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90, Kairaba Avenue, P. O. Box 673, Banjul, The Gambia Tel: (220) 392 962; Fax: (220) 390 764 E-mail: [achpr@achpr.org](mailto:achpr@achpr.org); Web [www.achpr.org](http://www.achpr.org)

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**PROMOTIONAL MISSION REPORT OF  
COMMISSIONER ANGELA MELO,  
SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN  
IN AFRICA IN THE REPUBLIC OF THE SUDAN  
(From 30<sup>th</sup> March to 4<sup>th</sup> April 2003)**

PROMOTIONAL MISSION REPORT OF THE SPECIAL  
RAPPORTEURE ON THE RIGHTS OF WOMEN IN AFRICA

TABLE OF CONTENTS

- I. INTRODUCTION
- II. TERMS OF REFERENCE AND LEGAL FRAMEWORK OF THE MISSION
  - A. Terms of reference of the Mission*
  - B. Legal Framework of the Mission*
- III. PRELIMINARY OBSERVATIONS
- IV. ORGANISATION OF THE MISSION
  - A. Arrival of the delegation and work programme*
  - B. Meetings and Site Visits*
- V. CONCLUSION AND RECOMMENDATIONS
  - A. Conclusion*
  - B. Recommendations*

**DRAFT REPORT OF PROMOTION MISSION OF THE SPECIAL  
RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA TO THE  
REPUBLIC OF THE SUDAN**

*(30<sup>th</sup> March to 4<sup>th</sup> April 2003)*

**I- INTRODUCTION**

1. In the frame of the implementation of its mandate of promotion and protection of human and people's rights within State Parties to the African Charter on Human and Peoples' Rights (the African Charter), the African Commission on Human and Peoples' Rights (the African Commission) pays special attention to the evolution of the human rights situation in the said States and gives priority to constructive dialogue with Governments and civil society organisations.
2. In this regard, whenever possible and within the limits of available financial resources, the Commission regularly sends promotional/protection missions to States Parties in order to discuss with Government authorities and members of civil society, issues pertaining to human and peoples' rights.
3. The Commission's system of Special Rapporteurs also functions according to this general rule. Dialogue with Government authorities and civil society organisations as well as the collection of first hand information figures in the core of the activities of Special Rapporteurs whose work is defined by their mandate in their respective fields of competence.
4. It is in her capacity as Special Rapporteure on the Rights of Women in Africa that Commissioner Angela Melo embarked on a promotional mission in the Republic of Sudan, from 30<sup>th</sup> March to 4<sup>th</sup> April 2003.
5. The Special Rapporteur would like to express sincere acknowledgements to the Government of the Republic of Sudan for the facilities provided to her delegation to ensure the smooth running of the mission. The openness of spirit which prevailed throughout the discussions was quite appreciable. Commissioner Angela Melo would also like to thank all the NGOs and personalities whose invaluable assistance contributed to the success of her mission to Sudan.
6. More particularly, the Special Rapporteure wishes to express deepest gratitude to Commissioner Yasir Sid Ahmad El Hassan, for all the efforts that he made to ensure the success of the mission.

## **II- TERMS OF REFERENCE AND LEGAL FRAMEWORK OF THE MISSION:**

### **A. Terms of Reference of the Mission**

7. The mission of the Special Rapporteur on the Rights of Women in Africa is the first one ever undertaken by a Special Rapporteur of the Commission to Sudan<sup>1</sup>.
8. By carrying out this mission to the Republic of the Sudan, the Special Rapporteur aimed at establishing a close relationship with that State Party to the African Charter through dialogue with the Authorities and civil society organisations, especially Women's organisations, on issues pertaining to the rights of Women in Sudan. The talks that Special Rapporteur Angela Melo held with the authorities of Sudan and other actors related to:
  - a) Making the Commission, its work and more specifically the system of Special Rapporteur on the Rights of Women in Africa known or better known to the Sudan authorities and civil society members, especially Women's organisations;
  - b) Drawing the kind attention of the Authorities to the obligations of the Sudan as a State Party to the African Charter on Human and Peoples' Rights to the necessity of participating more actively in the activities of the Commission and encouraging Sudanese NGOs to do same. The mission also wished to express the availability and willingness of the Commission and the Special Rapporteur on the Rights of Women in Africa to assist Sudan in giving effect to the provisions of the Charter, particularly in the field of Women's Rights, of Women and the decision-making process, the HIV/AIDS pandemic and gender issues.
  - c) Drawing attention to the need for the Government of Sudan to submit and present its overdue Reports covering the period between 1999 and 2002<sup>2</sup>, and including information on the efforts deployed by the Government to ensure the promotion and protection of Women's Rights in Sudan;
  - d) Briefing the authorities of Sudan on pending regional human rights instruments, which Sudan is yet to ratify; namely the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination against Women.
  - e) Raising awareness on the Draft Protocol to the African Charter on the Rights of Women in Africa: historical perspective of the process and current status of the Draft Protocol;
  - f) Expressing the commitment of the African Commission to contribute to

<sup>1</sup> Members of the Commission carried out promotional missions to Sudan in 1996 and in 2002

<sup>2</sup> Since the Note Verbale ACHPR/PR/A046 of 30<sup>th</sup> March 1995, the Commission accepts that State Parties who have overdue Reports can combine them into a single Report covering the period concerned.

the work of promotion and protection of the human rights, including the Rights of Women in Sudan;

- g) Learning from the Government of Sudan about the ongoing civil war in Sudan, its consequences from the human rights point of view, notably regarding violence against Women and the manner in which the Government endeavours to protect the rights of the population, in particular the rights of the most vulnerable groups, namely - the elderly, Women and Children;
- h) To be better informed about the perspectives of the peace negotiations between the Government and the rebellious groups: the current status of these negotiations, the possible obstacles and the ways and means for an eventual solution;
- i) Learning about the human rights and environmental drawbacks of the industrial exploitation of oil in Southern Sudan and how the Government is tackling them;
- j) Compiling, should the need arise, information on the Communication files pending against Sudan;
- k) Paying visits to Sudanese Human Rights Organisations<sup>3</sup>, learning about their activities and the activities of Women Rights NGO's operating in Sudan and the ways and means of developing/strengthening the cooperation between them and the Commission.
- l) Large scale distribution of all relevant promotional documents carried along during the mission: copies of the African Charter, Rules of Procedure of the Commission, Criteria for application for Affiliate/Observer status, the Protocol establishing the African Court, the Draft Protocol on the Rights of Women in Africa and the Brochure on the Commission.
- m) The mission team would also visit the prisons and detention centres in Khartoum and neighbouring cities should the need arise.

#### **B. Legal Framework of the Mission**

9. The Republic of the Sudan ratified the African Charter on Human and Peoples' Rights on 18/02/1986. In accordance with Article 62 of the aforementioned Charter, Sudan's initial Report was due in February 1988, but Sudan submitted on the 24<sup>th</sup> October 1996, an initial Report combining all overdue Reports. Sudan's initial Report was considered in April 1997 at the 21<sup>st</sup> Ordinary Session of the Commission. The following Report from Sudan was then due in February 1999. To date, Sudan has not sent any Reports to the Commission and its periodic Reports for 1999 and 2001 are yet to be submitted and presented.

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<sup>3</sup> The Sudan Human Rights enjoys Observer status with the Commission since October 1992. It has sent two Reports to the Commission but has two outstanding (the Reports for 1998 and 2000).

10. Sudan has is yet to ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights.

### **III- PRELIMINARY OBSERVATIONS:**

11. Sudan used to be a British colony. It gained its independence in 1956. 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 28 million people made up of 19 ethnic groups and 597 smaller groups within the former ones.
12. According to recent estimates, Arabs constitute 40% of the population, the Dinka 12%, the 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.
13. Among the Muslims there are a number of sects (Ansar, Ansar al Sunna and Khatmiyya for instance); and among Christians, there are Catholics and Protestants.
14. Sudan is divided into 26 States. With its fertile soil in the South, Sudan was once thought of as a country which could produce sufficient food to feed the entire Continent of Africa. The Southern part of Sudan is also known to have oil. However, the exploitation of the oil is reported to have caused thousands of the population to forcibly leave their homes and lands.
15. Unfortunately, the Civil war, which has been ravaging the country since immediately before independence, except for the period 1972-1983, has wrought such havoc on the economy of Sudan as to result in its classification as a poor country. The civil war has caused thousands of deaths, wounded and displaced people. The war is also reported to be the cause of regular episodes of famine responsible for thousands of deaths among the population and the cattle.
16. The customs of the people, particularly of those in the South, the influence of British colonial rule from 1898 - 1956 and Islamisation in Sudan has left the country with a multiple legal system of *Sharia* law, Customary Law and Common Law.
17. 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.

### **IV- ORGANISATION OF THE MISSION:**

#### **A- Arrival of the delegation and organisation of work**

18. Due to flight problems, the delegation arrived in Khartoum on the evening of 30<sup>th</sup> March 2003 around 8 PM. H.E. Ambassador Mubarak received the delegation at the



airport and took them to their hotel. A draft programme for the mission was presented to the Special Rapporteur and the work started on the 31<sup>st</sup> March 2003.

**B- Meetings and Site Visits:**

**Monday 31<sup>st</sup> March 2003:**

- *Audience with Hon. Mr. Sholl Daing, State Minister for Foreign Affairs*
19. The Special Rapporteur briefed the Minister about the ACHPR and its past missions to the Sudan (1996 and 2002 missions). She explained the work of the Commission in the field of human rights and underscored her mandate as Special Rapporteur on the Rights of Women in Africa. The Special Rapporteur further elaborated on the necessity for more collaboration between the Government and the African Commission in the area of human rights and more specifically on the Rights of Women.
  20. The Minister thanked the delegation for the mission to Sudan. He expressed pleasure at receiving African delegations to Sudan and said the Government pays close attention to human rights in the country. He wished the mission success.
  21. The Minister said Sudan has experienced many years of war, which has made the situation of human rights questionable but there have been improvements since. The Minister elaborated on the Sudanese friendship and collaboration with all African communities and praised the dialogue vocation of the African Commission in its work and said the Commission's advice is always welcome.
  22. Talking about the peace process, the Minister said that many positive measures had been taken to bring the war to an end and that consequently, there were less human rights violations. He further described the efforts made to strengthen the human rights dimension in all the spheres of public affairs and in Sudanese civil society. He said Women were being placed at the highest possible positions.
  23. The Special Rapporteur thanked the Minister for all the information and for Government's commitment to human rights issues and for its open mindedness. She asked about the efforts relating to the peace process and possible obstacles being encountered in that context.
  24. The Minister responded that the Sudanese war had started in 1955 (one of the longest in Africa) and had survived several attempts to end it. He said that with the coming to power of this Government, new and fruitful attempts to put an end to the war had been initiated with assistance from various partners at regional and international levels owing to pressure from many countries, African and others, namely the United States of America. He described all the steps taken in that regard and the results obtained so far: cessation of hostilities, protection of civilians and distribution of humanitarian assistance to the populations, agreement on power sharing, signature of a Memorandum on self-determination/independence of Southern Sudan, etc.
  25. The Minister admitted that the war had affected everybody in the country and said that the Government is highly committed to ending the conflict through peaceful

- means so as to restore peace and stability to Sudan. The Minister said obstacles were encountered here and there but everything was being done to overcome them with the assistance of all relevant partners. He expressed the commitment of Sudan in the activities of African sub-regional and regional organisations.
26. The Special Rapporteur asked for information on the environmental problems caused by oil exploitation in Sudan (resulting in the forced movement of populations and environment problems)
  27. The Minister answered that the environmental problems were being adequately addressed and that the oil exploitation is bringing new services (schools, hospitals, roads, electricity, water, bridges, etc.), which are improving the living standards of the populations.
  28. The Special Rapporteur drew the attention of the Minister to the need for the Government of Sudan to submit and present its periodic Report to the Commission by May or October 2003 (34<sup>th</sup> ordinary session of the African Commission). She advocated for the inclusion of the situation of Women in the Report. The Minister said the Report was ready and would be submitted to the Commission in May 2003 at the 33<sup>rd</sup> Ordinary Session. Concerning the ratification of pending instruments like the African Charter on the Rights and Welfare of the Child, the Minister said there was no objection and assured that this would be done soon.
- *Meeting with Mr Fathi Khilil Mohammed, President of the Sudan Bar Union<sup>4</sup>:*
29. The Special Rapporteur expressed her pleasure at carrying out this mission to promote the rights of Women and asked about the actions being taken to promote and protect the rights of Women in Sudan by the Bar Association.
  30. Mr Fathi Khilil Mohammed expressed pleasure at receiving the mission and added that the promotion of Women is part of his Association's goals. He said since 1964 Sudanese Women have the right to vote. He further stated that Women can accede to very high positions in Government and are associated to the management of affairs at all levels of the society including the high Court, the Bar<sup>5</sup>, etc. Mr. Fathi further went on to say that the Constitution of Sudan provides for equal rights for Women and men and prohibits discrimination.
  31. Asked about the question of authorisation from husbands for Women to travel abroad, Mr. Fathi answered that there has been some progress but the practice still persists despite protests from Women's Associations. He added that the rationale behind this practice is both religious and customary.
  32. The Special Rapporteur also asked whether Women have the right to go to court and to lodge complaints. She also asked about the right of Women to seek divorce, the sharing of assessment after divorce, the right to property, the right to inheritance, Widow's rights, the right to health, the right to food security, and she was told that these rights are guaranteed to Women in Sudan without any restriction.

<sup>4</sup> The Sudan Bar Union has had Observer status with the African Commission since October 2001 (30<sup>th</sup> Ordinary Session of the ACHPR)

<sup>5</sup> There are 14.000 lawyers in Sudan among whom 4000 are Women.



33. The Special Rapporteur asked about violence against Women within the family or the Community and whether there are cases the courts are seized with. She also asked whether the Bar Union has a defence project in favour of indigents in jail and under which conditions.
34. Mr. Fathi said it is a matter of concern even if it is not common. He advised the Special Rapporteur to contact the Courts for more details. Regarding legal aid/assistance, he added that his organisation has a project in favour of indigents, in collaboration with the Government. He added that they visit the prisons to assess the conditions of detention and problems regarding legal aid. He acknowledged that there are many problems in that area and advocated for more resources to be devoted to the improvement of detention conditions and legal assistance in favour of indigents, especially Women. He encouraged the delegation to visit the prisons in order to formulate their own judgement.
35. The Special Rapporteur asked about the steps taken to eradicate harmful practices affecting Women and girls. She also enquired whether the resources allocated by the Government for the education of Women were adequate.
36. Mr. Fathi said positive steps are being taken by the Government and civil society organisations but he added that poverty is a major constraint. Pertaining to resources for the education of Women and girls, he said that the most important fact is that there is no discrimination in the educational system and that the proportion of Women and girls being educated is constantly growing.
37. The Special Rapporteur eventually reminded Mr. Fathi of the duties of his Association as an Observer with the African Commission, especially with regard to Reports and Information to be sent to the Commission relating to human rights.
  - *Meeting with three (3) Judges of the Supreme Court of the Sudan: Rabah Mahd Mustafa, Saniya El Rasheed, Farida Ibrahim*<sup>6</sup>.
38. After introducing herself and her delegation to the gathering, the Special Rapporteur explained the objectives of her mission to Sudan. She expressed pleasure at meeting Women Judges of the Supreme Court.
39. The Special Rapporteur gave information about the African Commission on Human and Peoples' Rights created by the African Charter on Human and Peoples' Rights, to which Sudan is a party. She explained that the Charter provides for human rights and the rights of Women and that in her capacity as Special Rapporteur on the Rights of Women in Africa, she had come to promote the rights of Women in Sudan. The Special Rapporteur further went on to say that she was happy to hear and see that Women in Sudan are promoted to the highest possible level of the judicial system in Sudan. She asked whether there were any problems of discrimination against Women in Sudan or specific problems in the area of the rights of Women by law or in practice.
40. The Judges responded that Sudan has many religions (Islam, Christianity, traditional religions, etc) and the Constitution provides for rights and freedoms regardless of

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<sup>6</sup> The first ladies are Judges and the last one is the Justice of the Federal Court of Sudan.

these religions. A positive discrimination is being practiced in favour of Women in order to close the gaps: seats are reserved for Women in Parliament so as to have more Women in Parliament, *Shariaa* law provides for positive discrimination in favour of Women in the sense that men have to provide for Women and their children with regard to health services, food, housing, guardianship of the children (up to the age of 9 years for girls and 7 years for boys<sup>7</sup>).

41. However, the Hon. Judges said that in the country there was a debate about the guardianship of children. Women also have paid holidays when pregnant<sup>8</sup> or widowed<sup>9</sup>. Women have the right under *Shariaa* to obtain divorce. For this they have to request their husband three times. The Special Rapporteur asked the Honourable Judges about the authorisation from the husband to their wives in order to travel abroad. The answer was that Women are fighting to do away with the authorisation. They added that full opportunities existed for all.
42. The Special Rapporteur asked about property sharing in case of divorce and was answered that the rule is that everything belonging to a woman is hers, unless the matrimonial status opted for is common property. On the matter of inheritance, the girl receives half of what the boy receives but the boy has the obligation to provide for his sister and mother out of his part of the inheritance. *Shariaa* law applies to Moslems whereas Family Law and Customary Law apply to other citizens.
43. The Special Rapporteur asked whether violence against Women is a concern in Sudan and the Judges responded that it is not common in the society and therefore, there are no cases pending before the judicial instances. They however said that they hear news from outside about violence against Women in Sudan but do not have evidence or provable facts about this. The Hon. Judges acknowledged the existence of poverty in Sudan and in this regard the Government is paying more attention to the economic field. The Special Rapporteur spoke at length on the process of drafting of the Protocol on the Rights of Women in Africa and requested the support of the Judges when the time comes for the Government to ratify the instrument.
44. The Hon. Judges said that most NGO just make propaganda on facts they are not really familiar with regarding the rights of Women in Sudan. They added that the reality is just different and that those who want the truth should come and see for themselves.
  - *Informal meeting with Mr. Hamato Musa, Chairman of the Human Rights Committee at National Assembly*
45. Mr. Hamato briefed the Special Rapporteur about the Human Rights Committee, which he said, is in charge of making sure that all the laws are consistent with the requirements of international human rights instruments to which Sudan is a party. The Committee also ensures that human rights standards are respected by the Government and its organs and pays regular visits to prisons and detention centres in the country.

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<sup>7</sup> After this age, a court can decide which of the parents is most suitable to be the guardian of the children.

<sup>8</sup> Till delivery, the pregnant woman has paid holidays.

<sup>9</sup> 4 months and 10 days of paid holidays when widowed.

Tuesday 1<sup>st</sup> April 2003:

- *Audience with Major General Mahi Eddin Awad Ridwann, Deputy Chief of the Sudan National Police Forces with Women officer staff (3 officers)<sup>10</sup>*
46. After introducing himself and his colleagues, Major General Awad Ridwann thanked the Special Rapporteur for coming to visit the Sudan to discuss matters pertaining to the rights of Women and said that the presence of Women officers shows that Women can, by their work, accede to very high positions in all sectors of the society. He further went on to say that since 1973, Women have been enrolled in the Sudanese Police Force where they have rights and duties entrusted to them on equal footing with their male colleagues. He described the advantages provided to Women within the Police Force, with a balanced mingling of *Shariaa* law and modern law. More generally speaking, the Women present at the meeting outlined the positive strides made in the area of Women's Rights in Sudan and guaranteed in the Constitution of Sudan: rights for the Woman to give her nationality to her child even if the father is not Sudanese.
  47. The Special Rapporteur introduced her delegation and described her position, both as Member of the African Commission and as Special Rapporteur on the Rights of Women in Africa. She went on further to express satisfaction for being so welcomed in Sudan and gave full details about the African regional human rights system including the functioning of system of Special Rapporteur created within the African Commission on Human and Peoples' Rights.
  48. The Special Rapporteur urged the Deputy Chief Police to keep up the good work that they are doing in favour of the social rights of Women within the police and within the Society in general. She then asked some questions on specific issues concerning Women alleged to be arbitrarily detained in Sudan. The Special Rapporteur also asked about the rules governing detention in Sudan, the situation on the allegations of slavery, statistics on gender based violence, access to legal assistance and justice and equal protection before the law.
  49. The Major General Ridwann denied the allegations of arbitrary detention and stated that he was the Director of Prisons before taking the current job. He advised the delegation to refer the questions to the Ministry of Justice.
  50. Asked whether there were any specific rights for Women inmates, Major General Ridwann said, without going into detail, that Women prisoners have rights attached to their situation as female inmates and these depended on their physical condition (pregnancy, illness) and mental status.
  51. The Special Rapporteur asked whether the Police have a responsibility in implementing the sentences of the *Shariaa* law (flogging, etc) and she was told that this is the practice of religious peoples. She then asked if the Police benefits from any training in the field of human rights and the rights of Women and she was informed that there is a human rights department within the Police Headquarters

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<sup>10</sup> (a) Major General Dr Nour Elhida, Director of the Asylum in Sudan, (b) Police Colonel Ebtasan Abdalrahem, General Directorate of Passport, (c) Police Pringidore Physician Fathia H. Shabo, Dean of the Faculty of Nursing Sciences at the National RIBAT University.

entrusted with the responsibility of discharging such training. Moreover, policemen attend as regularly as possible, workshops and seminars dealing with these issues.

- *Meeting with the Sudanese Women's Union*

52. The Special Rapporteur introduced her delegation and presented the objectives of her mission to Sudan. She also made a brief introduction on the general work of the African Commission under the African Charter and focussed on her mandate as Special Rapporteur on the Rights of Women in Africa. She was also introduced to the three ladies attending the meeting<sup>11</sup>.
53. Mrs Abukashawa said that four (4) million Women are members of the Union which has twenty seven (27) branches all over the country, even in the areas affected by the war. She then described the activities of the Union (training, environment, information and public relations, fight against poverty, peace, etc) which makes it a priority to work with the grassroots populations.
54. The Special Rapporteur asked them whether the rights enshrined in the African Charter were adequately enforced in the country and she was told that the human rights situation in Sudan is similar to those prevailing in African countries as a whole: a lot is to be done in order for Women to fully enjoy their rights. The Union, they added, started a campaign for the education of girls in 2002.
55. Citing the main concerns in the area of Women's Rights in Sudan, Mrs Abukashawa talked about Female Genital Mutilation (FGM) and poverty. She said that in spite of the prohibition since 1946 of the practice of FGM in Sudan, people are still practicing it, particularly in the rural areas. She further went on to say that the *Shariaa* cannot be held responsible for the practice of FGM because it doesn't permit it. However, people simply do not know this.
56. The Special Rapporteur enquired about the feeling of Women on CEDAW and was informed that Sudanese Women are divided on this issue: some are for and others are against. The ladies informed the delegation that three workshops have already been organised on CEDAW advocacy in Sudan since the end of 2002. Three more are scheduled for the same purpose, all of them being organised in different cities of Sudan to prepare the signature of the CEDAW by Sudan.
57. The Special Rapporteur also briefed the audience on the process of preparing the Draft Protocol on the Rights of Women in Africa, pointing out the reservations of the Sudanese delegation. She also asked about the practice whereby a woman must have authorisation from her husband before travelling abroad and was told that Women are not happy about this and are fighting against it. Women said that they are also working to improve the conditions of divorce to conform with laws and international standards.
58. The Special Rapporteur asked the feeling of the ladies about corporal punishment and she was told that this is set up by the *Shariaa* and applies only to the Muslims.

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<sup>11</sup> (a) Msr. Suad M. Abukashawa, Assistant Secretary General of the Union; (b) Maha H. Freigoun, Information Desk officer; (c) Tabitha Gwang Awok.



The audience also told the delegation that in night clubs, girls wear whatever they want.

59. Asked about the main obstacles they encounter in the promotion of the rights of Women in Sudan, the Women cited war, poverty, financial resources, negative attitudes.

- *Meeting with Mrs. Amna Abdel Rahman, Vice President of the Inter African Committee on Harmful Traditional Practices*

60. The Special Rapporteur introduced the delegation and presented the objectives of their mission to Sudan. She then asked about the activities of the Committee.

61. Mrs Amna Abdel Rahman responded that the Committee is a Women's NGO devoted to the fight against harmful practices: namely FGM and Early Marriages. . The Committee also sensitises Women on how to take care of their children and families as a whole. She mentioned the cases of specific practices occurring in Southern Sudan which the Committee is fighting against:

62. She also pointed out the situation of Women working hard but not being able to take positive action in the management of their money so that they know how to do it, especially in rural areas. She added that in order to avoid setbacks in the fight against FGM practice the Committee has developed programs and projects in favour of those excisors who have abandoned the practice so that they have a source of revenue. She added that the Government has taken radical measures to forbid any medical doctor to practice FGM.

63. Mrs Amna Abdel Rahman also pointed out that research has proven that FGM is not recommended by *Shariaa* even if some countries like Sudan, Djibouti, Somalia, Mauritania, practice it. She added that her NGO is working closely with the Government of Sudan in order to implement a program for the eradication of FGM in Sudan through appropriate legislation. She went on further to say that the Committee is currently making all efforts to convince religious authorities to issue a *Fatwa*<sup>12</sup> to condemn the practice of FGM. She also described the fight in favour of girls' education by supporting education, substance and others for the poorest girls, the leadership program for Women in rural areas, the general fight against illiteracy of Women and girls, etc.

64. The Special Rapporteur congratulated Mrs Amna Abdel Rahman on the good work her organisation has been doing and asked her when the organisation was created.

65. Mrs. Amna Abdel Rahman said since 1985 and added that decisive and constant commitment must be shown by the Government in the area of capacity building, sponsorship in terms of finance or human resources. She added that her organisation has good relations of cooperation with some Ministries like the Ministry of Justice, the Ministry of Health and with many regional and international organisations. She said that only Western countries and the UN fund her NGO, not African or Arab States.

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<sup>12</sup> Religious decision issued by religious authorities of Islamic religion.



- *Meeting with the leaders<sup>13</sup> of the Sudanese Jurists Union*

66. The Special Rapporteur presented her delegation and stressed the objectives of the mission which she is conducting in her capacity as Special Rapporteur on the Rights of Women in Africa.
67. Mr. Gatwech described the activities of his organisation which is open to all Sudanese Jurists and he underscored the activities affecting the rights of Women. He namely talked about the efforts that the civil society is deploying to get Sudan to ratify the CEDAW and the opposition some citizens are showing towards this international instrument. He also said that his organisation is very concerned about the special process of reservation with CEDAW whereby a Committee may question the reservations by States. He revealed that a workshop comprising scholars and experts from the UN is soon to be organised in Khartoum to discuss this issue.
68. Mr Gatwech acknowledged that a lot of progress has been achieved in terms of freedom of association and expression and that the situation is getting better in Sudan. His two colleagues expressed support of these statements but they pointed out that some cases are still dealt with in such a way that one can feel there is interference from the Executive.
69. Mr. Gatwech Lul stated that the human rights situation, including Women rights in Southern Sudan, is closely linked to the war that is still going on in the region. He added that his organisation has not been able to go there to assess the situation. He said that as a member of the Supreme Court, he has just been assigned to monitor the situation in the Southern Sudan and that many problems have been reported to him which he was not able to confirm by himself. He advised the delegation to go to Southern Sudan as he himself was going to do in the near future.
70. The Special Rapporteur asked about the competence of the Supreme Court as regards *Shariaa* law and was told that *Shariaa* law was introduced in Sudan in 1983 and that the Supreme Court is competent to deal with any matter brought to its attention. They all stated that a lot of false allegations have been stated about the *Shariaa* law and its application in Sudan. They also said violence against Women was not an issue in Sudan.
71. Commenting about the rights of Women in Sudan, Mrs. Rahman said these rights are very much promoted and protected in Sudan as Women enjoy rights on equal footing as men. This, she added, allows them to reach highest possible positions in all spheres of the civil service or private sector. She praised free schooling and university<sup>14</sup> for everyone except in the regions where there is war. The Special Rapporteur expressed concern about economic rights, the right to health, right to food security, adequate housing and sustainable environment. The Special Rapporteur and Mrs. Rahman agreed that that these concerns were real and needed to be addressed.

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<sup>13</sup> (a) John Gatwech Lul, Judge of the Supreme Court and Member of the SJU; (b) Nagwa A. Azim A. Rahman, Legal Advisor at SUDANTELECOM and Member of the SJU; (c) Mr. Hassan Abdalla El Hussein, Advocate and Member of the SJU.

<sup>14</sup> In Sudan there are 30 public Universities including 3 in the South. Many private Universities also operate, making a total of 60 in the whole country.

- *Meeting with Mrs Omaina Ahmed El Mustafa Executive Director of Child Rights Watch – Sudan (CRW)*<sup>15</sup>
72. The Chairperson of CRW described the activities of her organisation, which focuses on the rights of children in Sudan. She said the war has created a lot of street children, orphans, uneducated children and others, and Child Rights Watch has to sensitise all key actors (Police, Government Authorities, law enforcement agents) to pay the deserved attention to the matter through training and other seminars, but the required cooperation from these actors, she said, is still lacking.
  73. As regards the situation of child soldiers in the war areas of the Numba Mountains, she said that the children (between 9 and 16 years old) would use their weapons to terrorise the populations. Child labour is also a matter of great concern in the war areas, but CRW does not take care of street children. An on-going programme of CRW is targeting prisoners accompanied by their children whereby CRW provides legal assistance and basic work training to the inmates (sewing, knitting, handicraft, etc) of the Omdurman<sup>16</sup> Women's prison. Besides this, when released, CRW provides, with support from UNICEF, micro-credits to former Women prisoners to allow them start and run a small business (the programme started in 2000 and some 30 former prisoners have benefited from it).
  74. Mrs Omaina Ahmed El Mustafa complained about the problem of the yearly renewal of the authorisation to carry out activities in Sudan and requested the public Authorities to facilitate the activities of CRW, because there are some problems with the security forces

**Wednesday 2<sup>nd</sup> April 2003:**

- *Meeting with the Community Development Committee for Human Rights of the Sudanese National Assembly (five Women MPs were in attendance)*
75. The Deputy Chairman of the Committee informed the Special Rapporteur about the activities of the Committee which carries out investigations on allegations of human rights violations throughout the whole country. He cited Articles of the Constitution, which guarantee human rights and freedoms. The MPs said the Woman and Family Affairs Branch of the Committee has actively advocated for the study and ratification of most International Covenants on human rights and is working in the area of sensitisation and advocacy for the ratification of CEDAW in the near future.
  76. The Special Rapporteur thanked her interlocutors for the information and briefed them about the African Charter and Commission as well as the system of Special Rapporteurs established by the Commission, and in particular about the Rapporteur on the Rights of Women in which capacity she is paying the current visit. The Special Rapporteur also drew the attention of the MPs on the need for Sudan to present its periodic Report as required by Article 62 of the Charter, ensuring that enough information is given on the situation of the Women's Rights in the Sudan.

<sup>15</sup> The ACHPR granted Observer status to this NGO created in 1998, during its 32<sup>nd</sup> Ordinary Session, which took place in October 2002 in Banjul, The Gambia.

<sup>16</sup> This is the only one prison for Women in Sudan.

She expressed regrets at not being able to go to the South but promised to make it another time so that she could assess the situation of the rights of Women in that region.

77. The MPs explained the strategy of the Committee for the monitoring of the human rights situation. They said that the new Government is really committed to the advancement of Women in Sudan. As a result, they said, Women are being fully involved in the management of public affairs as evidenced by the presence of 25 Women in the Assembly, regardless of their religious background. They went on further to say that freedom of religion is a reality in the country, contrary to what is reported in foreign media. They praised the fact that Women are appointed to the highest positions, provided they have the required qualification, citing the example of the Commissioner of Khartoum who is a woman. They acknowledged that the situation in the South is a special case as the war has slowed the educational process, especially that of Women and girls. As a result, there are less qualified southern citizens.
78. Talking about the *Shariaa*, the MPs said they are comfortable in this system everywhere in the country and called solemnly for the restoration of peace in the South and in Sudan in general. The problem of Sudan, they said, is basically one of peace. They therefore called upon the Special Rapporteure and the Commission to do their best in pushing for an end to the war in Sudan.
79. The MPs also intimated that the human rights situation in Sudan is highly tributary of the war going on in the war zone areas. Once peace is restored, they said, one could start assessing a true human rights situation in Sudan. They said the Constitution of Sudan is fair as it provides, *inter alia*, for a compulsory 10 percent of women's representation in the National Assembly. They further indicated that positive discrimination is frequently engaged in, in favour of Women in the country and refuted the often reported information depicting Sudan as a fundamentalist Islamic country. Here, Women have the right to vote, they said. Poverty is a matter of great concern but MPs said one could be reasonably hopeful that the end of the war would make things change for the better.
80. Asked about the strategy of the Committee in preventing human rights violations including the violations of the rights of Women, the MPs said they visit in all states, police stations, prisons, refugees and displaced persons camps, law enforcement agents, to see whether things are being done according to the provisions of the Constitution and relevant human rights instruments. The Committee also deals with child abduction. Once identified, specific human rights problems are subsequently dealt with according to their nature, in collaboration with all relevant stakeholders.
81. Asked about the allegations of slavery in Sudan, the MPs said the practice of abduction is one of concern but not slavery. The practice, they said, is an old one against which the Government is fiercely fighting in order to completely eradicate it.
82. Regarding corporal punishment imposed on some citizens, and sexual harassment, the MPs said it does exist under the *Shariaa* law for those who are concerned with this Moslem law, but this does not prevail in the South. They added that the culture of the North does not allow for any immoral behaviour. As a result, citizens tend to have aggressive reaction against any indecent exposure.

83. As for harmful practices affecting Women and girls in Sudan, the MPs said that as a legislative body, they are concerned by any violation coming to their knowledge and try their best to support the NGOs.

- *Visit to the Central Mental Hospital of Khartoum (Directed by General Major Nour)*

84. The delegation of the mission visited the different sections of the hospital and noted the progress that had been accomplished compared to the situation in the same place in March 2002 when visited by Commissioner El Hassan. However, a lot still remains to be done if the patients are to enjoy recommended international standards.

- *Meeting with the Executive staff of the National Council for Childcare of Sudan*

85. The Special Rapporteure introduced her delegation and briefed the audience about her mandate. In turn, the Head of the Council presented the activities of the Council and added that the Government has adopted some measures which allow for the implementation of the Convention on the Rights of the Child (CRC, ratified by Sudan). He said Reports to the Treaty body are being regularly submitted and that owing to the implementation of the Action Plan on the CRC, some infantile diseases like poliomyelitis have disappeared and the immunization process is being properly implemented for other diseases. The Council also fights against poverty and dedicates itself to the fight for the education of children, especially girls.

86. The members of the Council said that mentalities are hard to change and this is hampering the implementation of the Action Plan. National and International NGOs contribute to the work of the Council as well as the United Nations and Government Agencies/Ministries. A second Action Plan for Children is under preparation learning from the results of the first Action Plan because a lot of work remains to be done in order to cater for street-children especially in Khartoum<sup>17</sup>, war affected children, child-soldiers, education of children, etc.

87. The Special Rapporteure asked about the action of the council to reduce the disparities between the situations of children in rural urban areas and was informed that regular visits were paid by the Council in order to take that into account. Good results were being obtained in that regard. Harmful practices are also targeted by the Council.

88. The Council indirectly deals with the Rights of Women, as there is no child without a Mother. Regarding the African Charter on the Rights and Welfare of the Child, a regional consultation is being conducted with neighbouring countries in order to speed up the process of ratification of the instrument which is most likely to be carried out with some reservations because of religious problems.

89. The Members of the Council further revealed that the early marriage of girls is still a common practice in Sudan, particularly in the rural areas. A tremendous effort in sensitisation is therefore required in order to curb the trend.

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<sup>17</sup> 34000 of street children among whom 28000 are working children, including 50% of girls aged 11 to 14.



- *Audience with the Under Secretary of the Minister of Welfare and Social Development and collaborators*
90. The Special Rapporteur introduced the delegation and presented the objectives of the mission. She went on further to ask about the existence of a National Action Plan for the promotion of Women in Sudan.
  91. The national mechanism for Women's empowerment was created in 1973. After the first one ended in 2002, a new Comprehensive Strategy elaborated for that purpose (2003 – 2027) has just been finalised. A Five-Year Action Plan has also been prepared to address the major areas of concern identified so far at national level, in collaboration with Government Agencies, NGOs and other partners concerned. Education at primary level has been identified, above all in favour of girls. FGM is being dealt with by the National Committee for the eradication of the practice which has a six year programme. NGOs are also closely associated to that fight through awareness-raising among the people, in particular with traditional midwives by providing them with alternative income generating activities.
  92. The Special Rapporteur asked what could be done to alleviate poverty in the country and questioned whether the rule of inheritance as outlined *Shariaa* law is not also, in some way, responsible for the poverty of Women.
  93. The officials of the Ministry said the rule of sharing is different depending on the relationship between the heirs and the deceased: death of son: mother and father have equal shares for example, whereas in the case of the death of the father, the son receives twice more than the daughter. However, there again, the son has to provide for her sister. On the other hand, a man has to provide for his wife. A woman can only provide for her family by charity. Women therefore feel really comfortable with these *Shariaa* rules as their rights are protected under them, but only so long as there is equal opportunities of jobs and wages. Women are even not obliged to change their names when they get married. With regard to authorisation for travel that the woman has to get from her husband, it is not a religious obligation, it is a custom, and Women have been fighting hard to change this law. Progress is being made and there is hope that this might be achieved in the near future. Women in Sudan therefore do not have problems with the Constitution, the laws or the religion, but the practice is posing problem. Monitoring of the Action Plan is therefore crucial for the enjoyment of the rights and freedoms enshrined in the Constitution and laws of the country. In answering the Special Rapporteur's question, one of senior officials admitted the need to establish a system for the evaluation and monitoring of the Action Plan and to have some indicators of results.

#### **Thursday 3<sup>rd</sup> April 2003**

- *Meeting with the Secretariat for Women Affairs of the National Congress Secretariat<sup>18</sup>*
94. The ladies said they are an essential part of the society and have rights and obligations clearly stated in the Constitution of Sudan of 1998. Quotas are fixed to

<sup>18</sup> The National Congress is the ruling party in Sudan. It rules with five other Political Parties. Present at the meeting were: (a) Sumaia Abukashawa – Secretary General; (b) Maha Ahmed – Member; (c) Fatma El Malik; (d) Awolif Elgali – Member; (e) Sania M. Osman – Member; (f) Amma Ahmed Mohamed – Member; (g) Nuha Hassan – Member.



ensure the participation of Women in the management of public affairs. Owing to this, Women can and do accede to high positions in the civil service and political posts. The contribution of Women in the management of public affairs is seen as normal and is encouraged by the State.

95. The burden of tradition is described as a major hindrance as regards the full participation of Women in political affairs through elections: men are considered to have more experience and Women have often been relegated to electing men instead of being themselves elected to political posts.
96. Pertaining to the harmonisation of Sudanese laws with international standards, the ladies responded that the national laws are in harmony with international standards. Talking specifically about the CEDAW, which Sudan is yet to ratify because of some problems, the ladies said that the Constitution of Sudan takes everything into account. Some said because of the diversity of cultures and realities in States, international standards offer the choice of States to oppose and place reservations on certain instruments. They see CEDAW more as a political issue than anything else. Discussions are underway about CEDAW and something positive should come out of it soon. The ladies also see CEDAW as an instrument which was drafted long ago, without the participation of all States. For that reason, not all realities are reflected in the instrument.
97. The ladies pointed out the numerous advantages guaranteed to them under the religious law (*Shariaa*) and said that at certain points they are more advanced than other systems and are satisfied with the system.
98. Asked about the major problems facing Women in Sudan, the Women said traditions identified socio-economic problems, poverty, education at primary level, which make things very difficult to move in the right direction
99. Concerning traditional harmful practices affecting Women and girls, namely, FGM, they said it is forbidden by law but some Copts and Muslims continue to do it secretly with the assistance of certain medical doctors. They expressed scepticism as regards the eradication of the practice through laws and encouraged sensitisation of the peoples instead, about the drawbacks of the FGM.
100. The Special Rapporteur asked about the situation of refugees and internally displaced persons in Sudan, namely the refugees and displaced Women.
101. The Secretary said there were fewer refugees then but lots of internally displaced persons, among whom were numerous Women moving from the South because of drought, war, or economic problems. **The problem, she added, is that displaced persons came once at a time to Khartoum, so that it was difficult for the city to cater for them.** The UN assisted the Government in managing the problem by providing basic services for them, in collaboration with civil society organisations, but displaced persons are still facing lots of problems like schooling, health services, etc. They all wish for peace, security and stability to be eventually restored in the country so that a final solution can be found to the situation.

- *Meeting with Mrs. Badria Soliman, Adviser to the President of the Republic for Legal Affairs*

102. The Special Rapporteur introduced the mission and the African Charter and Commission and asked about the situation of Women's Rights in Sudan.

103. The Legal Adviser said that the situation of Women's Rights in Sudan is good as consecutive Constitutions have always recognised the rights of Women and guaranteed these rights in a very progressive manner. Women in Sudan, she said, have many advantages in terms of social matters, and take part in Government and decision making, without any restriction. She however stated that poverty and the education of the girl-child are of great concern.

104. Asked about any specific policy to eradicate harmful practices, the Legal Adviser recalled the good work that NGOs are doing in that area and stated that laws prohibit such practices which are less common in urban areas but still prevail in the rural areas. As regards the fight against poverty, the Legal Adviser said that the State is trying its best but a lot still remains to be done if the situation is to be curbed.

105. The Legal Adviser went on further to say that the rights of Women are guaranteed under the Constitution and laws of the land but these laws are not well-known by Women, who therefore rarely invoke them. On the other hand, lack of education of Women and girls is not helping and the burden of tradition is complicating the whole situation. Because of the war in Southern Sudan, she said, many people moved to the North where the Government is making special plans to cater for them with assistance from the UN and other interested partners, but the task is an immense one.

106. As regards the matter of inheritance as prescribed by *Shariaa* law, the Legal Adviser said Women are quite happy about this. She said those Women who complain about corporal punishment resulting from the application of *Shariaa* law should go to court to seek remedy/reparation.

- *Meeting with Mr. Mohammed Ahmed M. Alaghbash, Commissioner for Refugees*

107. The Special Rapporteur briefed Mr. Alaghbash about the work of the Commission and the system of Special Rapporteurship. She briefed him about the cooperation existing between the Commission and the UNHCR and recalled the last Consultation held between the Commission and the UNHCR in March 2003 in Addis Ababa, Ethiopia, in order to strengthen the relationship between the two institutions. She then asked about the situation of refugees and displaced persons, especially Women in Sudan and the ways and means envisaged to deal with the situation.

108. Mr. Alaghbash said the High Commission for Refugees has been working with Sudan for three decades and is affiliated to the Ministry of the Interior. The Commission for Refugees caters for the refugees by providing them with camps and other facilities like education, food, health services, for all refugees, but most of the refugees are living outside the camps and therefore share public facilities with Sudanese nationals. Refugees, he said, are mostly from Uganda, Ethiopia and Eritrea. Mr Alaghbash said a process of repatriation of refugees to their respective countries is under implementation as peace is now restored. At some stage, Sudan had more

than one million refugees with more than 60% of them being Women and children. The rehabilitation of the refugee affected region is in process.

109. As regards the specific situation of Women refugees, Mr Alaghbash's colleagues said the fact that the international community stopped its assistance since 1992, affected the Women as they carry the burden of the family. Sudan had to provide for them as it could, but there is no problem of violence or harassment against them. Refugees are settled according to their ethnic group and background (rural, urban or agricultural, etc) and this has helped to prevent tension between refugees.
110. The colleagues of the Commissioner for Refugees said some problems are posed by the fact that there has been a screening of refugees and those who did not want to go back to their countries (mostly Ethiopians) lost the status of refugees and had to resettle in Sudan, which is posing some problems for the Government. These refugees who have lost their status can no longer enjoy the facilities which were extended to them and as they do not want to go back to their countries, as they say they fear for their lives, they constitute a great problem.
111. Asked about the procedure for the registration of refugees in Sudan, Mr Alaghbash's colleagues said that the Ministry of Interior of Sudan is in charge of that but delegates its powers to the Commissioner for Refugees. They described the procedure, which permits appeal for those who have not been accepted a first attempt. Candidates to the status of refugee may return to their country or seek asylum elsewhere in case all attempts prove unsuccessful. As for displaced persons, another Commission is in charge.
112. Mr Alaghbash said he is also concerned about the situation of Sudanese refugees living in neighbouring countries and asked for assistance from the international community for their repatriation and relocation. He also said he needs assistance for the rehabilitation of refugee affected zones.
  - *Meeting with the Under Secretary to the Minister of Justice and some Senior Staff of the Ministry*
113. The Special Rapporteur expressed gratitude at being granted the audience and briefed the gathering on the work of the Commission and more particularly, on her work as Special Rapporteur on the Rights of Women in Africa. She then asked about the status of Women in Sudan, harmful practices, etc.
114. The staff of the Ministry pointed out the various advantages accorded to Women in Sudan. They stressed the fact that Women are not discriminated against in any field. As regards harmful practices, they said practices like FGM are strictly forbidden by the laws but the reality shows that in rural areas, peoples still practice FGM and the state and civil society organisations are trying their best to eradicate the practice. About *Shariaa* law, they said Sudanese Women are quite happy with what it provides regarding their status. They added that in some areas, the situation of Women in Sudan is better than that of Women in many African and even European countries.
115. The Special Rapporteur insisted on being informed about areas of concern regarding the rights of Women in Sudan. She also asked about the reason for Sudan's non-ratification of the CEDAW. The Under Secretary and his colleagues said that

some provisions of the CEDAW contradict *Shariaa* law to the extent that some of its provisions are less advantageous to what the *Shariaa* law grants to Women in Sudan. Therefore, discussions are underway in order to have a national stand regarding the possible reservations to put on CEDAW.

116. She was informed that poverty and lack of awareness are of great concern in the country. As regards social and economic rights, the Under Secretary and his collaborators said the Government is trying its best to ensure that these rights are adequately implemented and did not point out any problem on this subject. They added that legal assistance is available to nationals, through offices created to that effect in each of the 16 states.
117. The Special Rapporteur asked about the situation of harmful practices and was told that another section is in charge of that matter, together with some Social and Non Governmental Organisations.
118. The Special Rapporteur urged the under-Secretary to finalise, transmit and present the periodic Report of Sudan to the ACHPR, with a special provision on the Rights of Women, the situation of Refugees and Displaced Persons, including Women in Sudan.
119. The Under Secretary said that the Report is ready and would be submitted to the Commission at its 33<sup>rd</sup> Ordinary Session scheduled to take place from 15<sup>th</sup> to 29<sup>th</sup> May 2003 in Niamey, Niger. Assurance was received that the requested information would be provided in the Report.
120. The delegation finally asked for copies of the last correspondences from Sudan on the pending Communications lodged against it and was provided with the required documents.

#### **Friday 4<sup>th</sup> April 2003**

- *Meeting with Human Rights NGOs*

121. Mrs. Elisabeth Baroudi introduced her colleagues and their work and stated that her NGO is encountering a problem to register for its activities. She also said that the NGO was under Ghazi Suleiman
122. The Special Rapporteur introduced her delegation to the audience and briefed them about the main objective of the mission to Sudan: What are the problems facing Women in Sudan? What action is the Government and the civil society organisation/international community taking to make things change for the better? What activities can the Special Rapporteur initiate with all relevant stakeholders to help things move forward?
123. Mr. Baya said his NGO is among those who recognise that slavery is a reality in Sudan. He also said that Women suffer from dictatorship, Islamic religion, and traditional practices. He went on further to say that FGM is of great concern in the country. On the subject of Displaced Persons, he said they may amount to four million in Sudan, are left jobless and in poverty. The internally displaced Women, mainly from southern backgrounds used to produce and sell alcohol to survive and



- were put in jail because the Government has ruled it an offence to do so. On harmful traditional practices in Sudan, Mrs. Baya said forced marriages are of great concern, especially among Women in the Dinka region, and should be fought against.
124. The Special Rapporteure asked whether there is discrimination on the basis of regional origin and was told that there is discrimination on regional, religious and other basis from Government officials.
  125. Some Women said some laws do not take into account the diversity of religions and traditions in Sudan. As a result, some citizens are affected by laws which are against their traditions (alcohol for example is consumed in the South whereas it is an offence to produce it in the country). They therefore advocated for amendments to be made to the Constitution so as to reflect this diversity.
  126. They said the Government does not want to ratify the CEDAW although Sudanese Women have been fighting for that to be done. They also stated that non-Christians are forcibly subjected to *Shariaa* law, even where it is not their religion. Moreover, *Shariaa* law, they said, was not democratically introduced in Sudan but imposed on the people after the coup d'état of the current Head of State.
  127. The Women also denounced the discrimination whereby no Church is authorised to be built although Mosques can be built. They also denounced the fact that Islamic law is imposed all over the country whereas Sudan is not a religious State, by Constitution. The *Shariaa* law is applied to the land, not to the people, they said.
  128. Talking about prisons and conditions of detention, the activists said prisons are badly managed and conditions of detention do not conform to international standards. They said sometimes non-Muslims tend to be discriminated against. They acknowledged that freedom of expression is permitted but at the risk of the citizen. The Death Penalty is still in force but not frequently applied.
  129. Displaced Persons are often harassed mostly because they are Christian. Their houses are often destroyed without the Government giving them any alternative housing. Children end up in the streets. Women do not have access to natural resources like land or credit facilities. They are required to send their husbands for that purpose, which is discriminatory.
  130. The Special Rapporteure asked the feeling of the audience about Women at very high positions within Government and other Institutions. They answered that most of these Women are there just to show that the rights of Women are promoted. In actual fact, these Women do not have any power and are not democratically appointed. They make false statements to protect their position. It is impossible to carry on any lobbying with Women in high positions because they are appointed by Decree and will not listen to any Women since they do not need their suffrage.
  131. Some activists said that even *Shariaa* law is not properly applied. The Government only uses it to stay in power. We are not blaming the Islamic religion but the wrong application of the religion. They were advocating for democracy in Sudan so that the people could enjoy freedom.



132.They raised the issue of the girls in the University of Khartoum, students who are forced to dress the Muslim way. Those who refused to do so were harassed irrespective of whether they are Christians or not. They also denounced the issue of jihad whereby some Women from the North called on the radio for jihad against the South and made donations towards that end.

133.They said that the Family Law (FL) in the Sudan was established in 1991 and has about 400 Clauses, most of which violate the rights of Women. The persons who drafted the FL were a group with a certain ideology. Article 1 of the FL deals with marriage but the FL is for Muslims. Marriage is defined on a sexual perspective in favour of man. So the woman is devalued.

134.Asked why they do not resort to the Constitutional Court (CC) regarding these laws, they said that one has to pay 2 million Sudanese dinars<sup>19</sup> before one can lodge a complaint at the Constitutional Court. In addition, many other drastic conditions are imposed on anyone who wishes to use the CC against a law. So there is no access to the CC.

- *Visit to the Women's prison of Omdurman*

135.The Special Rapporteur presented her delegation, gave briefs on her mandate and then asked specific questions about the female inmates of the prison.

136. The Director of the Prison outlined its history and said it was built in 1890 and started hosting Women in 1992. At some stage the prison was directed by Women officers of the Sudanese Police Force. The current Director was appointed in October 2001. He further said that as prisoners, Women have rights relating to their person as human beings and these rights are respected, taking into account applicable laws, their religion, the traditions, all this being determined after an interview, which is conducted at the arrival of the inmate.

137.As to whether all Women in detention had and have the right to legal assistance (lawyer), the Director answered in the affirmative, stating that nationals get free legal aid. On the conditions of detention, the Director said prisoners have the right to a visit once a week, but on exceptional occasions, inmates may go out for a short period of time, accompanied by a ward. Regulations provide that children under 2 years may stay with their mother, but in practice, infants of more than 2 years are tolerated on exceptional occasions. A kindergarten is functional within the Prison for those infants. Children above 2 are sent to nearby schools.

138.Statistics of the Prison show that 240 inmates with 120 children were in the Prison on 4<sup>th</sup> April 2003. They are warded by 89 staff including 73 Women who have direct access to the inmates.

139.The Director said his collaborators receive regular training in human rights and on the basic principles on the rights of prisoners, the most recent one being the seminar conducted by the Advisory Council on Human Rights, in collaboration with the United Nations. Lawyers usually come to the Prison to talk with their clients, in an office provided towards that end.

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<sup>19</sup> 1 USD equals 262 dinars.

140. The Special Rapporteur wished to know who was in charge of sending a person to jail and was told that the courts are empowered to do so. The Attorney General can also send somebody to prison, in remand.
141. Detention lengths range from one week to 20 years depending on the type of offence committed. Some 14 inmates are waiting for trial. Some concerned by cases of murder have been waiting for more than 3 months.
142. The Director of the Prison said he makes it a point to ensure that the rights of prisoners are respected by practising religious tolerance. That is why so many prisoners keep their children with them when there is no place for them outside. Facilities are provided to inmates so that they engage in activities like sewing, handicraft, study, etc.
143. The Director said the Prison has financial difficulties in the management of the Prison and appealed for assistance to address the issue of care of the inmates when they are released. Some NGOs like Child Rights Watch lend a hand but it is not enough.
144. The Special Rapporteur visited the cells and interviewed the inmates, especially those who have problems with their files. The majority of prisoners have served their sentence but are being held in detention because they could not pay the fine.
145. The Special Rapporteur noticed that those prisoners whose cases had been concluded were together with those whose cases were still pending before the courts, which is against international standards. She also noted that the conditions of detention were precarious, as the inmates did not enjoy protection against mosquitoes or against bad weather (there were no windows, nor mosquito nets). The generally unclean situation of the Prison was a matter of concern.

## **V- CONCLUSIONS AND RECOMMENDATIONS:**

### **A- CONCLUSION:**

146. The Special Rapporteur would like to express her sincere gratitude to the Government Authorities in Sudan for the facilities extended to her mission in Sudan. The Special Rapporteur also thanks all the stakeholders who accepted to meet her during the mission.
147. The Special Rapporteur has noticed that Women are integrated and hold senior positions at all levels of the Police, Judicial and Political Systems. Furthermore, the Constitution of Sudan, which is in force since 01/07/1998, provides for the respect for human rights and fundamental freedoms by requiring the State to « free Women from all forms of injustice and to encourage them to fulfil their role in the family and in public life» (Article 15 of the Constitution of Sudan).
148. The policy of quotas fixed to ensure the participation of Women in the management of public affairs (by way of elections) is commendable.
149. The discussions under way for the ratification of the CEDAW is a major step forward as well as the creation of the National Committee for the Eradication of

Harmful Practices, the elaboration of the Strategy and Plan of Action for the abolition of FMG and the elaboration of a general policy on gender;

150. The peace talks under way are also very encouraging in the move toward restoration of peace in the country;
151. While deploring the lack of time, which did not allow her mission to go to the Southern part of Sudan to assess the situation of the rights of Women in that region, the Special Rapporteure resolved to make plans to go there as soon as possible.

#### **A-1. Constitutional and Legal guarantees of the Rights of Women:**

152. At the end of the mission and taking into account the talks held by the delegation with Government Authorities and other stakeholders, the Special Rapporteure is in a position to state that the situation of the rights of Women in Sudan are promoted and protected under the Constitution. What remains, however, is the domestication, within the local laws, of the principle of equality between men and Women and the prohibition of discrimination against Women.
153. The Special Rapporteure noted that the practice did not always conform to the relevant provisions of the Constitution, a fact which was recognised by several senior officials and by all the Women encountered during the mission. What is now of import is the implementation by the Government of Article 15 of the Constitution which stipulates the liberation of Women and the prohibition of unjust practices against Women.
154. Furthermore, certain Women who are not Muslims but live in the Khartoum area, are often subjected to the *Shariaa* law, which should not be applied to them.
155. Although the Government and NGOs are fighting against FGM, the practice is still a matter of concern in Sudan.

#### **A-2. About Social and Economic Rights:**

156. The war, which has lasted for two decades now has caused a large number of the population to move from the war affected areas and has caused a lot of Women to lose their source of income. In order to maintain their families, a lot of poor Women engage into prohibited businesses and break the laws with all the consequences of this act. Girls do not always enjoy the right to education as guaranteed in the laws. Poverty, the situation of street children and refugees are a source of concern.

#### **A-3. Prison and Conditions of Detention:**

157. Detention conditions in the Women's Prison, which is very old and not properly maintained, leave much to be desired. Most cells do not, for example, protect the inmates against bad weather and mosquitoes.
158. Despite the efforts of the Prison Authorities, the lack of financial resources makes it difficult to ensure that sick inmates get adequate medical treatment, and some children who are with their mothers cannot enjoy their right to education.

159. The fact that inmates whose cases have been concluded are kept together with those whose cases are pending before the courts is not consistent with international standards.

160. An overwhelming majority of the inmates had served their sentences but remained in detention because they could not pay the fine.

**B- RECOMMENDATIONS:**

161. Taking into account the conclusions stated above, the Special Rapporteur recommends the following:

**B1) To the Government of Sudan:**

The Government of Sudan should :

- a) Submit and present its overdue State Reports to the African Commission, providing enough information on the situation of the rights of Women in the country;
- b) Ensure that the application of Sharia Law is in conformity with international regulations relative to Women's Rights in Sudan;
- c) Ensure that Sharia law is not imposed on non-Muslim Women;
- d) To ensure that the laws, notably the Code de la Famille (Family Law), is in conformity with the international regulations relative to Women's Rights;
- e) Ensure that the right to the freedom of worship is respected in Sudan;
- f) Establish a partnership with NGOs working in field of Women's Rights for the exchange of views, given the diversity and divergences of opinion noted by the mission while discussing with Government Authorities and NGOs;
- g) Take action with a view to abolishing the death penalty, given that it has not been enforced in the country for a long time;
- h) Eliminate the discriminatory practice compelling Women to present authorisation from their husbands before travelling abroad;
- i) Ensure the equal and indiscriminate access of men and Women to employment;
- j) Encourage and provide financial assistance to NGOs working in the field of the fight against FGM;
- k) Create a specific programme for the dissemination of the fundamental rights of Women in Sudan;



- l) In collaboration with Women's Associations, elaborate policies aimed at eliminating all forms of discriminatory practices and raising awareness among Women and combating all harmful habits, practices and traditional beliefs ;
- m) Integrate in the existing Action Plan for the promotion of Women's Affairs, a holistic perspective which will take into account the participation of civil society organizations, in particular Women's Organizations;
- n) Put in place mechanisms for collaboration with civil society including Women's Organizations, in policies and strategies relative to the development of Women's Affairs;
- o) Establish a system for the monitoring and evaluation of this Action Plan with the assistance of NGOs and other civil society organizations;
- p) Introduce a system for the coordination of the activities of Governmental institutions in the area of promotion and protection of women's Rights in Sudan;
- q) To put in place a Working Group composed of Government Institutions including the Ministry of Health, the Ministry of Education and NGOs working in the field of Women's Rights with a view to elaborating and implementing a general policy on gender;
- r) Ensure greater access to education for the populations living in the South and free education for all children including girls;
- s) Institute corrective and positive measures in the field of girls' education at both the primary and secondary levels;
- t) Compile statistics on violence against Women;
- u) Draw up a national programme for the prevention and control of HIV/AIDS;
- v) Develop, together with Women's Associations, policies aimed at raising awareness among Women and fighting against all traditionally harmful habits, practices and beliefs;
- w) Continue and speed up the process of ratification of relevant human rights instruments, including the African Charter on the Rights and Welfare of the Child, the Protocol on the Establishment of the African Court on Human and Peoples' Rights, the CEDAW, etc;
- x) Allocate adequate resources for the Prisons, especially the Women's Prison of Khartoum in order to improve the conditions of detention in the country;
- y) Develop more legal assistance for prisoners, especially for Women prisoners;
- z) Reflect seriously on and to find a solution to the problem posed by the maintenance in custody of the prisoners who have served their sentence but do not have money to pay their fine. This may be done by amending the laws;



- aa) Create socio-professional activities within the prison system for the benefit of the detainees, notably the Women detainees, in order to prepare them for social reintegration at the end of their detention period;
- bb) Encourage Women's NGOs by providing assistance to their activities.

**B2) To the Women's Human Rights NGOs:**

Women NGOs should:

- a) Work closely with the Government of Sudan in order to ensure the promotion and the protection of Women's Rights in the country. NGOs should also actively participate by networking, in the promotion and the protection of the rights of Women at regional and continental levels;
- b) Maintain close contact with the African Commission on Human and Peoples' Rights, particularly with the Special Rapporteur on the Rights of Women in Africa so as to inform them about the new developments occurring in the area of the rights of Women in Sudan;
- c) Pay more attention to the situation of Women in detention so as to provide them, to the extent possible, with legal and other assistance in order to lessen the burden of their detention;
- d) Use the Communication (Complaint) procedure available at the African Commission in order to seek redress for human rights violations, should the need arise;
- e) Lobby the Government for the ratification of all pending human rights instruments, in particular the CEDAW and the Protocol on the Rights of Women when it is adopted by the Heads of State and Government of the African Union;