



Sudan
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Summary

Sudan's human rights environment deteriorated around the April 2010 elections and in the months leading up to the historic referendum on southern self-determination due to take place in January 2011, called for under the 2005 Comprehensive Peace Agreement (CPA) that ended Sudan's 22-year civil war.

The April elections were deeply flawed and consolidated power in both the ruling National Congress Party (NCP) and southern ruling Sudan People's Liberation Movement (SPLM). Human rights violations documented during and after the elections included arbitrary arrests and detentions of activists and opponents of the ruling party, ill-treatment in detention, torture, and restrictions on civil and political rights, such as freedoms of assembly and expression. Human Rights Watch documented these violations in a June 2010 report, "Democracy on Hold".

These patterns of abuse were particularly pronounced in Darfur. Human rights violations also occurred in the context of attacks by government forces on rebel forces and civilians, and armed clashes between ethnic groups, particularly in South Darfur. UN and humanitarian agencies have been under attack by armed actors, and were targeted for robberies, kidnappings, and killings.

The government has made no tangible progress in improving accountability for crimes and human rights violations committed in Darfur. Sudan has refused to cooperate with the International Criminal Court, which issued a second arrest warrant against President Omar al-Bashir in July, adding genocide charges to those in the March 2009 warrant.

Sudan is one of three countries known to have executed an individual since the beginning of 2009 for a crime committed before age 18.

Human Rights Watch recognizes the political ambiguities surrounding the current status of Southern Sudan. However, in light of the serious human rights concerns linked to the weak rule of law in Southern Sudan, we believe scrutiny by international human rights bodies is vital and urge the Human Rights Council to ensure Southern Sudan, if it secedes in 2011, be subject to the Universal Periodic Review process and other human rights monitoring in an appropriate and robust fashion.

Restrictions on expression in northern Sudan

The national government failed to enact institutional and legal reforms, as required by the CPA. The national legal framework continues to allow censorship of the press and restrictions on assembly and political expression. The new National Security Act of 2010 retained broad powers for security officials to search, seize, arrest and detain without judicial oversight, and allows

detention for up to four and a half months without judicial review. The Press and Printed Materials Act passed in 2009 also confers extensive powers to the government's press supervisory body. The government continued to suppress speech through direct, pre-print censorship, intimidation and arrest of journalists. The post-election crackdown in Khartoum included the May 16 arrest of opposition leader Hassan al-Turabi, head of the Popular Congress Party (PCP) and four journalists from Rai al Shaab, the newspaper affiliated with the PCP.

Censorship increased during the period directly following a rebel attack on Omdurman in May 2008. President al-Bashir publicly declared an end to pre-print censorship in September 2009, but the practice resumed after the April 2010 elections. Officials banned articles that reported the arrests of opposition leader al-Turabi and the journalists, and the escalating violence in Darfur. In the weeks that followed, authorities continued to censor papers through site visits and phone calls to editors – what Sudanese journalists call "remote control censorship" – and shut down several newspapers.

Censored articles included coverage in May 2010 of a doctors' strike over poor working conditions that security forces violently repressed, and the arrest, detention, and mistreatment of at least three members of the strike committee. The doctors were released June 24 after the doctors called off the strike.

Despite a new Press Act, the NCP continues to dominate the press council and use it for political purposes. The council has summoned journalists for articles about Darfur, international justice, and the elections. Although the head of the national security service in early August lifted pre-print censorship in northern states, the repressive policies toward the media have caused many Khartoum-based papers to self-censor. Journalists and civil society across the country continue to report they are not free to speak openly about any opposition to the prevailing sentiment regarding the referendum on southern self-determination, scheduled in January 2011.

Restrictions on assembly in northern Sudan

Security forces used excessive force to suppress peaceful assembly of opposition party members in the lead up to the April elections, notably on two occasions in Khartoum in December 2009, when security forces broke up demonstrations organized by a coalition of political parties, arresting hundreds of people including journalists and parliamentarians. Security forces also prevented free association by denying permission for meetings or by interrupting meetings in the months leading up to the April elections, such as interrupting a voter education event in Kosti, White Nile in December 2009 and confiscating materials and arresting one of the organizers, and refusing permission for a peace-building event in South Darfur in February 2010 and arresting and detaining an organizer for three days. Human Rights Watch also documented incidents of restrictions on assembly in connection with the referendum. For example, on October 10, police and security officials arrested and assaulted civilians who were demonstrating in favor of secession at a pro-unity rally in Khartoum.

Arbitrary arrests and detention, ill-treatment and torture

The 2010 National Security Act, passed in January, retains broad powers of arrest and detention for up to four-and-a-half months, in violation of international treaties to which Sudan is a party. The Act contains legal immunities for security forces, shielding them from prosecution for all acts

committed in the course of their work unless explicitly waived by the director, thus impeding prosecution of human rights violations.

In the context of the elections, the ruling NCP arrested many opposition party members, elections observers and civil society groups. In many cases documented by Human Rights Watch and others, those detained were subjected to verbal abuse, beatings, ill-treatment and torture.

In the post-election crackdown in Khartoum, security forces arrested and detained the opposition figure Hassan al-Turabi from May 15 until June 30 and four journalists from Rai al Shaab, the newspaper affiliated with his Popular Congress Party (PCP). One of the journalists was subjected to electrical shocks while in the custody of the national security. In July, three of the journalists received prison sentences on charges of "attempting to destabilize the constitutional system."

National security forces continued to harass human rights activists and target student members of the United Popular Front (UPF), a student group that the government alleges has links to the Darfur rebel group led by Abdel Wahid al-Nur. Members of the group were subjected to arrest, detention, ill-treatment, and torture. Four UPF members released in July had been in detention without formal charges for more than one year.

In Darfur, nationality security and other authorities arrested and detained activists and political party members opposed to the ruling NCP, or with alleged links to rebel movements. In most cases of arbitrary arrests reported to the United Nations-African Union Hybrid Operation in Darfur (UNAMID), victims also reported ill-treatment and torture. State governors ordered arrests and detentions for prolonged periods, relying on the 1997 Emergency laws. At least four leaders of displaced communities in North Darfur have been in detention since August 2009 with no opportunity to challenge the legality of their detentions.

Juvenile Death Penalty

Sudan is one of three countries known to have executed an individual since the beginning of 2009 for a crime committed before age 18. On May 14, 2009, Sudan executed Abdulrahman Zakaria Mohammed in El Fasher, North Darfur. He was 17 at the time of his trial in May 2007, when he was found guilty of murder and robbery. The UN Special Rapporteur on independence of judges and lawyers reported that the Supreme Court in Khartoum confirmed the death sentence in December 2008 based on two arguments. First, it found that the prohibition of the death penalty for children did not extend to *hodud* offenses. Second, the Court found that the definition of a child should be drawn from the definition of "adult" provided in the Criminal Act, which was that "adult means any person whose puberty has been established by definite natural features and who has completed 15 years of age, and whoever attains 18 years of age shall be deemed an adult even if the features of puberty do not appear." A January 2010 amendment to the Child Act set 18 years as the firm age of majority, thus addressing one of the bases on which the Supreme Court had confirmed the death sentence. Courts have nevertheless applied the death penalty to juveniles in *hodud* offenses, as in an October case in South Darfur in which a court sentenced to death a group of suspected rebels including four minors.

Ongoing violation of international humanitarian law in Darfur

Armed clashes between government and rebel forces continued to cause civilian deaths, destruction of property, and mass displacement. Particularly in clashes with rebel forces in the

areas of Jebel Mun and Jebel Mara in the first half of 2010, government forces and allied militia used air and ground forces to attack civilians in violation of international humanitarian law principles.

Access restrictions

The Sudanese government and to a lesser extent rebel groups have refused UN and humanitarian agencies access to civilian populations affected by violence, depriving these communities of necessary humanitarian assistance. Humanitarian agencies were prevented from reaching civilians affected by government attacks in most parts of eastern Jebel Mara throughout 2010.

The government also restricted access to information by expelling 13 international aid organizations following the issuance of an arrest warrant for President al-Bashir by the International Criminal Court in 2009. The government also closed three important Sudanese human rights organizations, including the only group mandated to provide legal aid to victims of torture and sexual violence.

Lack of accountability for crimes in Darfur

Civilians have borne the brunt of conflict between government and rebel forces, and in clashes between rebel groups, and between armed ethnic Arab groups in South and West Darfur. These conflicts between non-state actors have all led to significant civilian deaths and displacement. In addition, banditry, abductions, and attacks on UN and humanitarian aid operations – which has undermined the international response – has increased sharply but gone unpunished.

The government has not provided accountability for humanitarian law violations, human rights violations, and other crime in Darfur. The culture of impunity is a key factor in the cycle of violence between ethnic groups and in the increase in attacks on UN and humanitarian workers.

In 2010, the government did not implement recommendations of the African Union's High Level Panel on Darfur, led by former South African President Thabo Mbeki. Government promises to investigate and prosecute the most serious crimes in Darfur in October 2010 have not yielded any meaningful prosecutions. The government's most high profile step to bring perpetrators of serious crimes to justice in Darfur, the Special Criminal Court for Events in Darfur (SCCED) created in 2005, resulted in only 13 cases, none of them for serious crimes connected to the conflict. Access to justice remains extremely limited, particularly in cases of sexual violence.

Southern Sudan

Weak rule of law

Patterns of inter-communal violence stemming from cattle-rustling and other localized disputes across Southern Sudan continue to put civilians at risk of physical violence and killings. In 2009 alone, attacks and counter-attacks between armed members of the Murle and Lou Nuer ethnic communities in Jongei state killed well over 1,200 civilians. The Lord's Resistance Army also continued to pose a significant security threat in western parts of the region, particularly in late 2008 when their activities intensified on both sides of the border between Southern Sudan and the Democratic Republic of Congo. LRA have continued to perpetrate attacks, abductions, and

killings of civilians in Southern Sudan in 2009-2010, in addition to increased attacks in Congo and Central African Republic.

Weaknesses in the justice sector and lack of accountability mechanisms foster an environment of impunity for violence and human rights violations. Neither the Government of Southern Sudan (GoSS) nor the UN Mission in Sudan has adequately been able to protect civilians from these sources of violence. The Southern Sudan Police Service (SSPS) and SPLA are insufficient in number or resources to repel armed attacks, and not trained to effectively intervene to protect civilians. Many GoSS authorities told Human Rights Watch they believe the only way they can respond to inter-ethnic violence is to engage in forced civilian disarmament.

However, the current piecemeal approach to forced disarmament presents a huge risk to civilians, as illustrated by past operations in which the security forces became abusive to civilians or entered into open conflict with armed communities, sometimes along ethnic line. The most violent example was in 2006 in Jonglei state, when a forceful disarmament campaign of the Lou Nuer communities resulted in fighting between soldiers and armed civilians. Some 1,600 soldiers and armed civilians died in the fighting.

Abuses of civilians by security forces

In Southern Sudan, throughout the elections process, security forces engaged in widespread intimidation, arbitrary arrest, detention, and mistreatment of opponents of the SPLM as well as of election observers and voters. Moreover, grievances over the election results led to armed clashes, particularly in areas where the SPLM faced strong opposition, and patterns of violations against civilians who supported opponents.

In Jonglei state, for example, forces loyal to a former SPLA deputy chief of staff who unsuccessfully ran for state governor clashed with the southern army on multiple occasions after the results were announced, causing human rights violations and thousands of displacements. In Upper Nile state, SPLA clashed with local militia accused of links to SPLM-DC, a breakaway political party, and was responsible for killings and rapes of civilians.

Restrictions on expression

Before and during elections, journalists in Southern Sudan were subjected to intimidation, harassment and arrest and detention. Southern Sudan has yet to enact a legal framework for media.

Recommendations

To the Government of National Unity

- End all deliberate and indiscriminate attacks against civilians in Darfur and other violations of international humanitarian law, and hold those responsible to account.
- Fulfill obligations to cooperate with the International Criminal Court (ICC) including surrendering those subject to ICC arrest warrants to the court.
- Remove all legal immunities, particularly in the 2009 National Security Act, for members of the security forces, and investigate and hold to account those responsible for abuses regardless of rank.

- Grant full access for humanitarian aid to all populations in need, and comply with existing agreements regarding the operation of aid agencies in Sudan, including the commitment to allow aid organizations to implement human rights and protection programs.
- Immediately charge or release people who have been arbitrarily arrested and detained, and end harassment, abuse, and arrest and detention of human rights activists and other individuals who speak out on human rights, justice, and other issues of public concern.
- End the practice of censorship, and allow full and open reporting on issues of public interest.
- End use of the 1991 Penal Code and the National Security Act to target the print media, and allow full freedom of expression in accordance with international standards.
- Urgently enact genuine reforms to the National Security Act in line with the Comprehensive Peace Agreement and Sudan's international obligations, ahead of elections
- Issue a clear prohibition of the application of the death penalty to juveniles

To the Government of Southern Sudan

- Clearly instruct all soldiers on human rights standards, and that they will be held accountable for human rights violations including arbitrary arrests and detentions and extrajudicial killings
- Take steps to improve security and protection of civilians by increasing visits by government officials to volatile areas, and increasing the presence of trained and equipped police.
- Accelerate efforts to build a culture of accountability in volatile areas, ensuring police work with local authorities to investigate crimes and bring criminal suspects to justice.
- Ensure that authorities planning and conducting civilian disarmament campaigns adopt procedures that uphold human rights, including accountability for perpetrators of abuses, including extrajudicial killings.
- Instruct all authorities at Juba and state levels to cease harassment and abuse of journalists. Enact media laws that protect freedom of expression in line with international standards.