that fundamental human rights are inalienable and apply to all human beings regardless of religious, cultural or social context or historical conditions.

According to the Minister of Justice, the Sudan Government is reserving the right to pick and choose what it will accept from international human rights law. The government is turning the principles underlying fundamental human rights upside down. Fundamental human rights belong to individual human beings, not to governments.

Amnesty International does not take any position on Islam or any other religion, nor on whether laws should or should not derive from an interpretation of a religion. The organization's concern is whether the Penal Code violates internationally recognised rights and freedoms.

Amnesty International is urging the Sudan Government to take immediate steps to revise the Penal Code to remove the offence of apostasy and the punishments of flogging, amputation, mutilation and death.

What can you do?

Join our campaign.

Contact the Amnesty International office in your country and ask how you can help.

For more information about Sudan, see Amnesty International's report, "Sudan: The tears of orphans - no future without human rights" (AI Index



Amnesty International briefing leaflet

AFR 54/02/95), published in January 1995.