

# Hearings on Religious Persecution in Sudan: Professor Gaspar Biro Prepared Testimony

February 15, 2000

(Note: These are unedited and uncorrected transcripts)

Government Sanctioned Religious Discrimination in the Sudan between 1993 and 1998

By Gaspar Biro

## General background

A

coup d' etat by a group of high ranking military officers led by Gen. Omar El- Beshir , the current President, took place in the Sudan on 30 June 1989. A Revolutionary Command Council for National Salvation was established, the constitution was abrogated, a state of emergency lasting almost six years was declared, and all political parties were banned. Under the emergency rules of Constitutional Decree No.2, and other special legislation fundamental political and civil rights and liberties were abolished. A systematic, and particularly cruel oppression of real or merely suspected political opponents started, lasting until now. Until the Constitution of 1998 the country was ruled through Constitutional Decrees. In April 1995 a partly nominated ( 1/3 ), partly directly elected National Assembly was set up under strict government control. Political parties were still banned.<sup>1</sup> In December 1999 the Assembly was dissolved, after President Beshir declared a state of emergency for three months.

The

new regime of 1989 consisted mainly of leaders from the former National Islamic Front (NIF) of Hassan el- Turabi. In the first period through the Revolutionary Command Council and its subsidiary bodies, and after its dissolution in 1994, through various, newly created government agencies and organs reserved for itself, among others, exclusive competence in religious matters - as it claimed to be the only true guardian of Islam. To understand correctly the Sudanese developments in the past decade in this regard, it is important to emphasize that although there are instances when local religious leaders -Ulemas or Imams close to the regime -gave their opinion in the form of religious decrees or fatwas on various issues, the final word always belonged to state authorities made up of high ranking military and security officers, and civilian politicians of the NIF. There has not been, and there is still no formal "supreme" religious authority in the Sudan,

whether an individual, or a collective body, as exist in a number of other Islamic states. Before becoming the speaker of the National Assembly in 1995, Hassan el- Turabi -a jurist by training, former university professor and long time civilian politician, and considered the most influential figure in the Sudan after the coup of June 1989 -went out of his way to emphasize to the author of this paper, among others that he was only "a private individual", who advised sometimes the government, but held no public position. A number of the Imams of the traditional Sudanese Islamic orders, however, suspected of political disloyalty suffered severe persecution, including torture and inhuman and degrading treatment at the hands of the security forces, and most of them were forced into exile, or kept in house arrest or under close security surveillance.

With regard to the question of religious discrimination sanctioned by the government of the Sudan after 1989, and in particular the years 1993-98 -when I was the UN Special Rapporteur on the situation of human rights in the Sudan -I would propose the following levels of analysis:

- The description of the internal contradictions and inconsistencies with international human rights instruments of the legislative framework, created in order to reserve an exclusive role in religious matters to the government of the Sudan; and official statements made on this subject by government representatives in the United Nations. While the texts quoted below are specifically about religion, in essence most of them are purely political statements or programs.

- A synthesis of cases of religious discrimination, persecution and harassment of individuals and groups, whether belonging to the Muslim majority, the Christian minorities or those practicing traditional African beliefs. A large number of members and leaders of traditional Sudanese Islamic sects are persecuted by the government and its agents, mainly the security apparatus and the pro-government paramilitary groups, because they are suspected of not sharing the rulers' interpretation of Islam. Under the banner: "fight against sectarianism", the rulers in fact are trying to contain, and on the longer term to eliminate the influence of the Ansar, the Khatmiya, and a number of other, traditional Sudanese Islamic orders. The political aspect consists in the fact that these orders historically were closely interrelated with the political parties banned after the coup d' etat of 30 June 1989, which brought to power the present government. (In particular the Umma Party of Prime Minister Sadiq el-Mahdi, overthrown in 1989, who is also the Imam of the Ansar, and the Imam of the Khatmiya and leader of the Democratic Unionist Party (DUP), Osman el-Mirghani. Both leaders are living currently in exile. ) In this regard, the regime which came to power in 1989 by force, reveals certain totalitarian features.

Christians and believers of traditional African faiths, sometimes called Animists, are being persecuted for their race and religion, in other words, because they are who they are. Beyond historically, well rooted political reasons -that is long-term endeavors to control the largely Christian and Animist African south by the Arab and Muslim north -in this case religious fanaticism often turned into violence found a fertile ground, particularly in the years after 1989. Cultural

and linguistic assimilation of these minority groups and their members was asserted as official government policy over the last decade, and Islamization (sometimes by coercion) mainly by non-governmental Islamic relief organizations, fully backed by official Khartoum, coupled with individual and group persecution, became normative in the Sudan of the 1990s. To achieve its goals in southern Sudan, the government did not hesitate to use force extensively, ranging from systematic, deliberate and indiscriminate aerial bombardments of civilian targets, allowing its armed agents to use violence against the civilian population, including mass killings, torture, abductions, rape of women and young girls, the condoning of slavery and slavery-like practices, and recurrently disrupting humanitarian operations by the United Nations agencies and non-government organizations<sup>2</sup>.

The results of the civil war, which erupted in southern Sudan in 1983, after President Jaafar el-Numeiri introduced legislation giving primacy to Islamic Sharia, and intensified after 1989, are disastrous: up to 2 million dead, and more the 4 million southerners internally displaced, and further tens of thousands of refugees in some neighboring countries.

- A

brief overview of the language used in the official government propaganda to enhance government policies of anti-sectarianism, assimilation and Arabization and Islamization of southern Sudan's population. This propaganda is centered around a specific concept of Jihad, popularized by the government controlled Sudanese mass-media, the TV principally. Calls to Jihad were the peak moments of the rallies and other official public events organized frequently by the government in the capital city and in the province, in relation to certain events of the civil war in the south, or sometimes, as in January 1997, rebel attacks which started from the territories of some neighboring countries.

## 1. The legislative framework and related official government statements

Chapter I of the Constitutional Decree No.7/ 19933 is entitled "Principles guiding the State's policy." The first section of this chapter is entitled "Religion" and reads as follows:

"Islam is the guiding religion for the largest majority of the Sudanese people. It is renewed beyond rigidity and constitutes a uniting force beyond sectarianism. Its is a mandatory Sharia guiding the state laws, regulations and policies. But other revealed religions like Christianity, or religious traditional beliefs may be freely adopted by everyone, with no coercion in beliefs and no prohibition of religious observances. This is guaranteed by the State and its laws."

Section seven, "The Society" provides, inter alia, that:

"The society shall be based on religious values and free development."

Chapter II on the "Rights and Duties" in section nine, paragraph 1 states that "It is the duty of a religious citizen to be honest and truthful, he has the right to choose his religion without any coercion nor prohibition in worship."

It is difficult to reconcile these provisions with Article 126 of the Criminal Act of 1991, in force during the period analyzed here. This Article entitled "Apostasy (Ridda)" provides:

- There shall be deemed (sic!) to commit the offense of renunciation of the creed of Islam or publicly declares his renouncement thereof by an express statement or conclusive act.
- Whoever commits apostasy, shall be given a chance to repent during a period to be determined by the court; where he insists upon apostasy, and not being a recent convert to Islam, shall be punished with death.
- The penalty provided for apostasy shall be remitted whenever the apostate recants apostasy before execution."

Reacting to a legal analysis of these and other provisions of the Sudanese legislation then in force, contained in the 1994 report to the UN Commission on Human Rights by the Special Rapporteur of the Commission on the situation of human rights in the Sudan, the Sudanese government issued a detailed written statement, circulated as an official UN document.<sup>4</sup> This 41 page text is the most comprehensive, concentrated and direct presentation so far of the official position on the matters discussed here, known to the author of this paper .

With regard to the Islamic values supported by the government of the Sudan, the document stated:

"(And) the Islamic values which the government promotes already have the support of the majority of the population, and that is the very reason why the government is promoting them. "

Three

things must be underlined: 1. It is literally true, the values referred to were indeed promoted by the government; 2. It is also true that the majority of the Sudanese citizens are Muslims, whose faith, identity and dignity must be respected, and protected, should it be necessary; but 3. It was only a presumption (and apparently this is the case at present time as well) that there was a majority support for the "values promoted by the government." The wording of Decree No.7, "beyond sectarianism", has been translated into government policies aimed at containing, many times by force, the activities of the traditional Sudanese Islamic orders and sects; harassment of their leaders and ordinary members; and taking their assets into state propriety .(Concrete cases and the position of those affected will be described below.) The majority rule is acceptable, once the rights of political and other minorities are guaranteed and respected in practice. Sudan, however, had no free and fair elections, based on the competition of political parties in the past decade. A 1989 promise on a referendum on the forthcoming Criminal Act was never honored. The Act, as it still in force, was promulgated by the military junta in 1991. Its preamble reads: "passed by the National Salvation Revolution Command Council in accordance with the provisions of the third Constitutional Decree of 1989," repealing the penal codes of 1983. The 1994 government document stressed:

"These

laws apply to Muslims and Christians alike, and Christians could not claim special prerogatives to defy the law just because the UN Secretary General or the Special Rapporteur are of the same faith."

It

is also true that the Criminal Act of 1991 provides that certain paragraphs "shall not apply to the Southern States", but there are exceptions: "unless the accused himself requests the application of the said provisions on him or the legislative body decides to the contrary ."<sup>5</sup> Local legislative bodies have been strictly controlled by the central government.

That

the situation remains confused, both regarding the interpretation and the application of the quoted legal provisions, is proved -unfortunately -by the continuation of the war in Southern Sudan, which erupted again in 1983 for the same causes.

On apostasy, the 1994 government document stated the followings:

"The rule of apostasy is unanimously upheld by Muslims as part of their faith. The government, the rapporteur and any other earthly power is powerless to change it. The government's interpretation of it is the most liberal there is, on the spectrum of Muslim opinion. We are not here in the business of consulting the UN or anybody else about fundamental matters of faith. We only seek to bring a little enlightenment to those who may benefit by it. "

A remarkable argument was raised constantly by the government of the Sudan when its human rights record was on the agenda of the UN General Assembly and the Commission on Human Rights, including inconsistencies between certain parts of its national legislation and the human rights covenants of 1966, to which the Sudan acceded in 1986. For example, in relation with punishments like amputation, stoning, crucifixion, or flogging, the government stated in its UN-circulated 1994 statement the following:

"Whether these forms of punishments are harsh or not, Muslims are obliged to apply them provided that all the elements of the offense are satisfied. Muslims have no choice but to apply them because they form an integral part of their religion. To deny them the right amounts to a clear violation of the right of belief and choice of religion as expressed in Article 18 of the Universal Declaration of Human Rights, and Article 18 of International Covenant on Civil and Political Right." (Highlighted by G.B.)

Reference to Article 18 of the Declaration and the Covenant has been made in other contexts as well, for example with regard to specific legislation on the status, and the rights and the duties of women in the Sudan.

" As for the testimony of women in certain cases { i. e. the testimony of a man can be equaled only by the testimony of two women}  
we would like the Special Rapporteur to know that is part of the ordain of God, and as such comes under freedom of religion guaranteed by the various human rights covenants and for those reasons combined we don't tolerate any comments regarding the issue."6

On

21 April 1997 a document entitled "The Sudan Peace Agreement", known to a wider public also as "The Khartoum Agreement" was signed in the capital city by representatives of the government of the Sudan and leaders of some southerner rebel groups. The main rebel movement, the Sudan People's Liberation Movement/Army (SPLM/A) of John Garang refused to accede to the agreement. It was agreed by the signatory parties that the text of the Khartoum Agreement will be enacted without any change as Constitutional Decree no.14, and on a longer term its provisions will be incorporated integrally in the new Sudanese Constitution, then under preparation. It was not to be the case. Once on the agenda of the National Assembly, the text of the Khartoum Agreement, introduced as the draft of Decree No.14, was significantly altered in its key provisions, and Constitutional Decree No.14 was voted with these changes. The operation and its results attracted bold protest from behalf of the Southerner parties, with no effect, however.

With regard to matters relevant to religious freedom, the Khartoum Agreement stated that:

"The Sudan is a multiracial, multi-ethnic, multicultural and multireligious society. Islam is the religion of the majority of the population, and Christianity and the African creeds are followed by a considerable number of citizens. Nevertheless the basis of rights and duties in the Sudan shall be citizenship, and all Sudanese shall equally share in all aspects of life and political responsibilities on the basis of citizenship." (Italics here and below: G.B.)

Decree No.14 contains a different wording:

"3.

(1) The Sudan is a multiracial, multicultural and multireligious State. Islam is the religion of the majority of the population, and Christianity and African creeds have considerable adherents."

With regard to the crucial issue of citizenship, the wording of Decree No.14 is also different, more general and equivocal:

"(5) Citizenship is the basis of public rights and duties and all Sudanese participate by virtue of the citizenship thereof, on an equal basis in political life."

Provisions on the freedom of religion of the Khartoum Agreement read:

"Freedom of religion, belief and worship shall be guaranteed. A suitable atmosphere shall be maintained for practicing, worship, dawa, proselytization and preaching.

No citizen shall be coerced to embrace any faith or religion. There shall be no legislation that would adversely affect the religious rights of any citizen.

Sharia and custom shall be the sources of legislation. On the issue of Shariah, the parties agreed on a formula under which laws of a general nature that are based on general principles common to the states shall apply at the national level, provided that the states shall have the right to enact any complementary legislation to federal legislation on matters that are peculiar to them. This power shall be exercised in addition to the powers the states exercise on matters designated as falling within their jurisdiction, including the development of customary law."

Decree No. 14 provided:

"(2) Freedom of religion, belief, worship rites, missionary and preaching activity are guaranteed to all, and no citizen shall be coerced to embrace any religion or creed. (3)

No legislation that infringes on fundamental freedoms and rights of citizens shall be promulgated { that is in the future, while the Agreement, as quoted above provided that "there shall be no legislation ...", envisaging in this way changes in legislation considered by the Southerner parties as discriminative, adopted before its signature. }

(4) a. Shariah and custom are the sources of legislation {instead of "shall be" ...in the wording of the Agreement}. b. General laws, derived from the general principles common between states, shall be applied nationally. States having peculiarity may promulgate { instead of the agreed formula "shall have the right"} , with respect to the peculiarity thereof, such laws as may be complementary to the federal laws, in addition to the right of States to legislate, each as to such .function as may correspond thereto, including custom and codification of the same.

"

This example is to illustrate a specific aspect of the policy of the government, of adopting a

flexible, tactical approach in words even in the matters it regards as crucial, such as religion, should it be found politically advantageous. It was inconceivable before April 1997 that official Khartoum recognize "custom" as a source of national legislation, at the same level as Islamic Shariah. From the documents cited above and dated before 1997 it results that Shariah has supremacy over the legislation enacted by the state. In early 1997 the political situation determined the government to sign the Khartoum Agreement, but very soon, during its codification process it has significantly amended key provisions, leaving room for its unilateral interpretation. No wonder that since the signature of the Agreement, most of the southerner parties turned against the government, and the situation with regard to discriminative policies and practices on religious freedoms remained unchanged.

The equivocal language of the national legislation left room to interpretations favoring the stronger, that is the government (for example reference to the freedom of religion as enshrined in international human rights instruments, as legitimization of practices and policies negatively affecting religious and other minorities in Sudan and criticized by international organizations), and : the dual language used by government representatives, one for home, and another for external consumption, are serious problems. Such an approach leaves much room for abuses and discrimination, and, at the same time, it is "creative" enough to find an explanation even for the most blatant violations of fundamental rights and freedoms, including religious freedom.

One striking example, which will lead us into the next level of analysis proposed here, is the huge gap between "words" and "facts", and its tragic consequences, like the widespread abuses against those individuals and communities who either do not share the government's brand of Islam, or are of a different religion and resist being converted to Islam. The following case is relevant: there were well documented reports that in December 1996 the Catholic Multipurpose and Prayer Center in Dorusha'ab, a district in Khartoum North was razed to the ground by bulldozer, at the order and under the control of security forces. Reacting to the report of the UN Special Rapporteur on the Sudan who quoted this incident, the representative of the Sudanese government told the Commission on Human Rights in Geneva in March 1997:

"The reports about the demolition of the Catholic Centre of Dorusha'ab ...are not true. The facts of the case are simply that the Centre has been constructed temporarily from wooden poles and straw mats across a public road without obtaining the required license from the Town Planning Committee of Khartoum North. When the incident was brought to the attention of the Committee by some individuals negatively affected by the illegal blocking of the public road, the Committee, realizing the political dimension of the issue, has refused to take any legal action against the church personnel responsible for the construction of the Centre, and has offered them a much larger area in the same neighborhood, and has also allocated enough funds for them using much expensive materials (bricks. ) In addition the Committee offered not to demolish the old Centre until the new Centre is built and furnished to

guarantee the smooth transfer of the activities of the Centre without any interruption. Consecutive, monthly notifications were given but the church personnel insisted to challenge the law, most probably relying on such unfair reporting as contained in paragraph 47 of the report of the Special Rapporteur, where he would claim that there was no writ for the demolition of the illegal Centre, without explaining that the Centre is illegal and has been constructed without obtaining the required license, and without making any reference to the reasonable and generous offers made by the Committee. "

The fact of the matter is that the Center was demolished in a particularly brutal way, even compared with other dozens of similar cases in Khartoum after 1992, when bulldozing of shanty houses, and other buildings serving as praying centers, schools etc. by displaced Southerners living in the outskirts of Khartoum has started on a systematic basis. The lack of a permit is invoked in all similar cases, although it is well known that for years the government's policy was to refuse the Catholic Church permit to build new churches.

## 2. Patterns of religious discrimination, persecution and harassment of individuals and groups

As mentioned, the activities of traditional Sudanese Islamic orders and sects was severely contained by the government after 1989, their leaders, and especially ordinary members who were considered as political opponents, or -just not displaying enough their loyalty to the new rulers - were harassed, arbitrarily arrested, subjected to torture or other cruel, inhuman or degrading treatment, or forced into exile. Here are excerpts from one of the many protest letters to the government about such practices, signed by prominent figures of the Ansar order, after the arrest on 16 May 1995 of former Prime Minister Sadiq el-Mahdi, the leading Imam of the Ansar, on charges of "involvement in subversive activities":

"Since the beginning of this regime, the Ansar have been subjected to continuous harassment and intimidation which started with intimidating their leadership, confiscating their properties and denying them their civil rights and their freedom of expression. The Ansar Imams and preachers have been subjected to harassment and imprisonment. The Grand Mahdi' s Mosque which includes the Mahdi ' s tomb and the Ansar's headquarters has been confiscated { in May 1993} .The Ansar tolerated

all these injustices with great restraint and patience to save the country bloodshed and armed conflicts, following the directives of their leadership which advocate wisdom and civil struggle. On 16 May 1995, the authorities arrested Sayed al-Sadiq al-Mahdi, the leader of the Ansar movement, although he consistently continued to preach non-violence and warn against the danger of allowing the country to slip into civil war as a result of government repression that pushes the opposition to resort to violent means. Al-Sadiq al-Mahdi preaches justice for all, thus adhering to a cardinal Islamic principle that dictates upon the Muslim to advocate for justice and deny evil. 'He who is not concerned about the plight of Muslims is not a Muslim', as the prophet says. "7

Following

this protest, more than 200 prominent figures of the Umma party and religious leaders were arrested in Khartoum and in the provinces. It was reported at that time that most of the detainees were subjected to ill-treatment.

Abuses and violations of the right to their religion and the freedom of conscience of Christians and holders of traditional African beliefs, which constituted a pattern in the period under examination were:

-harassment, arrest, ill-treatment and restriction of the freedom of movement by members of the security forces of ordinary Christian citizens, as well as church personnel, the clergy and nuns, and leaders of various Christian denominations in the Sudan;

-expulsion of priests, missionaries and nuns from certain locations in the north and government controlled towns in southern Sudan;

-arbitrary closing of Christian schools;

-in certain areas, like Damazin, Christian preaching has been forbidden since 1992;

-confiscation of church owned land and other properties;

-constant refusal of issuing permits for building new churches;

-closure  
and/or destruction of religious centers in the areas inhabited by  
southerner displaced in Khartoum and other towns in northern Sudan;

-demolition of churches, especially in the provinces, for example, in Kenana;

-arbitrary interdiction of prayers and Christian religious celebrations;

-prevention or delaying by administrative means of humanitarian and relief activities by churches;

-use  
of food and other relief as a method of Islamization in the war zones  
in southern Sudan, in the government controlled areas, both by  
authorities and Islamic non-government organizations closely working  
with the Sudan government, targeting Christians and persons of  
traditional African beliefs;

-conversion to Islam of individuals under threats, in particular in the government controlled areas in southern Sudan;

-a general policy of intimidation of Christians and the imprint and strengthening of a feeling of insecurity;

-systematic,  
indiscriminate and deliberate aerial bombardments of civilian targets  
in southern Sudan and the Nuba Mountains, in particular churches,  
hospitals, relief distribution centers and schools.

A  
confusing legal situation occurred after the announcement of the  
abolition of the 1962 Missionary Act (seriously restricting the  
Sudanese churches' activities) by President Omar el- Beshir in early  
October 1994. While the decision was welcomed both by the Sudanese  
churches and the international community , the new regulations that  
were revealed -following the announcement made by the President -caused  
serious concern. On 4 October 1994 a provisional order entitled "The  
Miscellaneous Amendment (Organization of Voluntary Work) Act" was made

public. The new regulation defined churches as societies, i.e. associations under private law, and imposed an obligation upon them to register under the Societies Registration Act of 1957. The Sudan Catholic Bishops' Conference issued on 2 February 1995 a statement entitled "Position of the Catholic Church" with regard to the Act of 4 October 1994, in which it (a) rejected the definition of the Catholic church as a "society", and stated that (b) "we consider ourselves not subject to this law." While the signatory bishops considered the Miscellaneous Amendment Act of 1994 as "the most comprehensive, thorough and far-reaching attempt to control ( and potentially to terminate) the life and activity of the Church", they made, in the same statement a detailed proposal for an agreement between the Sudanese government and the Catholic Church "for better collaboration and understanding."

That

the situation has not much changed either on the legal level, or in fact, is expressed in an Appeal of the Catholic Bishops of Eastern Africa for Peace in the Sudan, addressed on 6 August 1999 to the Secretary General of the UN. The Appeal was signed by 81 bishops from Eritrea, Ethiopia, Kenya, Malawi, Sudan, Tanzania, Uganda and Zambia, assembled in Nairobi between 26 July and 8 August 1999, under the aegis of the Association of Member Episcopal Conferences in Eastern Africa (AMECEA). The Appeal has made a number of specific recommendations aimed at bringing an end to the war in the Sudan, and enumerated some of the most grave violations of human rights taking place in the country , amongst them abuses and violations of the freedom of conscience and religion, such as:

- "-undue restrictions on the freedom of worship and of practice of faith by non- Muslims;
- slavery and slavery related practices;
- torture of persons in security detention;
- extrajudicial punishment and executions;
- disappearances of persons;
- lack of freedom of expression;
- laws, attitudes and practices discriminative towards non-Arabs and non-Muslims;
- the manipulation of the media in favor of all that is Muslim and Arab to the exclusion of other religions and ethnic groups;
- the lack of genuine dialogue between Christians and Muslims because of political manipulations;
- the use of food for proselytism or as a weapon of war;
- and the systematic depletion and expropriation of property and resources of the population in the war zones."

### 3. Repeated mobilization for war and the designation of domestic enemies

One

of the most respected opposition politicians of the Sudan, former Vice-President Abel Alier, one of the main negotiators of the 1972 Abuja-agreements ending the first civil war in the Sudan, wrote in an open petition of 1 February 1997, addressed to President Omar el-Beshir and parliament speaker Hassan el- Turabi:

"In

the last seven years the conflict { of the 14 years civil war between the central government and the SPLM and its faction} , has been fueled by new unhelpful policies such as a holy war (Jihad) against the people of the Southern Sudan and other peoples of the Sudan, { and the} establishment of an Islamic state that categorizes non- Muslims and non-Arabs in the Sudan as foreigners in their own land."

Calls

to Jihad by government representatives meant in general two things after 1989: 1. the heralding of the intention to intensify the fighting against southern rebels, and 2. the adding of further groups to the list of domestic enemies of the regime, led by the SPLA mainstream, commanded by John Garang, who was one of the officers who organized the mutiny in 1983 against President Numeiri's regime, when he breached the Abuja-agreements and enacted legislation giving primacy to Islamic Sharia. These two aspects sometimes occurred together.

Public

calls to Jihad by senior government representatives at rallies well publicized by the state controlled communication channels were made principally in the period between 1992-98 with the view of preparing the Sudanese public opinion with access to media for the mobilization of new resources in the war .In practice, the effect of such calls were:

- further economic hardships imposed on the population, since additional money had to be spent for military purposes;
- a new wave of harassment and/or arrest of suspected political opponents, and
- anew campaign of enforced recruitment of young men in the north, especially in Khartoum.

These

young men, Arabs and non-Arabs alike, who usually just finished their secondary schools were sent to the battlefield following a summary training, and in most cases became easy targets of the more experienced rebels, ending their young lives as cannon fodder in senseless military operations.

Therefore, Jihad means in the Sudan real war, as the pre-quoted 1994 government statement circulated at the request of Khartoum as an official UN document explained:

"The term 'jihad' which is Arabic for 'just war', is part of the cultural and linguistic heritage of the Sudanese people, and we make no apologies for using the term in the context of the just war which the majority of the Sudanese are waging to safeguard the common interest of the society. The context of southern Kordofan in particular is relevant, since the people there, of all ethnic groups, are defending themselves against a minority which as the Special Rapporteur reluctantly reports, had been wreaking havoc with the lives of the majority in order to achieve its political objectives. Surely, the struggle for self-defense against aggression in this context is the most just struggles, and the people there were right to describe it in the terms of the symbols they cherish."

Southern

Kordofan is the text-book example for the second aspect of the calls to Jihad mentioned above. The designation of further domestic enemies besides the SPLA started formally in 1992 with a fatwa against the -- mostly Muslim -- communities of the Nuba Mountains who resisted government policies by taking up arms together with the rebels of the mainstream SPLA. During 1991-92 heavy fighting took place in most parts of the Nuba mountains, situated in the (federal state of) Southern Kordofan.

The army, flanked by units of the 1989 created Popular Defense Forces (PDF), took a number of locations in the area, followed by a previously unseen wave of internally displaced persons, depopulation of entire villages, whole autochton tribes uprooted, and destruction and desecration of mosques of local Muslim communities. This situation was unprecedented, although armed clashes between local Arab militias armed by the el-Mahdi government and Nuba tribesmen started already in 1986. The new government was especially disturbed by the fact that the armed opposition in the Nuba Mountains was joined by a growing number of Nuba Muslims, who were against the government's concept of Islamic Shariah and its imposition on the local population.

Thus,

a 27 April 1992 meeting of religious leaders, Imams of mosques and sufists of Kordofan state, loyal to the government issued a fatwa signed by six Sheiks, as its preamble states, in order "to legalize the jihad in South Kordofan state and Southern Sudan." (The author of this paper has seen during his second, September 1993 visit to the government controlled areas of the Nuba Mountains, a huge white inscription in Arabic reading "Kadugli -The Jihad 1992" on the top of a hill next to the road between Dilling and Kadugli, at some 8 km from

Kadugli, well seen from the camps for displaced around the town and visitors driving in the area. ) The fatwa stated, among others:

"The rebels in South Kordofan and Southern Sudan started their rebellion against the state and declared war against the Moslems. Their aims are: killing the Moslems, desecrating mosques, burning and defiling the Koran, and raping Muslim women. In so doing, they are encouraged by the enemies of Islam and Moslems: these foes are the Zionists, the Christians and the arrogant people who provide them with provision ~ and arms. Therefore, an insurgent who was previously a Moslem is now an apostate; and a non-Moslem is a non-believer standing as a bulwark against the spread of Islam, and Islam has granted the freedom of killing both of them."8

Since then, the Moslem Beja for example, living in eastern Sudan were also declared as internal enemies after some of their leaders joined the National Democratic Alliance (NDA) representing in exile all Sudanese opposition groups. As of January 1997, when the SPLA had attacked two locations in Eastern Sudan situated along the border with Ethiopia, in fact no distinction was made following calls to the intensification of the war and general mobilization, between those who indeed joined the ranks of the armed rebel groups fighting the government in southern and eastern Sudan, and the citizens who just happened to find themselves trapped in the areas which came under rebel control.

The calls for Jihad and their mentioned consequences, especially the campaigns of enforced recruitment of young men, were met with increasing concern by the Sudanese society. As former Prime Minister Sadiq el-Mahdi wrote in an article entitled "The Sudan -fleeing To Where" and published in a Middle East Arabic daily newspaper on 22 July 1996,

"The authoritative attempts of the National Islamic Front. (NIF) to dominate and monopolize Islam and to inappropriately associate it with every aspect of its narrow- minded partisan ideology has lead to sharp division within the national Islamic ranks which manifested themselves in the sharp ideological dispute between the regime's vision of Islam and that of the Ansars and other Suffi sects. Other Islamic Orthodox and traditional schools of thought chose to cross with the regime's approach and declare it as infidel and un-Islamic. ( ... ) The narrow minded partisan Islamic address coupled with the Arab nationalist orientation that the regime picked through its association with the Iraqi Baath party has led to the alienation of the non-Muslim and non-Arab Sudanese groups who found themselves forced to contemplate other options such as separation and seriously question the feasibility of unity in the prevailing

circumstances. (...) The most severe military and security blow to the regime {was } received in those areas {Darfour and Kordofan states} , was the refusal of most of the Arab tribes of the transitional zones to fight the forces of the Sudanese resistance movement and their conclusion of bilateral local peace agreements that flouted the philosophy of Jihad that the regime attempted to articulate."9

#### 4. Conclusions

The performance of the government of the Sudan in the field of economics and social policies in ,: the past decade has been a disaster, throwing into poverty large categories and strata of the population, even those sections, like the national intelligentsia, who used to live before in decent conditions. It is estimated that over 90 % of the Sudanese live on, or below the minimum standards. According to the information and reports available to me, widespread rights violations and abuses are still taking place on a daily basis, committed both by government agents, and persons working closely, or with the approval of the government, and by the members of the various rebel groups fighting the government in southern Sudan in the areas controlled by them. The whole range of internationally recognized human rights has been violated in the Sudan in past decade, and literally everybody on Sudanese territory is a potential victim of abuses and violations. The most vulnerable categories, however, are both in the south and the north the women and the children. They are also the victims of the most horrid violations: abductions, rape, forced labor, slavery and slavery practices, and sale of and trafficking in young girls and boys.

One of the major goals of the present government coming to power after the 1989 coup, was -and according to latest reports on official statements, it continues to be -the creation of an ethnically and religiously homogenous Sudan. We will build a new Sudan, no matter what the price, Hassan el-Turabi explained to me during a meeting in 1993. Along these lines the government supports Islamization and Arabization by any means, and not only inside the Sudan. These policies had so far regional implications, but to discuss this is outside of the scope of this paper. The war which started with a mutiny in 1983 against then President Numeiri's measures to introduce Islamic legislation, continued with increasing intensity after 1989. It is not difficult to foresee, that the newly available financial resources from oil exports, will considerably aggravate the situation.

After all that has happened in the past, the present rulers of the Sudan have basically two choices:

a)  
to fundamentally change their political agenda, and proceed, jointly,

with all the concerned parties towards a real and lasting national reconciliation, or

b) to intensify more the military efforts in order to crush once and for all the rebellion in the south, extended after 1995 to eastern Sudan by an armed group (Sudan Allied Forces) led by high ranking dissident northerner military officers, in the form of incursions in the Kassala region and attacks of military objectives in the area.

The news coming from the Sudan unfortunately point to the second scenario, as the most likely to happen.

The large consensus within the international community, the concerns and the dismay of the early 1990s with regard to the government's human rights record, seem to be over. A number of increasing governments, including in Western capitals, appear to believe, not completely unfounded, that the international system lacks at the end of this millennium the political will and means, and the moral stature to influence Khartoum to operate meaningful changes in its repressive policies. These governments, instead of sticking with the past practice of international isolation and condemnation of the Sudan, prefer to do business with the regime.

The United States is the most notable exception, although, for a distant observer of the Sudanese stage, as I am in these days, it appears that a comprehensive approach, taking into account not only the complexities of the situation in the Sudan, but the possible regional implications of what is going on, and what is likely to happen if the worst case scenario unfolds in this country, it is still to be worked out within the administration here in Washington.

1 In a meeting with the UN Special Rapporteur on the situation of human rights in the Sudan, held on 3 August 1996, the Chairman of the Higher Authority for Elections said that "in the framework of the {newly established} political system formulas such as 'government/opposition', or 'political majority/minority' are obsolete and simply do not work." See the Special Rapporteur's report to the UN General Assembly on situation of human rights in the Sudan. A/51/490 of 14 October 1996, paragraph 23.

## 2 Resolution 1996/73 of the United Nations

Commission on Human Rights, entitled Situation of Human Rights in the Sudan (adopted without a vote during its 60th meeting on 23 April 1996), stated inter alia : "{The Commission} (...) Deeply concerned also about continued acts of indiscriminate and deliberate aerial bombardments by the Government of the Sudan of civilian targets in southern Sudan, including humanitarian relief operations (...), Deeply concerned about continued reports of activities such as slavery, servitude, the slave trade and forced labour, the sale and trafficking of children, their abduction and forced internment at undisclosed locations, ideological indoctrination or cruel, inhuman or degrading punishments, especially but not exclusively affecting displaced families and women and children belonging to racial, ethnic, and religious minorities from southern Sudan, the Nuba Mountains and the Ingassema Hills areas, (...) Deeply concerned about policies, practices and activities which are directed against and particularly violate the human rights of women and girls, and noting the continuation of such practices as reported by the Special Rapporteur in his . ' latest reports, including civil and judicial discrimination against women, Expressing serious concern about reports of religious persecution and forced conversion in government-controlled areas of the Sudan, (...)

### Calls upon

the Government of the Sudan to comply with applicable international human rights instruments and to bring its national legislation into accordance with the instruments to which the Sudan is a party and to ensure that all individuals in its territory and subject to its jurisdiction, including members of all religious and ethnic groups, enjoy fully the rights recognized in these instruments; (...)

### Urges

the Government of the Sudan to investigate reported policies or activities which support, condone, encourage or foster the sale of or trafficking in children, the separation of children from their families and social backgrounds or which subject children to forced internment, indoctrination or cruel, inhuman or degrading treatment or punishment, and to terminate immediately any such policies or activities and bring to trial any persons suspected of involvement in them." (...)

## 3

The legal texts quoted in this paper are excerpts of official English translations by the government of the Sudan's competent agencies, in principal the Ministry of Justice, of the Arabic originals.

## 4

Comments by the Government of the Sudan on the report of the Special Rapporteur, Mr. Gaspar Biro. E/CN.4/1994/122 of I March 1994.

## 5

Sections 78 (1) on drinking alcohol and nuisance; 79 on dealing in alcohol; 85: sale of carcass; 126 on apostasy; 139 (1) on retribution; 146 (l), (2) and (3) on the penalty for adultery; 157 on the false accusation of unchastity; 168 on the penalties for armed robbery (death, death and then crucifixion, amputation of the right hand and left feet, or imprisonment), and 171 on the penalty for capital theft (amputation of the right hand).

6 E/CN.4/1994/122 paragraph 117.

7 E/CN.4/1996/62 paragraph 22.

8 The publication of the full text in: Facing Genocide: The Nuba of Sudan. London, 1995. A publication of African Rights, p. 289-291.

9 The manuscript of the English translation was given to the author by Sadiq el-Mahdi personally.